

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 12th October, 2022

*The House met at the Senate Chamber,
Parliament Buildings, at 2.30 p.m.*

[The Deputy Speaker (Sen. Kathuri) in the Chair]

PRAYER

PAPERS LAID

REPORTS OF THE AUDITOR-GENERAL ON FINANCIAL STATEMENTS OF VARIOUS ENTITIES

The Deputy Speaker (Sen. Kathuri): Proceed, Senate Majority Leader.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I beg to lay the following Papers on the Table of the Senate, today, 12th October, 2022 -

Report of the Auditor-General on the Financial Statements of Trans-Nzoia County Executive for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Trans-Nzoia County Assembly for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Trans- Nzoia County, Nawiri Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Trans-Nzoia County Assembly (Members and Staff) Car Loan & Mortgage Scheme Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Trans-Nzoia County Public Service Board for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of County Executive of Meru for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of County Assembly of Meru for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of County Assembly of Meru, Staff Car Loan & Housing Scheme Fund, for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Meru Youth Service Board for the year ended 30th June, 2021.

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Report of the Auditor-General on the Financial Statements of Meru County Executive Staff Housing Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of County Executive of Embu for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of County Assembly of Embu for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Embu County Assembly Car Loan & Mortgage (Members) Scheme Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kyeni Water and Sewerage Company Ltd for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Tharaka Nithi County Executive for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Tharaka Nithi County Assembly for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Tharaka Nithi County Emergency Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Tharaka Nithi County Bursary Development Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Nithi Water and Sanitation Company Ltd for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Isiolo County Executive for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Isiolo County Assembly for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Isiolo County Assembly Car Loan & Mortgage Scheme Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Isiolo County Education Bursary Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Isiolo Water and Sewerage Company Ltd for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Marsabit County Executive for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Marsabit County Assembly for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Marsabit County Emergency Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of County Government of Marsabit Car Loan Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Marsabit County Executive Mortgage Scheme Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Marsabit County Education Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kakamega County Executive for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kakamega County Trade Loans Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kakamega County Farm Inputs Fund for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kakamega County Microfinance Corporation for the year ended 30th June, 2021.

Report of the Auditor-General on the Financial Statements of Kakamega County Maternal Child Health & Family Planning Fund for the year ended 30th June, 2021.

(Sen. Cheruiyot laid the documents on the Table)

The Deputy Speaker (Sen. Kathuri): Let us go to the next Order.

(The Clerk-at-the-Table consulted with Chair))

Hon. Senators, I have some important information to put across. In consultation with both the Majority and Minority sides, I am re-organizing the order of business as follows:

We will defer Order Nos. 8, 10, 11, 12 and 13. Let us proceed with Order No.9.

MOTIONS

APPROVAL OF SENATORS TO SERVE IN THE SPEAKER'S PANEL

THAT, pursuant to Standing Order No.20, the Senate approves the nomination of the following Senators to serve in the Speaker's Panel and to further preside over the Senate in the absence of the Speaker and the Deputy Speaker, pursuant to Article 107(1) (c) of the Constitution and Standing Order No.18 of the Senate-

- (1) Sen. Wakili Hillary Kiprotich Sigei, MP
- (2) Sen. Veronica W. Nduati, MP
- (3) Sen. Abdul Mohammed Haji, MP
- (4) Sen. Catherine Muyeka Mumma, MP

(Motion deferred)

APPROVAL OF SENATORS TO SERVE IN
THE PROCEDURE AND RULES COMMITTEE

THAT, pursuant to Standing Orders Nos.191(2)(d) and 199, the Senate approves the following Senators nominated by the Senate Business Committee to serve in the Procedure and Rules Committee, in addition to Senators specified in Standing Order No.191(2) (a), (b) and (c)-

- (1) Sen. Sheikh Mohammed Abass, MP
- (2) Sen. Joseph Nyutu Ngugi, MP
- (3) Sen. Beth Kalunda Syengo, MP

(Motion deferred)

APPROVAL OF SENATORS TO SERVE IN THE
POWERS AND PRIVILEGES COMMITTEE

THAT, Pursuant to Section 15(1)(b)(ii), of the Parliamentary Powers and Privileges Act, and Standing Order No.199, the Senate approves the following Senators nominated by the Senate Business Committee to serve in the Committee on Powers and Privileges, in addition to the Speaker of the Senate, who, pursuant to Section 15(1)(b)(i) of the Parliamentary Powers and Privileges Act, shall be the Chairperson of the Committee-

- (1) Sen. Alexander Munyi Mundigi, MP
- (2) Sen. Wamatinga Wahome, MP
- (3) Sen. Rosalinda Soipan Tuiya, CBS, MP
- (4) Sen. Miraj Abdulahi Abdulrahman, MP
- (5) Sen. James Lomenen Ekomwa, MP
- (6) Sen. Shakila Abdalla Mohamed, MP

(Motion deferred)

APPROVAL OF SENATORS TO SERVE IN
STANDING COMMITTEES OF THE SENATE

THAT, pursuant to Standing Order Nos.199 and 228, and the Fourth Schedule to the Standing Orders, the Senate approves the following Senators nominated by the Senate Business Committee to serve in Standing Committees of the Senate as follows-

A. Agriculture, Livestock and Fisheries

1. Sen. James Kamau Murango, MP
2. Sen. Alexander Munyi Mundigi, MP
3. Sen. Wamatinga Wahome, MP
4. Sen. Allan Kiprotich Chesang', MP

5. Sen. Maureen Tabitha Mutinda, MP
6. Sen. Moses Otieno Kajwang', MP
7. Sen. Daniel Kitonga Maanzo, MP
8. Sen. Enoch Kiio Wambua, MP
9. Sen. Beth Kalunda Syengo, MP

B. Devolution and Intergovernmental Relations

1. Sen. Sheikh Mohamed Abas, MP
2. Sen. Roselinda Soipan Tuya, CBS, MP
3. Sen. Peris Pesi Tobiko, MP
4. Sen. George Mungai Mbugua, MP
5. Sen. Mohamed Said Chute, MP
6. Sen. (Dr.) Oburu Oginga, CBS, MP
7. Sen. Richard Momoima Onyonka, MP
8. Sen. Hezena M. Lemaletian, MP
9. Sen. Catherine Muyeka Mumma, MP

C. Education

1. Sen. Joseph Nyutu Ngugi, MP
2. Sen. Peris Pesi Tobiko, MP
3. Sen. Lenku Ole Kanar Seki, MP
4. Sen. James Kamau Murango, MP
5. Sen. John Kinyua Nderitu, MP
6. Sen. (Prof.) Margaret Kamar, EGH, MP
7. Sen. Agnes Kavindu Muthama, MP
8. Sen. Joseph Githuku Kamau, MP
9. Sen. Johnes Mwashushe Mwaruma, MP

D. Energy

1. Sen. Wamatinga Wahome, MP
2. Sen. Veronica W. Nduati, MP
3. Sen. Danson Buya Mungatana, MP
4. Sen. Sheikh Mohamed Abas, MP
5. Sen. (Dr.) Boni Khalwale, CBS, MP
6. Sen. Ledama Olekina, MP
7. Sen. (Dr.) Oburu Oginga, CBS, MP
8. Sen. James Lemenen Ekomwa, MP
9. Sen. Edwine Watanya Sifuna, MP

E. Finance and Budget

1. Sen. Ali Ibrahim Roba, MP
2. Sen. Maureen Tabitha Mutinda, MP
3. Sen. (Dr.) Boni Khalwale, CBS, MP
4. Sen. Joyce Chepkoech Korir, MP

5. Sen. Tabitha Karanja Keroche, MP
6. Sen. Richard Momoima Onyonka, MP
7. Sen. Shakila Abdalla Mohamed, MP
8. Sen. Eddy Gicheru Oketch, MP
9. Sen. Mohamed Faki Mwinyihaji, MP

F. Health

1. Sen. Jackson Kiplagat Mandago, EGH, MP
2. Sen. Mariam Sheikh Omar, MP
3. Sen. Raphael Chimera Mwinzagu, MP
4. Sen. Joseph Nyutu Ngugi, MP
5. Sen. Roselinda Soipan Tuya, CBS, MP
6. Sen. Erick Okong’o Mogeni, SC, MP
7. Sen. Ledama Olekina, MP
8. Sen. Abdul Mohammed Haji, MP
9. Sen. Hamida Kibwana, MP

G. Information, Communication and Technology

1. Sen. Allan Kiprotich Chesang, MP
2. Sen. Gloria Magoma Orwoba, MP
3. Sen. Miraj Abdulahi Abdulrahman, MP
4. Sen. Karen Njeri Nyamu, MP
5. Sen. Samson Kiprotich Cherarkey, MP
6. Sen. Boy Issa Juma, MP
7. Sen. Shakila Abdalla Mohamed, MP
8. Sen. Beatrice Akinyi Oyomo, MP
9. Sen. Godfrey Atieno Osotsi, MP

H. Justice, Legal Affairs and Human Rights

1. Sen. Wakili Hillary Kiprotich Sigei, MP
2. Sen. Raphael Chimera Mwinzagu, MP
3. Sen. Samson Kiprotich Cherarkey, MP
4. Sen. Veronica W. Nduati, MP
5. Sen. William Cheptumo Kipkiror, CBS, MP
6. Sen. Fatuma Adan Dullo, CBS, MP
7. Sen. Hamida Kibwana, MP
8. Sen. Andrew Omtatah Okoiti, MP
9. Sen. Catherine Muyeka Mumma, MP

I. Labour and Social Welfare

1. Sen. Julius Murgor Recha, MP
2. Sen. George Mungai Mbugua, MP
3. Sen. Karen Njeri Nyamu, MP

4. Sen. Alexander Munyi Mundigi, MP
5. Sen. Miraj Abdulahi Abdulrahman, MP
6. Sen. Mohamed Faki Mwinyihaji, MP
7. Sen. Erick Okong'o Mogeni, SC, MP
8. Sen. (Rtd.) Justice Stewart Madzayo, CBS, MP
9. Sen. Crystal Kegehi Asige, MP

J. Land, Environment and Natural Resources

1. Sen. John Muhia Methu, MP
2. Sen. (Dr.) Steve Lelegwe Ltumbesi, MP
3. Sen. William Cheptumo Kipkiror, CBS, MP
4. Sen. Wamatinga Wahome, MP
5. Sen. Mariam Sheikh Omar, MP
6. Sen. Issa Juma Boy, MP
7. Sen. Johnes Mwashushe Mwaruma, MP
8. Sen. Agnes Kavindu Muthama, MP
9. Sen. Beatrice Akinyi Oyomo, MP

