

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Tuesday, 10<sup>th</sup> February, 2015

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

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

#### PRAYERS

**The Speaker** (Hon. Ethuro): Order Senators, I have one Communication to make but before I do so, I want to welcome each and every Senator to the Third Session of the Senate. I trust that you had an enjoyable time during the recess and you are therefore looking forward to a productive Third Session. So, you are most welcome.

#### COMMUNICATION FROM THE CHAIR

##### COMMISSION OF INQUIRY INTO THE PETITION TO DISSOLVE MAKUENI COUNTY GOVERNMENT

**The Speaker** (Hon. Ethuro): I have a communication from the Chair on the Commission of inquiry into the Petition to dissolve the Makueni County Government.

Hon. Senators, Article 192 of the Constitution, as read together with Section 122 of the County Governments Act provides for the suspension of a County Government by the President, in an emergency arising out of internal conflict or war, or in any other exceptional circumstances. Section 123 of the County Governments Act states as follows:-

“(1) Subject to subsection (2), a person may petition the President to suspend a county government in accordance with Article 192(1) (b) of the Constitution if the county government engages in actions that are deemed to be against the common needs and interests of the citizens of a county.

(2) A Petition under sub-section (1) shall be supported by the signatures of not less than 10 per cent of the registered voters in the county.

(3) The President shall, within fourteen days after receiving a Petition against a county government under sub-section (1), submit a report on the averments made and grounds giving rise to suspension of a county government before the apex inter-governmental body (hereinafter referred to as the apex body) established under the law governing inter-governmental relations for approval.”

Hon. Senators, pursuant to these provisions, I have received correspondence, dated 6<sup>th</sup> February, 2015, from the presidency informing me that His Excellency the President

received a Petition for the suspension of the Makueni County Government. Subsequent to the receipt of the Petition, His Excellency the President requested the Independent Electoral and Boundaries Commission (IEBC) to confirm the veracity of the signatures annexed to the Petition to ensure that the requirement under Section 123 (2) of the County Governments Act had been satisfied and that those who supported the Petition were indeed registered voters of Makueni County. The IEBC subsequently confirmed that Section 123 (2) of the County Governments Act had been satisfied.

Consequently, in compliance with Section 123 (3) of the County Governments Act, His Excellency the President submitted the Petition and a report of the same to the National and County Government Coordinating Summit established under Section 7 (1) of the Intergovernmental Relations Act, for its approval. Subsequently, the National and County Government Coordinating Summit approved the report on 8<sup>th</sup> December, 2014.

I will resume my seat to allow the Senators at the Bar to enter.

*(Hon. Senators entered the Chamber and assumed their seats)*

*(Sen. Ong'era stood up in her place)*

Order, Sen. Ong'era, it is a privilege to be allowed to enter the Chamber by the Chair and so, the sooner you assume the seat the better for everybody.

*(Sen. Wako stood up in his place.)*

Order, Sen. Wako, just because I mentioned Sen. Ong'era's name does not mean it applies to you as well.

Hon. Senators, Section 123 of the County Governments Act further provides as follows:-

“(4) Upon approval by the apex body, the President shall nominate members of a Commission to inquire into and investigate the situation in the county and make recommendations on the suspension of the county government and shall, after approval by Senate, appoint the members of the Commission by notice in the Gazette.

(5) The Commission shall comprise—

(a) a chairperson, who shall be an advocate of the High Court of Kenya with at least fifteen years' experience;

(b) the chairperson of the National Police Service;

(c) two persons resident in the affected county and who have not for the last ten years stood for an elective office in the affected county government, or have been an officer or employee of the affected county government; and

(d) two other persons not resident in the affected county with experience in conflict management.

(6) The Commission shall have all or any of the powers vested in a Commission under the Commissions of Inquiry Act (Cap. 102), and at any inquiry directed under this section, the county government in question and any member thereof shall be entitled to be heard.

(7) The Commission shall inquire into the matters before it expeditiously and report on the facts and make recommendations to the President.”

Hon. Senators, pursuant to Article 192 (2) of the Constitution as read together with the above provisions of the County Governments Act, His Excellency the President is required to appoint a Commission of Inquiry to investigate the veracity of the allegations set out in the Petition.

Hon. Senators, by letter Ref: No. OP/CAB.1/40/2A dated 6<sup>th</sup> February, 2015 and received in the Office of the Speaker of the Senate on 9<sup>th</sup> February, 2015, the Chief of Staff and Head of the Public Service informed the Speaker that pursuant to section 123 (5) of the County Governments Act, His Excellency the President has nominated the following persons to the Commission of Inquiry to investigate the veracity of the allegations set out in the Petition for the dissolution of Makueni County Government:-

1. Mr. Mohammed Nyaoga - Chairperson
2. Mr. Johnston Kavuludi - Member
3. Ms. Emily Gatuguta - Member
4. Prof. Harrison Maithya - Member
5. Ms. Alice Wairimu Nderitu - Member
6. Mr. Taib Ali Taib - Member

Hon. Senators, I now direct that the names and curriculum vitae of the six nominees be forwarded to the Sessional Committee on Devolved Governments for vetting. The Committee should file its report within 14 days from today for deliberation by the Senate pursuant to Section 123 (4) of the County Governments Act. In carrying out the vetting process, the Committee must adhere to the provisions of the Public Appointments (Parliamentary Approval) Act, 2011.

I thank you