K. National Cohesion, Equal Opportunity and Regional Integration

1. Sen. Mohamed Said Chute, MP
2. Sen. Joyce Chepkoech Korir, MP
3. Sen. Julius Gataya Mwenda, MP
4. Sen. Gloria Magoma Orwoba, MP
5. Sen. Raphael Chimera Mwinzagu, MP
6. Sen. Betty Batuli Montet, MP
7. Sen. Joseph Githuku Kamau, MP
8. Sen. James Lomenen Ekomwa, MP
9. Sen. Beth Kalunda Syengo, MP

L. National Security, Defence and Foreign Relations

1. Sen. William Cheptumo Kipkiror, CBS, MP
2. Sen. Karen Njeri Nyamu, MP
3. Sen. Julius Murgor Recha, MP
4. Sen. Lenku Ole Kanar Seki, MP
5. Sen. George Mungai Mbugua, MP
6. Sen. Fatuma Adan Dullo, CBS, MP
7. Sen. Joseph Githuku Kamau, MP
8. Sen. Tom Odhiambo Ojienda, SC, MP
9. Sen. Abdul Mohammed Haji, MP

M. Roads, Transportation and Housing

1. Sen. Paul Karungo Thangwa, MP
2. Sen. Peris Pesi Tobiko, MP
3. Sen. John Kinyua Nderitu, MP
4. Sen. Mohamed Said Chute, MP
5. Sen. (Dr.) Steve Lelegwe Ltumbesi, MP
6. Sen. Enoch Kiio Wambua, MP
7. Sen. Moses Otieno Kajwang', MP
8. Sen. (Rtd.) Justice Stewart Madzayo, CBS, MP
9. Sen. Edwine Watanya Sifuna, MP

N. Trade, Industrialization and Tourism

1. Sen. Lenku Ole Kanar Seki, MP
2. Sen. Onesimus Kipchumba Murkomen, EGH, MP
3. Sen. Jackson Kiplagat Mandago, EGH, MP
4. Sen. Tabitha Karanja Keroche, MP
5. Sen. Paul Karungo Thangwa, MP
6. Sen. Crystal Kegehi Asige, MP
7. Sen. Andrew Omtatah Okoiti, MP
8. Sen. Betty Batuli Montet, MP
9. Sen. Hezena M. Lemaletian, MP

(Motion deferred)

APPROVAL OF SENATORS TO SERVE IN THE
COUNTY PUBLIC ACCOUNTS COMMITTEE

THAT, pursuant to Standing Orders Nos. 193, 194, 195, and 199 the Senate approves the following Senators nominated by the Senate Business Committee to serve in Select Committees of the Senate as follows –

A. County Public Accounts Committee

1. Sen. Samson Kiprotich Cherarkey, MP
2. Sen. John Muhia Methu, MP
3. Sen. Mariam Sheikh Omar, MP
4. Sen. Julius Gataya Mwenda, MP
5. Sen. Moses Otieno Kajwang', MP
6. Sen. Fatuma Adan Dullo, CBS, MP
7. Sen. Richard Momoima Onyonka, MP
8. Sen. Edwine Watanya Sifuna, MP
9. Sen. Andrew Omtatah Okoiti, MP

B. County Public Investments and Special Funds Committee

1. Sen. Onesimus Kipchumba Murkomen, EGH, MP

2. Sen. Paul Karungo Thang'wa, MP
3. Sen. Maureen Tabitha Mutinda, MP
4. Sen. Miraj Abdullahi Abdulrahman, MP
5. Sen. Eddy Gicheru Oketch, MP
6. Sen. Ledama Olekina, MP
7. Sen. Hamida, Kibwana MP
8. Sen. Tom Odhiambo Ojienda, SC, MP
9. Sen. Godfrey Atieno Osotsi, MP

C. Committee on Delegated Legislation

1. Sen. Julius Gataya Mwenda, MP
2. Sen. Danson Buya Mungatana, MP
3. Sen. Gloria Magoma Orwoba, MP
4. Sen. Joyce Chepkoech Korir, MP
5. Sen. Julius Murgor Recha, MP
6. Sen. Daniel Kitonga Maanzo, MP
7. Sen. Mohamed Faki Mwinyihaji, MP
8. Sen. Betty Batuli Montet, MP
9. Sen. (Rtd.) Justice Stewart Madzayo, CBS, MP

(Motion deferred)

APPROVAL OF THE SENATE CALENDAR
FOR THE FIRST SESSION 2022

The Deputy Speaker (Sen. Kathuri): Proceed, Senate Majority Leader.

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

THAT, pursuant to Standing Order No.32(1), the Senate approves its Calendar (Regular Sessions) for the First Session of the Thirteenth Parliament (September to December, 2022), the first session, laid on the Table of the Senate on Wednesday, 5th October, 2022.

For purposes of reference and for Members' confirmation, for those with hard copies of the Order Paper, it is the last item. If you are using your tablets, it should be on the reference materials. The likes of Sen. Omogeni will need hard copies because I know he struggles with technology.

The dates are as follows. You are aware that we first sat on 8th September, 2022, the day we were sworn in. We then proceeded on recess on 9th September to 28th September 2022. We came back on 29th and we shall be sitting up to 27th October, every Tuesday, Wednesday and Thursday afternoon.

That is the decision that was made in Plenary on our sitting times. Previously, we used to sit on Wednesdays and Thursdays morning. There was one cold July and we were

told it was not good to bring Sen. Omogeni and his agemates very early into this Chamber. So, we decided to have afternoon sessions only.

We have a much younger Senate and we may generate a lot of business. If we get to that point, I will request the House that we vary the timetable to have morning sessions, depending on how much work the committees will generate. The danger, as it was observed, is that you could call for a morning sitting, but only a few Members come.

As we begin, I wish that Members, through their committees, generate sufficient business. If there will be justifiable reason, the leadership from both the Majority and Minority sides will consult and agree on what additional time to meet. We can agree to have morning sessions or meet beyond 6.30 p.m. on certain days, like our colleagues in the National Assembly do.

We will sit up to 27th October. From 28th October to the 7th November, we will proceed on recess. During that period, we will take Senators through the second phase of induction.

When we went for our first induction in Naivasha, there were many strange things being said. You could see my friend, Sen. Sifuna, nodding as he followed through, but he did not understand what exactly what was being said. I am sure now that he has sat in the House for about two to three weeks, he could be having a number of questions. Maybe he thinks that we can do certain things.

The Senate Business Committee (SBC) is proposing a second induction session for Senators from 28th October to 7th November. We will agree on the dates and venue and the rest of the details. After having sat here for about one month, I am sure there are many proposals you would like to give.

One of the things I struggled with as a new Member are traditions of this House. You are told you cannot do something because of the traditions of the House. With a much vibrant and younger Senate than it was back then, I am sure there will be a few adjustments. There are things we can agree to do differently.

That is part of what we shall be doing together with other things that we did not cover during the first phase of induction. We shall then resume on 8th November and go all the way to 1st December, every Tuesday, Wednesday and Thursday afternoon.

We shall then proceed for the usual long recess that covers December through to January and be back here in February.

That period is important. You know this coincides with a period where Members are usually very busy not necessarily in the Chamber, but outside in the field. Those of us that are sportsmen - and most of you are - I have seen them participating in the East Africa Legislative Assembly (EALA) games. The tentative timetable that I have seen takes the games towards the end of November and this time I think the games are being held in South Sudan. It is the turn of South Sudan to host. I know there are quite a number of Senators who would wish to participate. We will still make a decision at that particular time.

Mr. Deputy Speaker, Sir, we have the benefit this time in that you are not only our Deputy Speaker, but you have been a very reliable team manager for Bunge Football Club. You know that we have latecomers. You will find somebody like Sen. Cherarkey

who shows up two days to the date of travel and because they want to travel, they say: “I used to play number nine”. Those are not the kind of things that we expect.

You may find people like Sen. Kinyua who, out of the blues, because they have heard that there is a trip to Arusha and there is other business that they would like to do there, introduce a funny game and say: “I normally play darts. I want to go and play darts in Arusha.”

(Laughter)

The Deputy Speaker (Hon. Kathuri): Sen. Kinyua, what is out of order? We are also interested to know the other business that you go to do when there are EALA games.

Sen. Kinyua: Mr. Deputy Speaker, Sir, this House knows very well that I am a good footballer and I play golf. Both those games are played by the Senate teams.

When the Senate Majority Leader says there are other things that I go to do in Arusha, can he substantiate? What are the other things that I go to do apart from golf and football?

The Deputy Speaker (Hon. Kathuri): I think he meant that you play football apart from golf.

The Senate Majority Leader (Sen. Cheruiyot): No. What he did, because he did not make it to be part of your team members in the first 25--- In EALA games, first of all, there is an organising committee which ratifies the games that are played. When you come two days to the day of the game and say, “I am a very good darts player, please include darts in the competition”--- Those are the other things that I was saying we do not expect from our Members.

Mr. Deputy Speaker, Sir, by a way of mention, during that period I expect that many of our colleagues will take time to team up. I do not mind being informed---

The Deputy Speaker (Hon. Kathuri): If the Majority Leader is interested in being informed, then I think it is okay because you are a good football player of Bunge FC.

The Senate Majority Leader (Sen. Cheruiyot): Sen. Faki is very wise, so I do not mind listening to him once in a while.

The Deputy Speaker (Hon. Kathuri): Sen. Faki, please, proceed.

Sen. Faki: Mr. Deputy Speaker Sir, the Majority Leader is a Member of Bunge FC team and we play very well together, and you know that. Maybe he has forgotten that Sen. Kinyua went to deepen and widen the cooperation in Arusha.

The Senate Majority Leader (Sen. Cheruiyot): I had forgotten he was a Member of the Speakers Panel at that time and was very keen on deepening and widening. Therefore, that particular notice goes very well.

Mr. Deputy Speaker, just in concluding, that is the proposed timetable for this particular session. You had mentioned earlier that we have had consultations between the Majority and the Minority on some of the items that are on the Order Paper and, therefore, for that reason, we will stand them down.

We will, therefore, proceed to do this Motion and should there be any other business that will arise before the rise of the House, we will have a discussion about it. I would wish and urge Members to note and participate. It is not a good picture that while

you are still new in the House, you find people that either come in late or leave early. It is always good to refer back to statistics.

When we had the 2022 general elections, there were more than 10,000 candidates who wanted to be Members of this august House, but only 67 of us made it here and 349 in the National Assembly. When you have an opportunity to legislate, represent your people and oversight, it is always good to be present in the House. Make your conversation. With all the discussions go on across the country, there is no better platform than the House of Parliament.

I find it strange--- and perhaps this is what we intend to cover during the second round of training and induction for Members, that presence in the House is very important. Come to the House on time; be here by 2.30 p.m. observe things, get to learn, participate in all matters that are brought before the Floor of the House and that is what makes us successful legislators.

I do not know about the experience of the rest of my colleagues, but when you are campaigning this last election, there are things that you hear your constituents tell you and from my experience part of the things people used to say when you give them the microphone after the round of introduction is, “*Mheshimiwa*, there is something we want to tell you.” I do not recall any single meeting where I did not find somebody who said, “Senator, one of the things I am very proud about is that when I see you on the Floor, I feel represented.”

This is a vote that people have given you the chance and opportunity to come to this House and speak on behalf of all *Omugusii*. It is you, Sen. Onyonka, that they have said, “please, speak on our behalf.” Therefore, it is a great honour which I would like to request colleague Senators to carry it with serious dedication and honour.

Be present in the House from 2.30 p.m. to 6.30 p.m. or even sometimes when duty calls, like it did yesterday - we sat here up to 9.00 p.m. to transact business the better - so be it. That is my request as we move to adopt this Calendar of the House that colleague Senators will find it in their hearts a sense of duty to always be present in this House and follow through deliberations and speak to the things that matter to the people that voted them here.

Mr. Deputy Speaker, Sir, I beg to move and request the Senate Minority Leader, the good Senator of Kilifi County, to second this Motion.

The Deputy Speaker (Hon. Kathuri): Thank you. Leader of the Minority party, Sen. Madzayo, please, proceed.

The Senate Minority Leader (Sen. Madzayo): Asante Bw. Naibu Spika. Kwanza nataka niunge mkono yote aliyosema ndugu yangu, Sen. Cheruiyot, kuhusu mjadala huu.

Mjadala huu ni muhimu kwa sababu unaweza kuweka ratiba ya vile ambavyo tutaweza kufanya mambo yetu, majadiliano ndani ya Bunge hili la Senate kwa muda fulani ambao umewekwa kulingana na ratiba yetu.

Bw. Naibu Spika, tunaona ya kwamba waliokuja hivi sasa katika Bunge la Senate wengi ni vijana na pia wamechanganyika na wazee kidogo. Itakuwa tena sio ile Bunge walikuwa wakisema wakati ule tulipoingia wakati wa 2013, kwamba hili ni Bunge la

wazee kwa sababu naona vijana chipukizi wameingia hapa kama Masenata kutoka kaunti mbali mbali katika nchi yetu ya Kenya.

Bw. Naibu wa Spika, cha muhimu nikuona ya kwamba ile ratiba ambayo imewekwa katika Kalenda yetu imetimia na imekabiliwa kisawa sawa na watu wameweza kufanya kazi zao wanaoziweza.

Katika hili Bunge, kuna cheche nyingi ambazo hutokea. Lakini tunavyojua ni kwamba katika Bunge hili, Maseneta hujadiliana kwa njia ya heshima na pia vile vile sio kama kutupiana maji ama kuambiana maneno machafu machafu. Sisi ni watu tumestaarabika hapa na nina matumaini ijapokua tuko na vijana, wataweza kuona ya kwamba kwa upande wa wazee, Bunge la Seneti linaweza kufanya kazi zake namna gani.

Bw. Naibu Spika pia kama vile alivyosema ndugu yangu Sen. Cheruiyot, pengine ningeweza kujaza kidogo ya kwamba kuna nafasi nyingi za wale ambao wamekuja hivi sasa kwa mara ya kwanza ndani ya Seneti.

Kwa hili Bunge huwa na mambo mengi. Sio mchezo wa kandanda pekee yake, kuna pia wakimbaji. Kwa dada zetu, kuna mpira wa vikapu au netiboli na pia kuna mchezo wa kupimana misuli.

Bw. Naibu Spika, ukiangalia pande zote mbili, utaona kwamba Upande wa Walio Wachache, hakuna wanachama wenye misuli. Lakini, Upande Wa Walio Wengi, kuna wale walio na misuli na watacheza mchezo wa kuvuta Kamba.

Kwa hivyo, michezo ni nyingi. Afya ya Maseneta ni muhimu. Kwa hivyo, kila asubuhi ama jioni na wakati wowote ule, kuna mahali ambapo mnaweza kwenda kufanya mazoezi ili kuweka akili na miili yetu katika hali ya afya.

Vile vile, safari zipo. Safari zitakuwa nyingi. Ninakumbuka mimi nimeenda safari na ndugu yangu Sen. Kinyua. Vile alivyosema Ndugu yangu, Sen. Cheruiyot, yeye yuko sawasawa. Yeye ni mtu wa shughuli nyingi, lakini yale anayo ya shughulikia, anayaelelewa vizuri. Mimi nilimsindikiza tu pande zingine.

Katika kunyoosha misuli, vile, siwezi kujua tumejitayarisha kiviipi kwa michezo. Maanake, kwa hii michezo ambayo itakuwa *East Africa Legislative Assembly* (EALA) kama vile nilivyotangulia kusema, itakuwa michezo kadhaa wa kadhaa. Hivyo basi, tutatafikana tuwe na akina dada zetu.

Nikiwaangalia hawa dada zetu walioko hapo, nahofia kuwa wanaweza kufungwa mabao mengi sana. Sioni yule anayeonekana mkakamavu. Labda Sen. Keroche anaweza kujaribu.

Hizi ndizo mbinu mbalimbali ambazo sisi tutaweza kufanya muhula huu. Kuanzia sasa hadi Disemba---

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

The Deputy Speaker (Sen. Kathuri): Samahani Sen. Madzayo. Kuna Hoja ya nidhamu kutoka kwa Sen. Methu. Seneta wa Nyandarua, naona umebonyeza kidude cha Hoja ya nidhamu. Halafu, ifuatwe na Hoja ya nidhamu ya Seneta Kinyua.

Sen. Methu: Thank you, Mr. Deputy Speaker Sir. I will not attempt to speak in the language of the Senator for Kilifi.

As the good Senate Majority Leader said that, we, the new Senators, are familiarizing ourselves with the rules and procedures of this House. I have been reading the Speaker's Rules on the conduct of Senators within the precincts of Parliament.

The Speaker's Rule No.5 states that-

“Senators are required not to enter the Chamber, lounge or dining room without being properly dressed. This means that a Senator shall be dressed in a coat, collar, tie, long trousers, socks and shoes, or service uniform, religious attire or such other decent dressing as may from time to time be approved by the Speaker”

An equivalent standard shall apply in respect to Women Senators who may also wear *Kitenge* or such other African attire.

I have been looking at my good brother, the decorated Senator for Kisii. Although I am told that there was a ruling that was done many years ago, we are now living in the present. I would wish to get your guidance on what rules we are referring to.

I am happy that the traditional wear is allowed in this Senate---

(Sen. Onyonka stood up and spoke off-record)

The Deputy Speaker (Sen. Kathuri): Sen. Onyonka, kindly relax and have your seat. Do not mind.

Sen. Methu: Mr. Deputy Speaker Sir, please, protect me. The guilty are always afraid. My brother is getting a little agitated. Whatever it is, either a traditional attire or any other code of dressing, I am not sure it is appearing in the Speaker's Rules.

I, therefore, seek your guidance.

This is because the people of Nyandarua have their own traditional wear. I wish we could get a standard practice. When I come with a *boshori* will it be allowed here? That is what we put on in Nyandarua because it is a very cold county.

The Deputy Speaker (Sen. Kathuri): Sen. Onyonka, you may respond. Order, Members. Let us first of all finish up with this issue.

Hon. Senator, you may proceed now.

Sen. Onyonka: Thank you, Mr. Deputy Speaker, Sir. The Speaker is a paramount leader in this House. I would like to tell my brother from Nyandarua that unfortunately my button was not tied. However, if you look at me, I look quite handsomely presented for this House.

The Deputy Speaker (Sen. Kathuri): Precisely. You are properly dressed, Sen. Onyonka. You are okay. Always remember to button up.

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

The Deputy Speaker (Sen. Kathuri): Sen. Kinyua, what was your point of order?

Sen. Kinyua: Mr. Deputy Speaker, Sir, it is true. However, he needs to button up his collar button. I had picked that one. That notwithstanding, I still seek your guidance. This is because when I look on my right, I can see Sen. Karungo wa Thang'wa. He is in United Democratic Alliance (UDA) attire.

I know that he is the one who delivered more than 540,000 votes. I need your guidance whether he is properly dressed.

Additionally, when Sen. Madzayo was speaking, he referred to Senator for Nakuru as 'Keroche.' I thought she is Sen. Keroche. That is what I mean.

Hon. Members, I have been in the Speaker's Panel. Therefore, I listen properly

(Laughter)

For Senator for Narok, you are properly dressed.

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

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, what is your point of order?

Sen. Cherarkey: Mr. Deputy Speaker, Sir, on the dress code, Speaker's Rule No.5 is very clear. I need guidance because we had raised that issue too. Sen. Olekina should be comfortable. I am not raising the issue of the *rungu* today.

In regards to Sen. Thang'wa, we need guidance on the type of jacket that he has worn. We appreciate that he has worn a shirt and a tie, but he is wearing a half jacket, which we famously used during the campaign period. I know that there is hangover.

We, however, need guidance since most of us are new. I hope that you will be lenient. Let us be properly guided, so that we come here when we are properly dressed and transact serious business that comes with it.

Last time, I raised an issue---

The Deputy Speaker (Sen. Kathuri): Was it about dressing?

Sen. Cherarkey: Yes, Mr. Deputy Speaker, Sir. I am about to conclude. I raised an issue about how ladies should dress outside *kitenge*. This is because some of the modern dresses that ladies wear confuses us sometimes. So, we need guidance apart from the traditional wear. I am not saying they confuse us in a good way.

(Sen. Kinyua consulted loudly)

Mr. Deputy Speaker, Sen. Kinyua is interrupting my thought process. We are not being confused. We are beyond the age of confusion.

We misunderstand how the Speaker's Rules apply in terms of dressing. Let us get a substantive ruling on this matter, so that we can conclude.

The Deputy Speaker (Sen. Kathuri): Sen. Thang'wa, before you respond, Sen. Cherarkey, what did you say Sen. Thang'wa is wearing?

Sen. Cherarkey: I am not a fashion guru, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): What did he say that he is wearing?

Sen. Cherarkey: He is wearing a half of a jacket

(Laughter)

A half coat! I am sorry. I am not a fashion guru. In fact, I am a rural Senator, as Sen. Sifuna would put it.

The Deputy Speaker (Sen. Kathuri): Sen. Cherarkey, what did you say he is wearing specifically?

Sen. Cherarkey: A half coat that is a replica of what we used to wear during the campaign period. It is not a campaign period.

The Deputy Speaker (Sen. Kathuri): Since you mentioned the word coat and the Speaker's rules are very clear about the coat, Sen. Thangw'a, you may respond.

Sen. Thangw'a: Thank you, Mr. Deputy Speaker, Sir. I do not know what the problem is. Is it the color, because we are talking about United Democratic Alliance (UDA)? Is it the number of votes which was 579000?

From the Speaker's rules, which I have here, we are supposed to dress in a coat. I believe this is a coat. You did not say full, half, quarter, or an eighth.

(Laughter)

I have a tie and a trouser. Sen. Gataya, you can confirm they are long.

(Laughter)

I have socks and finally, if this does not pass as a coat or anything else, it is a religious attire somewhere in India.

Thank you.

(Laughter)

The Deputy Speaker (Sen. Kathuri): Sen. Thangw'a, you are describing all that you have worn today but you are avoiding some other clothes that you are in. You have said you have socks, trousers and shoes.

(Laughter)

Sen. Thangw'a, you are properly dressed. Be comfortable to transact business. Sen. Cheptumo, you are on an intervention.

Okay, Sen. Madzayo kindly proceed with the seconding of the Motion.

Sen. Madzayo: Asante, Bw. Spika. Nilikuwa mmoja wa wale watu ambao wakati mmoja nafikiria ndugu yangu Sen. Cherarkey, ndiye alisimama na kusema kwamba sijavaa vizuri. Nilikuwa nimevaa kama ndugu yangu, Sen. Onyonka. Spika aliyekuwa wakati huo alisema ya kwamba nilikuwa nimevaa vyema.

Kitu ambacho siwezi kusema ni kuwa, kulingana na ule uamuzi wako uliotoa hivi sasa, ni kwamba, mtu akivaa koti kama lile na ukasema ni sawa, naona siwezi kupinga uamuzi wako lakini ni hatari. Hii ni kwa sababu wakati mwingine watu wanaenda namna hivyo kwenye vilabu vya disko.

Mjadala huu ni ngao na ni mwelekeo na unaoelekeza vile Seneti itaweza kufanya kazi zake. Kwa hivyo, naunga mkono kusema ya kwamba uko sawa kabisa.

Asante.

(Question proposed)

The Deputy Speaker (Sen. Kathuri): Before I put the question, I can see we have several Senators who are interested. Let us start with Sen. Maanzo.

Sen. Maanzo: Thank you, Mr. Deputy Speaker, Sir. I support the Motion. The Calendar is important. It has been put forward by the Majority Leader that we will have another training. Even after being in the National Assembly for 10 years, I still have one or two things to learn. We learn something new every day. If we had that further training, I believe some of the new Senators will also get more information. We will then avoid some of these points of orders which take a little bit more of the House's time. I believe we have quite heavy business to transact.

I like the interlude because of sports. Health is very important for Members.

The Deputy Speaker (Sen. Kathuri): Sen. Maanzo, just a moment. What is your point of order, Sen. Cherarkey?

Sen. Cherarkey: Mr. Deputy Speaker, Sir, I hate to interrupt my learned senior but he is misleading everybody and the public.

Standing Order No. 98 was not misplaced. It exists as a right of any Member. Therefore, it is misleading to say that raising a point of order is wasting Senate's time. This is because it is a right unless the Speaker rules that it is either fictitious, frivolous or it does not hold any water.

Sen. Maanzo should be guided accordingly. Any Standing Order from number one to the last one is as important as any Standing Order that has been provided. The Senate Business Committee and the Procedure and Rules Committee did not misplace these Standing Orders. I therefore think that Sen. Maanzo should be ruled out of order under that point of order.

The Deputy Speaker (Sen. Kathuri): Sen. Maanzo, before you resume; what I ruled from this Chair is that we should strictly use Standing Order No. 98(1) which says:

“Any Senator may raise a point of order at any time during the speech of another Senator stating that the Senator raises a point of order and that Senator shall be required to indicate the Standing Order upon which the point of order is based”.

Therefore, hon. Senators have the right to raise any point of order even if they raise from 2.30 p.m. to 6.30 p.m. However, you should then indicate the point of order you are standing on, so that we do not also interrupt businesses of the House unnecessarily.

We also have Senators who raise points of orders on Standing Order No. 3. I have been observing.

Sen. Maanzo: Thank you, Mr. Deputy Speaker, Sir. Yes, Sen. Cherarkey does not quote what Standing Order he is rising on most times. Most of the time, it is frivolous or just to interrupt so that the people of his county can see him. He is my good friend. He never states the Standing Order or he states that which is irrelevant.

(Laughter)

The Deputy Speaker (Sen. Kathuri): Sen. Omogeni, you have an intervention. Please, go ahead.

Sen. Omogeni: Thank you, Mr. Deputy Speaker, Sir. I know the Senator of Makueni County, Sen. Maanzo, is a very experienced Parliamentarian. He is serving his third term. The cardinal rule in this House is that we should never cast aspersions on another Senator.

Rarely do I stand to defend the Majority Side, especially, Sen. Cherarkey, but on this one, is Sen. Maanzo in order to refer to Sen. Cherarkey as one who raises frivolous points of order?

I direct that you direct him to withdraw because this is a House of record and the people of Nandi County are watching. We do not want them to have the impression that their Senator is in the business of raising frivolous points of order in the House.

(Laughter)

The Deputy Speaker (Sen. Kathuri): Before Sen. Maanzo responds, let us hear the other point of order from Sen. M. Kajwang'. It could be the same.

Sen. M. Kajwang': Mr. Deputy Speaker, Sir, even though Sen. Cherarkey has referred to Standing Order No. 98, I also draw his attention to Standing Order No.121 on Disorderly Conduct.

Yes, every Senator has got the right to rise on a point of order, but it is further qualified in Standing Order No.121 on Disorderly Conduct which states-

- (1) A Senator is disorderly if the Senator-
 - (a) creates disorder;
 - (b) knowingly raises a false point of order;
 - (c) unnecessarily interrupts proceedings or consults in a disruptive manner;
 - (d) fails to record abstention in a division;
 - (e) makes allegations without, in the Speaker's opinion, adequate substantiation; or
 - (f) commits any other breach of these Standing Orders that, in the opinion of the Speaker, constitutes disorderly conduct.

Mr. Deputy Speaker, Sir, Sen. Cherarkey is very guilty of unnecessarily interrupting proceedings. The House of Commons from which we draw part of our traditions, have amended their Standing Orders. They have done away with frivolous points of order, such that you allow a Member who is on the Floor to prosecute his case, make his statement, argue out his case and then wait for your turn to argue out.

As much as we still have Standing Order No.98, we must make sure that it is not an excuse for people to engage in debate, showmanship or unnecessary disruption of debate.

(Applause)

The Deputy Speaker (Sen. Kathuri): Sen. Cheruiyot, please, proceed.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, Sen. M. Kajwang' should not close the page he was reading. I want him to read further down, Standing Order No.121(2), on who has the sole mandate and power to call what disorderly conduct is.

Sen. Cherarkey: Correct!

The Senate Majority Leader (Sen. Cheruiyot): Mr. Deputy Speaker, Sir, I know Sen. M. Kajwang' comes from Homa Bay County. Sometimes he has a habit of grabbing things that do not belong to him.

(Laughter)

Mr. Deputy Speaker, Sir, do not allow him to grab your powers. It is only you in this House who can declare a Senator to be out of order or to be behaving in a disorderly manner. It is quite unfortunate if you let him get away with that.

Standing Order No.121(2) clearly stipulates that it is the Speaker who shall make the call on whether a Senator is orderly or disorderly. Sen. M. Kajwang' is not the Speaker of this House.

(Loud consultations)

The Deputy Speaker (Sen. Kathuri): Sen. Cheptumo, please, proceed.

Sen. Cheptumo: Mr. Deputy Speaker, Sir, what the Senate Majority Leader has said is what I wanted to mention. Even to determine a point of order as frivolous, is not in the business of the Senator. It is you, Mr. Deputy Speaker, to decide.

Apart from deciding whether a Senator is disorderly, knowingly raises false points of order and so on, even to determine whether a point of order is frivolous, is squarely within your purview. That is why even on matters of dressing, you are the one to make the decision. Just a few minutes ago, you were able to direct.

I agree with the Senate Majority Leader that that is your preserve. You should not allow any Member to take that position. You have been guiding the House in the right manner.

The Deputy Speaker (Sen. Kathuri): This issue has attracted a lot of points of orders.

Before I give Sen. Maanzo a chance to either withdraw or not – because that is his right – let me give an opportunity to the Senate Minority Leader, Sen. Madzayo.

The Senate Minority Leader (Sen. Madzayo): Mr. Deputy Speaker, Sir, I wish to point out that I have been in this House with Sen. M. Kajwang'. I have never seen him grabbing or holding anything that does not belong to him. It is a bit unfair for my brother to say that Sen. M. Kajwang' is fond of grabbing things that do not belong to him.

(Laughter)

That statement should be withdrawn. It should go on record for the people of Siaya County to know that they have a very able Senator in the House. It is important to clarify that.

The Deputy Speaker (Sen. Kathuri): This is very interesting.

Sen. Wambua, please, proceed.

Sen. Wambua: Mr. Deputy Speaker, Sir, the Senator for Homa Bay County is a very respected Senator, not just in this House but also outside.

(Loud consultations)

Reference is to Sen. M. Kajwang. The Senators to the right of the Deputy Speaker want me to make references about them but I will rise on a point of order to make reference.

Standing Order No.101(3) says:

“It shall be out of order to use offensive or insulting language whether in respect of Senators or other persons.”

Mr. Deputy Speaker, Sir, I find the characterisation of the Senator of Homa Bay County as a person who grabs other peoples’ things very offensive. Can that either be substantiated or withdrawn?

The Deputy Speaker (Sen. Kathuri): Sen. M. Kajwang’ has not complained or denied.

(Laughter)

He is not on any intervention but now he is.

Yes, Sen. M. Kajwang’, proceed.

Sen. M. Kajwang’: Mr. Deputy Speaker, Sir, knowing Sen. Cheruiyot very well, we have been friends and partners in many things in this House. However, none of them has been about grabbing other people’s things. I suspect Sen. Cheruiyot is a little bit envious and jealous about my company on this side. Perhaps that is what he referred to.

Otherwise, I do not see any reason why Sen. Cheruiyot would accuse me of grabbing anything that does not belong to him. Sen. Lemalton does not belong to Sen. Cheruiyot. So, when she sits next to me, Sen. Cheruiyot, should be calm, chill out. Do not feel like I have grabbed anything from you.

(Laughter)

The Deputy Speaker (Sen. Kathuri): Sen. M. Kajwang, I do not want to comment on your statement. You are, indeed, in good company.

Sen. Maanzo, can you withdraw or apologise for your statement. It has caused a lot of tension in the House.

Sen. Maanzo: Mr. Deputy Speaker, Sir, Sen. Cherarkey is a personal friend and I am his senior in the profession. The use of the word “frivolous” would have been excessive and I withdraw it.

However, I agree with the Senate Majority Leader that we need further training. I am sure out of that further training, we will not keep using those Standing Orders which the Speaker should, according to the Standing Orders, rule whether they are frivolous or not. I leave that to the realm of the Deputy Speaker because he is the only one who can rule. The main point is a little bit of training, so that even when the debates are hot or controversial, we still remain guarded and to the point and be able to handle business.

So far, the Papers tabled are quite heavy. May I withdraw to avoid that sort of exchange.

The Deputy Speaker (Sen. Kathuri): Yes. Now, continue with your contribution.

Sen. Maanzo: Mr. Deputy Speaker, Sir, I withdrew the word frivolous and apologised to my good friend, Sen. Cherarkey.

I support the Senate Majority Leader on the issue of training and learning. Every day is a learning day. We want to be more effective in this House. Devolution is a very serious matter and what this Senate is doing is very important to this country, if we are really going to develop the country.

While we deal with our oversight role, both primary and secondary, it will serve the country much better when we have full information. Quite a number of reports have been tabled since we started these sessions and they are heavy every day. You can even see the recording on the Order Paper. This House has a lot of work at hand. So, I also agree with the fact that at times, we will need to seat overtime and more days to complete this work for the benefit of counties and devolution.

I believe this Senate is a very serious House and committed to developing the country. That is why getting the Senators facilitated in one way or the other, including offices--- When we were Members of the National Assembly, we were able to construct official offices for Members of Parliament (MPs). Governors have now been given official residences and offices. We do not want to demand much from the country but I believe a Senate official office is very crucial at the headquarter of the county. In one way or another, it facilitates the Senator.

Sen. Cherarkey: Point of information, Mr. Deputy Speaker, Sir!

Sen. Maanzo: Mr. Deputy Speaker, Sir, I would like Sen. Cherarkey to inform me.

The Deputy Speaker (Sen. Kathuri): Proceed, Sen. Cherarkey.

Sen. Cherarkey: Thank you, Mr. Deputy Speaker, Sir. I am an experienced Member of this House and I assure Sen. Maanzo that the County Liaison Office is already provided for and Sen. Dullo is in a better place to confirm.

I can have a *tet-a-tet* with Sen. Maanzo after this, where I can guide him. The County Liaison Office is under the Office of the Clerk. It is already there. He shall not incur his own cost. We will keep improving as we go into the future.

Sen. Maanzo: Mr. Deputy Speaker, Sir, that is very good information. The point I am relating to is an office or budget be provided for to build a Senator’s office in every

county, so that we do not have to rent. It should be something that is standard, the same way we did with the offices for Members of the National Assembly. They are standard just as the offices of the governors.

(Applause)

If we have to properly monitor devolution, then we need a proper, standard Government office building for every Senator in the country. The land is available in county headquarters. We do not have to rent offices.

There should be a budget to build an official office. The moment we do not have a standard, then every Senator will be forced to have an outfit which may not truly be befitting.

Mr. Deputy Speaker, Sir, this is a very serious office and this is a serious House dealing with serious businesses. It should be accorded that provision for us to serve the country well.

That is why there is a State Lodge in every county as it was designed by the British. We have now designed county governor's offices. Why not also finance for a standard office for Senators, which will live beyond us and serve the people.

Mr. Deputy Speaker, Sir, the Senate Calendar and the job that we do are important. The seriousness of this House is reinforced. We have experienced legislators and experienced lawyers like Sen. (Prof.) Ojienda, SC and Sen. Faki in this House. They offer guidance to this House.

I have been proposed as a Member of the Committee on Delegated Legislation in this House. I believe that we will work with other Members and come up with proper legislations on delegation on parts of the Acts of Parliament which exist, so that we can serve the country better. I believe devolution will be served better by this House.

Mr. Deputy Speaker, Sir, I support.

Thank you.

(Interruption of Debate on the Motion)

COMMUNICATION FROM THE CHAIR

VISITING TEACHERS AND STUDENTS FROM LEADERSHIP ACADEMY,
NAIROBI COUNTY

The Deputy Speaker (Sen. Kathuri): Hon. Senators, allow me to briefly interrupt the proceedings and make this Communication.

Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon, of visiting teachers and students from Leadership Academy, Nairobi County, who are in an academic trip.

Hon. Senators, in our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

I, thank you.

Proceed, Sen. Sifuna.

Sen. Sifuna: Thank you very much, Mr. Deputy Speaker, Sir. I take this opportunity, as the Senator for Nairobi City County, to welcome the students from Leadership Academy.

Mr. Deputy Speaker, Sir, that is why your decision on the discussions that were ongoing before is very critical. In fact, when students come to the Senate like this for a visit, being young and impressionable people, what they experience here today is something that will stay with them forever.

I am a bit disappointed that all they got to experience were points of order. I hope that they can come back another time when there is serious debate going on in the Floor of the House. When Sen. Cherarkey – whom we refer to as a Senator from a rural county – will not interfere with debates.

This is a House of debate. Let these young people not leave here thinking that all we do is quarrel about Standing Orders. Let them come here one day and experience a proper debate about education, health or matters that are charged to our conduct.

Welcome to the Senate. It is not one of the best days but I am sure that you will pick something from your experience here. Work hard in school. I hope that some of you, since you are in Leadership Academy, will aspire to be leaders. The sky is the limit. There is no obstacle in your paths. Do as your teachers say. I am sure that one of these fine days, we will see some of you in the Senate.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Sen. Kinyua is also interested in welcoming them to the Senate.

Sen. Kinyua: Bw. Naibu Spika, asante sana kwa kunipa fursa hii. Naungana nawe, pamoja na Seneta wa Nairobi, kuwakaribisha wanafunzi na waalimu wa shule ya *Leadership Academy*.

Sisi tunawatakia mema. Ni vizuri wamekuja kuona mambo ambayo tunayoyafanya hapa Seneti. Nawasihi watie bidi kwa masomo yao kwa sababu masomo ndio uti wa mgongo wa maendeleo katika nchi yetu ya Kenya.

Ijapokuwa wamekuja hivi leo na wakatupata tukiendelea na shughuli zetu za kujadili, ni bora wajue eti mijadala huendelea vivyo hivyo. Kuna hoja za nidhamu. Mambo mengi hutendeka hapa. Kwa hivyo, wakija wakati mwingine, watatupata tumevulia njuga maswala muhimu ambayo tunapaswa kuangalia. Siku ya leo, tulikuwa tunaangalia mambo ya kalenda yetu. Kwa hivyo, hatujaanza mijadala ya kuisimua, tunayoweza kujadili kwa mapana na marefu.

Nawakaribisha na kuwatakia mema katika masomo yao. Ningependa wajue ya kwamba, mawingu ndipo mahali ambapo watakapofika. Najua watakuja hapa Seneti. Seneti ndilo Bunge ambalo linajulikana kwa kujadili Miswada ambayo ni muhimu sana katika Jamhuri yetu ya Kenya.

Nawakaribisha sana na kuwatakia mema siku za usoni.

Bw. Naibu wa Spika, asante kwa kunipa fursa hii.

The Deputy Speaker (Sen. Kathuri): Let us have the last Member from my left-hand side. Proceed, Sen. Onyonka.

Sen. Onyonka: Bw. Naibu Spika, natoa shukrani zangu kwa kunikubalia nizungumze kwa ufupi sana.

Ningependa kuwaambia wanafunzi ambao wamekuja hapa kwamba Kenya ni nchi nzuri ikiwa tutailinda. Najua wamekuja hapa kuelewa vile tunavyojadiliana kama viongozi, kwa maswala nyeti yanayohusu wananchi wa kawaida ili tuweze kuboresha maisha yao.

Naona wengi wao ni wasichana na ningependa kuwaambia ya kwamba Kenya ni nchi ambayo inalinda haki za wasichana au wanawake kikatiba. Haki hizo zinawapa nafasi ya kuendelea ili hao pia wawe viongozi wa kesho.

Natoa shukrani zangu kwa waalimu wao ambao wamewaleta hapa. Ikiwezekana, wapitie ule upande mwingine wa Bunge la Kitaifa ili pia waone vile wanavyoendelea kujadili na kuzungumzia maswala tofauti.

Bw. Naibu wa Spika, asante kwa kunipa fursa hii, kuzungumzia haya mambo.

(Resumption of debate on the Motion)

The Deputy Speaker (Sen. Kathuri): Thank you. Let us now go back to the substantive Motion. Proceed, Sen. Mungatana.

Sen. Mungatana: Thank you, Mr. Deputy Speaker, Sir. I rise to support this Motion.

Mr. Deputy Speaker, Sir, this is not a normal Procedural Motion. It is a Motion that speaks to the history of the Constitution and the freedom of the legislature from the Executive. It is a Motion that we should debate with pride and remind ourselves where we came from.

In those days – some of us happen to have served under the old Constitution – the Head of State had the powers to prorogue Parliament. We did not have powers to make our sittings calendars like we are doing today nor determine when to go on recess. We could be in the House debating and just because the Head of the State was not happy with the debate, by the end of the day, he would send us home. We must debate on this Motion on Approval of the Senate Calendar for the First Session of this House and emphasize the freedom of this legislative body.

As I stand here, I would like to pay tribute to Members of the Senate who were here before us. Some of them have been proposed to serve in the Cabinet like Sen. Murkomen. Some are here like Sen. Faki and Sen. Madzayo while others are not.

Mr. Deputy Speaker, Sir, some of us will remember seeing the former Senator for Kakamega, hon. Malalah hounded because he did not want to vote in a certain way. They knew what freedom and the independence of this Senate stands for. Even if certain counties were going to gain, they stood with others to make sure that this Senate remains independent. They came together and resisted the reduction of money from some of the counties like Tana River.

Mr. Deputy Speaker, Sir, I take this opportunity to remind this House that during this Session, there will be times that our parties will give us instructions, but there are times that we must close ranks. We will not speak as Members of the Opposition or Government. We will close ranks and agree to do the right things for devolution to work. We need to protect our counties despite those who are gaining or losing.

We should work together and independently execute our mandate without fear or intimidation.

Mr. Deputy Speaker, Sir, I support.

The Deputy Speaker (Sen. Kathuri): Sen. Faki, proceed.

Sen. Faki: Asante, Bw. Naibu Spika, kwa kunipa fursa hii kuchangia Hoja ya Kalenda ya Seneti. Kalenda hii itatusaidia kupanga kazi zetu Bungeni na mashinani. Bali na kuhudhuria vikao vya Bunge, kuna ofisi za mashinani ambazo ni muhimu katika kuendesha kazi zetu ili kuhakikisha kuwa kila kitu kiko sawa.

Mapumziko haya yatatoa fursa kwa Maseneta kuendelea kusoma. Hapa Bungeni hakuna mwisho wa kusoma. Utakuwa unasoma mpaka siku Bunge litakapojunjwa wakati wa uchaguzi wa mwaka 2027.

Bw. Naibu Spika, nimegundua kuwa mara nyingi Maseneta wa upande wa walio wengi wachache wanatatizika na vifaa vya kisasa vilivyoko katika Bunge hili. Mapumziko hayo yatatoa fursa kwao kufundishwa ili wawe sawa katika mambo ya mitandao na waweze kutoa michango yao kiutamamua kama inavyokusudiwa.

Nilifurahi Seneta wa Tana River aliposema kwamba Bunge hili linafaa kuwa huru ili kufanya kazi yake kwa kuzingatia masilahi ya Wakenya wote. Naomba upande wa walio wengi wachache wakubali wanachama wa Kamati ambayo tumependekeza wawe na nafasi ya kuteua wenyevidi---

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

The Deputy Speaker (Sen. Kathuri): Sen. Kinyua, what is out of order?

Sen. Kinyua: Bw. Naibu Spika, ninakanganywa. Sielewi anachomaanisha Sen. Faki anaposema upande wa walio wengi wachache. Sisi ni wengi. Sielewi kwa nini anasema wengi wachache.

Sielewi anachomaanisha kwa kusema sisi ni wachache na ilahali u kikatiba sisi ndio wengi. Tungependa atoe maelezo. Sijui kwa nini anatumkanganya.

The Deputy Speaker (Sen. Kathuri): Sen. Onyonka, is your point of order related to Sen. Faki's contribution?

Sen. Onyonka: Bw. Naibu Spika, sina hoja ya nidhamu. Nilitaka tu kuchangia kama Sen. Mungatana.

The Deputy Speaker (Sen. Kathuri): Ikiwa wataka kuchangia, basi usibonyeze kidude cha hoja ya nidhamu au *intervention* kilichoko upande wa kushoto. Bonyeza mahali pamoja tu.

Sen. Onyonka: Bw. Naibu Spika, unajua nilikuwa katika Bunge la Taifa. Sasa nimeanza kujifunza.

The Deputy Speaker (Sen. Kathuri): Sen. Faki, proceed.

Sen. Faki: Bw. Naibu Spika, sidhani kama hoja ya nidhamu ya Seneta wa Laikipia inashiria ukosefu wowote wa nidhamu wangu.

The Deputy Speaker (Sen. Kathuri): Lazima ueleweke.

Sen. Faki: Bw. Naibu Spika, nimesema upande wa ‘walio wengi wachache’, kwa sababu inajulikana wazi kwamba chama cha Sen. Ali Roba na wenzake bado kiko ndani ya Azimio la Umoja one Kenya Alliance. Hicho ni kitu kinachojulikana wazi.

Nikimalizia, ningependa---

The Deputy Speaker (Sen. Kathuri): Sen. Faki, naomba ujieleze kwa ufasaha ndiposa ripoti ya HANSARD ieleweke.

Sen. Faki: Bw. Naibu Spika, ni wazi nilivyoeleza, kwamba---

The Deputy Speaker (Sen. Kathuri): Unajichanganya. Hatuelewi unachomaanisha.

Sen. Faki: Bw. Naibu Spika, sijajichanganya. Nimesema kuwa upande wa walio wengi wachache. Kikatiba, upande huu wetu ndio wa wengi, lakini kwa sababu---

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

The Deputy Speaker (Sen. Kathuri): Sen. Mandago, proceed.

Sen. Mandago: Bw. Naibu Spika, Seneta wa Mombasa anatukanganya. Amesema ‘walio wengi wachahe’, ilihali tayari ulitoa mwelekeo wakati wa uchaguzi na ukasema wazi kuwa sisi ndio wengi katika Bunge. Kwa hivyo, naomba aondoe matamshi yake kutoka kwa HANSARD.

The Deputy Speaker (Sen. Kathuri): Tumsikize Sen. Ali Roba.

Sen. Ali Roba: Mr. Deputy Speaker, Sir, I rise on a point of order. Sen. Faki has misled the House on an issue that has already been determined and reinforced by the Speaker of the National Assembly.

We discussed the issue as to where the Senators elected on United Democratic Movement (UDM) party belong to and the matter was put to rest.

As such, I believe Sen. Faki has kept on referring to me and giving an indication of feeling bad because of where I am seated. Hon. Senator, move on and accept. Stop making references that are not practical as at now. That issue has been put to rest. As the party leader of UDM and a Member of this House, I would like to be understood clearly so that we do not make further references in relation to the same in the future.

Sen. Cheptumo: Mr. Deputy Speaker, Sir, I think we are undermining your authority which is a trend that we need not allow. When one talks of “majority” and “minority”, what is that? How can one side become a majority and minority at the same time? I respect my colleague, but we need to realize that on matters which the Speaker has already given a ruling, we should not do things in a manner that we undermine the authority, decisions and rulings of the Speaker.

Mr. Deputy Speaker, Sir, you need to guide the House. As we proceed, it is important for us to utilize our time in a manner that is going to benefit us. I do not intend to undermine the right of my colleague to say what he wants to say. However, there are statements made, which in my view, are not tenable. For instance, when he says “majority” and “minority” he is out of order and I think he needs to withdraw that.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, in the reading of Article 108 of the Constitution of Kenya alongside Senate Standing Order No.22, it is crystal clear that it is

designated that either you are in the majority or minority side. You cannot be a political hermaphrodite, which is unfortunate.

Sen. Faki, who I have the highest regard for, being a Member of the Justice, Legal Affairs and Human Rights Committee which I chaired.... We went through these Motions together. He is also my learned senior. He is my senior, but I am also senior in some things.

When you look at Standing Order No.22 - I would have expected Sen. Sifuna to assist him or my good lecturer Sen. (Prof.) Tom Ojienda to be giving him senior counsel guidance on what the law and the Standing Orders says.

Secondly, Senate Standing Order No. 1 states:

“It is the tradition and the precedent of this House that the matter the Speaker has ruled on---”

It is like a court judgement that sometimes you disagree, but you have to abide by it. However, it does not mean that you revisit the issue. I am aware that Azimio One Kenya Alliance has moved to court. They can prosecute their matters in a court of law or in *Bunge la Mwananchi*. However, here we follow precedents and traditions that have been set by the House under Standing Order No.22 and Article 108 of the Constitution of Kenya. You should rule him out of order.

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Sen. Faki, you should be outright on this issue. Let us not attract a lot of points of order and unnecessary jostling in this House. Can you be specific? Either you are referring to the majority or the minority. You cannot use the two terms simultaneously.

Sen. Faki: Bw. Naibu Spika, kwanza ningependa kupata muongozo kama Bunge hili limetoa uamuzi kuhusiana na swala hilo. Nimekaa katika vikao vyote vya Bunge hili kutoka vianze na sijasikia Spika akitoa uamuzi kuhusiana na swala hili.

The Deputy Speaker (Sen. Kathuri): Sen. Faki, swala hili halijakuwa na tashwishi yoyote - upande upi wa walio wengi na walio wachache. Swala lililojadiliwa ni kuhusu *Senate Business Committee*. Ukitaka kuzungumzia hili jambo, leta hoja kamili.

Sen. Faki: Bw. Naibu Spika, hili si swala la mjadala, kama Spika alitoea uamuzi, unaweza uleta uamuzi huo kesho ili tusome.

The Deputy Speaker (Sen. Kathuri): This is not a matter which is in contention. Sen. Faki, be objective on your debate.

Sen. Faki: Bw. Naibu Spika, kama hawangependa kuita walio wengi wachache, ningependa kuondoa swala hilo. Nimekubali kuondoa swala hilo.

The Deputy Speaker (Sen. Kathuri): Sen. Faki, endelea.

Sen. Faki: Bw. Naibu Spika, wazo alilotoa Sen. Mungatana kwamba Bunge hili lipate fursa ya kujadili mambo kulingana na maslahi ya wananchi na Kenya kwa jumla, wangeenza wao kwa kuhakikisha kwamba uchaguzi wa wenyekiti wa Kamati zote ambazo ziko katika Bunge hili umegawanywa sawa.

The Deputy Speaker (Sen. Kathuri): Sen. Oketch Gicheru, what is your point of order?

Sen. Oketch Gicheru: Thank you, Mr. Deputy Speaker, Sir. This is a point of information to inform you and Sen. Faki. It is important that you and Sen. Faki are informed.

The Deputy Speaker (Sen. Kathuri): Sen. Oketch Gicheru, who are you informing?

Sen. Oketch Gicheru: Sen. Faki.

The Deputy Speaker (Sen. Kathuri): Can you refer to him appropriately?

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, I feel harassed. Sen. Faki, do you want to be informed?

Sen. Faki: Yes, go ahead.

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, Sen. Faki wants to be informed.

The Deputy Speaker (Sen. Kathuri): Sen. Oketch Gicheru, refer to hon. Senators appropriately.

Sen. Oketch Gicheru: I am sorry about that, Mr. Deputy Speaker, Sir. He is a buddy of mine and has helped me. I am much obliged to refer to him as Senator.

On the issue of the majority and minority, I think this House should stand guided.

The Deputy Speaker (Sen. Kathuri): That matter has been settled. Sen. Faki withdrew his statement and we dispensed of it. You cannot go back to that issue which he has withdrawn.

Sen. Oketch Gicheru: Mr. Deputy Speaker, Sir, but this issue will keep on emerging and you have guided that Sen. Faki should bring it as a substantive motion---

The Deputy Speaker (Sen. Kathuri): No. Sen. Faki, withdrew his statement. Sen. Faki, proceed and wind up. Check on his time because all these points of orders are eating into his time.

Sen. Faki: Bw. Naibu Spika, kuna taa tatu pale ambazo zinatuongoza kuhusiana na mambo ya saa. Sijaona hata moja likiwashwa. Ningependa uniruhusu nimalize maelezo yangu.

Sen. Mungatana ameleta swala nyeti kwamba Bunge hili lisimame na haki na usawa. Hii itanza wakati upande wa walio wengi watakubali kuwa nguvu zetu ziko sawa kwa hivyo kamati zigawanywe kisawa. Kamati saba kwao na nane kwetu ile sote tuweze kufanya kazi pamoja.

Bunge la Seneti halitafanya kazi kulingana na maslahi ya mtu mwingine. Bunge liloondoka Maseneta wa upande wa walio wengi walikuja hapa wakapiga kura na Kamati zote wakachukua.

Tunaomba mwanzo mpya katika Bunge hili---

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

The Deputy Speaker (Sen. Kathuri): Sen. Faki ungependa kufahamishwa chochote naye Sen. Kinyua?

Sen. Faki: La, Bw. Naibu Spika.

(Laughter)

The Deputy Speaker (Sen. Kathuri): Haya basi endelea.

Sen. Faki: Bw. Naibu Spika, tulikuwa na Sen. Kinyua kwenye chuo kikuu mwaka mmoja. Kwa hivyo, hana cha kunifahamisha.

Nikimalizia, swala hili la Kamati ni muhimu sana. Ningeomba Kiongozi wa walio wengi, Sen. Cheruiyot na Kiongozi wa walio wachache, Sen. Madzayo waketi chini ili waamue zile Kamati ambazo zitaongozwa baina ya pande zote mbili. Mambo ya nusu mkate itaangaliwa baadaye katika chama cha UDA.

The Deputy Speaker (Sen. Kathuri): Asante sana. Hon. Senators there is a matter I want to dispense with.

Sen. Faki: Asante, Bw. Spika wa Muda.

I have a Communication on substantiation of facts that a Senator arranges to be true.

(Interruption of debate on the Motion)

COMMUNICATION FROM THE CHAIR

SUBSTANTIATION OF REMARKS MADE BY SEN. OSOTSI
ON WEDNESDAY, 5TH OCTOBER, 2022

The Deputy Speaker (Sen. Kathuri): I have a Communication on substantiation of facts that a Senator alleges to be true.

Hon. Senators, as you may recall, on Wednesday, 5th October, 2022, during the debate on the presidential address on the opening of the 13th Parliament, nominated Senator, Sen. Veronica Maina rose on a point of order pursuant to Standing Order No.105, regarding remarks by the Senator for Vihiga County, Sen. Godfrey Osotsi, while contributing to the Motion.

Sen. Veronica Maina sought the intervention of the Chair to require Sen. Godfrey Osotsi to withdraw a statement, which in her opinion, falls within the application of Standing Order No. 105.

Sen. Maina stated-

“I rise under Standing Order No. 105 to respond to Sen. Osotsi in respect of his reference to the loss of Kshs2 billion per day.”

Sen. Maina went on to quote the provisions of Standing Order 105.

Sen. Maina added-

“I want to bring it to your attention that the statement that has been thrown to the Floor of this House, has no relevance to the current speech of the President and must be withdrawn.”

The Senator further alleged that Sen. Osotsi had referred to some persons as corrupt, which was inappropriate, and therefore, required to be withdrawn.

Hon. Senators, Sen. Veronica Maina was simply asking Sen. Godfrey Osotsi to substantiate the statement that he had made.

Hon. Senators, Standing Order No.105 provides that-

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

(2) If a Senator has sufficient reason to convince the Speaker that the Senator is unable to substantiate the allegations instantly, the Speaker shall require that such Senator substantiates the allegations not later than the next sitting day, failure to which the Senator shall be deemed to be disorderly within the meaning of Standing Order 121 (*Disorderly conduct*), unless the Senator withdraws the allegations and gives a suitable apology, if the Speaker so requires”

I have reviewed the HANSARD report of the proceedings of Wednesday, 5th October, 2022. I have ascertained that indeed the Senator for Vihiga County, Sen. Godfrey Osotsi, made the following remarks -

“In their rallies and meetings, they do not talk about corruption, because they are beneficiaries of corruption. We expected the President to tell us, one way of ensuring that this country has money is to fight corruption. This is because we were told that this country is losing Kshs2 billion a day, in a year, it is about Kshs700 billion. This is enough money to inject into the economy and improve it.”

A reading from the HANSARD infers that it is these remarks that necessitated the point of order raised by nominated Senator, Sen. Veronica Maina.

Hon. Senators, let me take this opportunity to urge you to acquaint yourselves with the rules of procedure to enhance orderly conduct of proceedings and optimum utilization of the time of the House.

Pursuant to Standing Order No. 105, I now invite the Senator for Vihiga County to substantiate the allegations or withdraw and apologize. Failure to comply with the directives of the Chair constitutes gross disorderly conduct pursuant to Standing Order No.122.

I thank you.

Proceed, Sen. Osotsi.

Sen. Osotsi: Thank you, Mr. Deputy Speaker, Sir. I have heard you. I also had an opportunity to look at the HANSARD. The two issues that were raised were on the comment on the Kshs2 billion, where I stated that “we were told”. We all remember the former President Uhuru Kenyatta alluded to that.

I also said that beneficiaries of corruption---

(Sen. Cheruiyot spoke off record)

The Deputy Speaker (Sen. Kathuri): Order, Senate Majority Leader!

Proceed, Sen. Osotsi.

Sen. Osotsi: Mr. Deputy Speaker, Sir, I also said “beneficiaries of corruption.” I did not say the other side is corrupt.

All the same, pursuant to Standing Order No.105(2), I was prepared to substantiate my allegations on 6th Thursday, 2022, last week because the Standing Orders clearly states 'not later than the next sitting day'.

I made the allegations on Wednesday and the next day was Thursday. I was prepared with a bunch of documents which I was ready to table, including the report of the Auditor- General for Financial Year 2016/2017 and 2017/2018.

Mr. Deputy Speaker, Sir, because you have already made a ruling, I do not have that benefit unless you extend time for me to come and substantiate which I am willing to do.

The Deputy Speaker (Sen. Kathuri): Sen. Osotsi, I want you to be forthright. I have read the whole Communication. In the last sentence, I have asked you pursuant to Standing Order No.105 to substantiate the allegations or withdraw and apologize. It is very simple.

Sen. Osotsi: Mr. Deputy Speaker, Sir, I was willing to do that on Thursday last week. I came prepared, but today was an ambush. If I had been informed by the Clerk on time, I would have come with the necessary documents to table in this House and justify my allegation.

With your indulgence, if you give me more time, I will do exactly that. However, in the absence of that, the next option would be to---

(Loud Consultations)

The Deputy Speaker (Sen. Kathuri): There will be no point of order. Proceed, Sen. Osotsi.

Sen. Osotsi: Mr. Deputy Speaker, Sir, I have communications from relevant sources, including a statement made by the former head of the Ethics and Anti-Corruption Commission (EACC), Mr. Mumo Matemu, who clearly stated that this country was losing that amount of money. The former President Uhuru Kenyatta also said that. This is corroborated by Government reports from the Auditor-General.

If you consider it necessary and extend time for me, I will be able to substantiate this matter on the Floor. Corruption is a disease in this country. It is unfair for a Member having risen on this point of order in order for me to be punished for speaking against corruption. If in your own wisdom, you do not extend time, I have no choice, but to apologize to the House.

(Loud Consultations)

The Deputy Speaker (Sen. Kathuri): Kindly finish your statement, Sen. Osotsi.

Sen. Osotsi: Mr. Deputy Speaker, Sir, I need time.

The Deputy Speaker (Sen. Kathuri): Hon. Senator this---
Let me read Standing Order No. 105 (2) which says-

(2) If a Senator has sufficient reason to convince the Speaker that the Senator is unable to substantiate the allegations instantly, the Speaker shall require that such Senator substantiates the allegations not later than the

next sitting day, failure to which the Senator shall be deemed to be disorderly within the meaning of Standing Order 121 (Disorderly conduct) unless the Senator withdraws the allegations and gives a suitable apology, if the Speaker so requires.”

Mr. Deputy Speaker, Sir, this matter has run out of time and it is unfair to revisit this matter at this point in time. Last Thursday, I was prepared and the only remedy is to give me sufficient time so that I can bring necessary documentation to substantiate my claim.

The Deputy Speaker (Sen. Kathuri): Sen Osotsi, you know the consequences. You go and read the HANSARD properly on the issues that you talked about on this Floor.

If you substantiate in their rallies and meetings, you should also be able to substantiate on these allegations or this Statement. I give you up to tomorrow, 2.30 p.m. You know the consequences of not substantiating.

Sen Osotsi: Mr. Deputy Speaker, Sir, you know we are in this House because we are supposed to---

The Deputy Speaker (Sen. Kathuri): I have given you up to tomorrow 2:30 p.m. Kindly, we are not debating. Tomorrow, I will give you enough time to substantiate your claims. Therefore, do not bother now. Just relax. You will do that tomorrow.

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

(Applause)

(Resumption of debate on the Motion)

The Deputy Speaker (Sen. Kathuri): Next. We are back to debate the Motion. Who was on the Floor?

Sen. Cherarkey, please, proceed.

Sen. Cherarkey: Mr. Deputy Speaker, Sir, please, can you protect me from the Senate Majority Leader and also Sen. M. Kajwang'? I am told that he is famous for grabbing.

I support this Motion. This is a straightforward matter, but I agree with Sen. Mungatana that, before, Parliament used to exist at the whims and pleasures of the presidency or whoever was in power. If any person in power would feel that Parliament is infringing, they would prorogue Parliament at any given point.

Therefore, that explains the reason for Article 102 of the Constitution of Kenya which says that the term of Parliament would come to the end at the next general election. That is why towards the end of the last Senate, the House adjourned *sine die*. That is something that dies naturally.

When you look at Article 102 of the Constitution, using a layman's language to explain-- I can see my lecturer is marking my speech.

Under Article 102(1) and (2) of the Constitution of Kenya 2010, Parliament is allowed to sit even in times of war. Even if there is an emergency or an invasion, Parliament is allowed to sit.

It is a serious issue and the fact that the issue of the Calendar has been captured and extrapolated through a Standing Order from Article 102 is very important. Many people imagine that work is only done at the Plenary. They do not know that there is a lot of work that is done at Committee level. The House will be on recess, and only Plenary sittings will be suspended. Either Senators will be on their visit to counties or benchmarking either within the counties or having Committees writing reports.

Kenyans should be made to know that when Plenary is not in session, we are busy in Committees, doing bench marking or writing reports so that we get these things crystal clear.

I am also told that the National Assembly is going on recess. When they do not see us in Plenary or live on Kenya Broadcasting Corporation (KBC) or any other channel, they imagine that we are not doing anything. There is a lot of work to be done

Thirdly, I see into the future where Senators will not only be judged when they are speaking on the Floor of the House. Those people who do ranking and what have you should even look at the individual Member's contribution at the Committee level and Plenary sessions, so that we give a true score card.

There are Members that are good in report writing, others very active in Committee work. There are others who are good in sports but I hope they are sports that are done at day time. I hope there are no sports done during the night.

I have heard Sen. Mungatana speak about when Senate has come together as a House of union and agreed on many issues. On the hindsight, we have agreed but we should not be vilified for standing with counties that were gaining. I do not want to reopen that debate but it benefited everybody.

I emphasize that when it comes to our role under Article 96 and Article 95, on the role of the National Assembly, it is very important that every Senator has a role to play as envisaged by the Constitution of the Republic of Kenya.

For the new Members, my colleagues who just joined, this Senate has undergone serious attacks, especially from the House where Sen. Osotsi, Sen. Onyonka, Sen. Cheptumo and yourself used to sit. The attack on this House has been immense. It is because our flesh and spirit has not been weak. I can tell you Senators, if were not straightforward, if we did not defend our territory, the Senate would not have had any business.

The contention has been under Article 103, especially on the Money Bills, where the National Assembly has continued to thrash any proposal they imagine is a Money Bill. Most of the Bills that have been generated in the Senate have had their grave yard in the National Assembly. They have always guillotined our business.

I thank the Supreme Court and laud one former Senator and Senior Counsel, the current governor of Siaya, Sen. James Orengo. He has gone on record and welcomed the decision by the Supreme Court that this Senate has residual powers to do both primary

and secondary oversight of the county governments in terms of revenue raised nationally and shared to the counties and also local taxation.

Why is it that governors and county governments do not want to appear before the Senate until they force us--- Senior Counsel, Sen. Omogeni led a very serious battle in courts.

You saw Sen. (Prof.) Kindiki, Sen. Murkomen, Sen. Dullo, Sen. Nyamunga and a battery of lawyers led by Senior Counsel, Sen. (Prof.) Tom Ojienda to Milimani High Court, to defend the integrity, sovereignty and residual power that the Constitution has given us. It was not an attack from the Executive but from our brothers in the National Assembly.

Mr. Deputy Speaker, Sir, as we pass this Motion on our Calendar, I call upon our colleagues to be ready. The journey is going to be bumpy and there shall be a lot of turbulence. My only hope is that we have the former Senator, Hon. Wetangula, as the Speaker of the National Assembly. My brother, Sen. Sifuna, should know that Hon. Wetangula said the divorce will be messy, noisy and with casualties.

I believe the Senate will not reach that level where Hon. Wetangula will try--- We have even proposed concurrent signing of the Bills. If the National Assembly has passed a Bill, it must be referred and a certificate must be produced to the President before he signs.

Mr. Deputy Speaker, Sir, I am happy that the current President, Dr. William Ruto, has pointed in the direction where he wants to see a harmonious working of the National Assembly and the Senate. The President should not assent to any Bill from the National Assembly without referring to the Senate.

We are not interested in going to court. I know we have very good lawyers in this House who can lead us forward to defend the integrity of this House. I am looking forward to this session with the National Assembly. We are not demanding respect, but we want to work together. We are only working for one person; Wanjiku, Cherop and the hustlers, who are the *mama mbogas* and the *boda bodas*. Why should the National Assembly and the Senate fight over nothing?

Health is a key function and it is also devolved. We can amend the Kenya Medical Supplies Authority (KEMSA) Act. Why is it that when we want to amend the Health Act, the National Assembly tells us that we cannot interfere? They employ money tricks to the Senate; hear nothing, see nothing, say nothing and do nothing and yet health is a devolved function.

Mr. Deputy Speaker, Sir, even if they are making a health policy, it must be referred to the Senate. We have discussed in private and with the Senate leadership. Sen. Cheruiyot has had a *tete-a-tete* with the President to ensure that when the National Assembly becomes mischievous by passing and trying to sneak some of the Bills to the President without the concurrence of the Senate, he will use his leadership so that we will not need to rise on those issues.

Finally, is the issue of this Motion, which I support. Let me finish up so that my colleagues can also contribute. I am happy to have heard my colleagues. Most new Members asked why we are not sitting from 9.00 a.m. and I agree with them. The Senate

Majority Leader, Sen. Cheruiyot, has said that the Senate Business Committee (SBC) can still consider this. If there is any matter, we can always come here in the morning or sometimes extend time.

Mr. Deputy Speaker, Sir, yesterday, you did very well. People stayed here till 9.00 p.m. I was conversing with the Senate Deputy Majority Leader who told me that he was shocked that we stayed up to 9 p.m. There are times when we have stayed here until 1.00 a.m., especially during debate on revenue.

May I advise our colleagues that it is not static when we say sittings are from 2.30 p.m. to 6.30 p.m. The Standing Orders give us opportunities. If there are issues of concern to necessitate amending our Calendar, that is always possible.

Mr. Deputy Speaker, Sir, with those many remarks, I beg to support this Motion. I hope to have a future of fruitful engagement, where the Calendar of the Senate will continue to guide us.

On a lighter note, I remember my brothers who were pushing the Building Bridges Initiative (BBI) went around the country. Its drafters and the National Assembly had wanted to scrap the Senate. After going around the country, the Senate received approval more than any other issue. We have the confidence of the public. I encourage Sen. Oketch Gicheru to stand tall because this Senate has the confidence of the public.

Sen. (Prof.) Tom Ojienda, SC: On a point of order, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kathuri): Is it on the matter that he was executing? He has completed his submission.

I can see Sen. (Prof.) Tom Ojienda. What is your intervention? There is not Member who is interested to speak.

Sen. (Prof.) Tom Ojienda, SC: Mr. Deputy Speaker, Sir, Sen. Cherarkey has spoken to a matter before the Supreme Court. He has slightly given accolades to the courts on a matter, which behoves the Senate to point to and discuss.

This is a matter touching on Petition No.24 of 2019 and a consolidated Petition No.27 of 2019, which was delivered before the Supreme Court on Friday. There is a problem and we must speak to it as jurists.

In the decision of the Supreme Court, there is an analysis on the powers of this House. The Supreme Court then classifies the powers of the county assembly under Article 185(3) and the powers of the Senate under Article 96. In my view, that is rather erroneous because one is secondary for the Senate and the other primary for the county assembly.

Sen. Cherarkey has correctly said that this House has both primary and secondary oversight over counties. It also has the powers, as the Supreme Court held, to summon governors in the event that there is a question they need to respond to.

Mr. Deputy Speaker, Sir, the question of secondary oversight may lead to confusion and some thinking that a matter can only find itself before this House if the county assembly has dealt with it. That is incorrect. It is a matter that the Committee on Justice, Legal Affairs and Human Rights needs to consider and clarify. That clarity will enable the public to know that this House has the authority to deal with all matters of oversight under Article 96(3).

Whether those matters were dealt with by the county assembly in the first instance or not, this House needs not to deal with a matter if it has been dealt with or touched by the county assembly. That is the clarification that needs to emerge from the decision of the Supreme Court in Petition No.27 of 2019.

Last week, I undertook to share a legal opinion with the Senate that points to the law and the comparative powers of the Senate here and elsewhere; on how the Senate exercises its power. This is with specific reference under Article 96(3). That will point to the direction that the Supreme Court did not treat that question very well. It tends to limit the powers of this House, yet the Constitution confers unlimited powers on the question of oversight.

I beg to support.

The Deputy Speaker (Sen. Kathuri): Having no other Member interested in continuing this debate, I call upon the Mover to reply.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Deputy Speaker, Sir. We have heard comments from our colleagues on important issues that have been canvassed. This is not limited to the last point raised by my colleague and good neighbour, Sen. (Prof.) Tom Ojienda, SC.

I want him to know that he fills very big shoes. During the last two terms, this House relied a lot on the common wisdom of our former colleagues; Attorney General *Emeritus*, Sen. Wako; Sen. (Prof.) Kindiki and Sen. Orenge, SC on matters related to law. Right now, Sen. (Prof.) Tom Ojienda, SC may be young but he is among the elders of this House.

On many occasions, we will call upon the wisdom of such colleagues to help us navigate very difficult challenges that arise occasionally.

I want to believe that Sen. Cherarkey was referring to a different matter and not the one that we are talking about. He was talking of the dispute between us and the National

Assembly as scheduled in Article 110 and 114 of the Constitution; the long-standing dispute on what makes up a Money Bill.

The beauty is that, as Sen. Cherarkey has pointed, there are deliberations going on even as we await the decision of the Court. There is already goodwill from the National Assembly. I raised the issues with the office of the Clerk and he mentioned to me that they are already working on a draft of what a consent would look like. They are looking at the concessions that, if we were to get from the National Assembly, we would be comfortable and say there is no need to proceed with the court case.

Mr. Deputy Speaker, I do not want to take more time because I know that there is an engagement that our colleagues from the minority side want to have. I want to conclude on this matter in order for them to get the time to engage on that particular matter.

I beg to move.

(Question put and agreed to)

ADJOURNMENT

The Deputy Speaker (Sen. Kathuri): Hon. Senators, there being no other business on the Order Paper, the Senate stands adjourned until Thursday, 13th October, 2022 at 2:30 p.m.

The senate rose at 4:27 p.m.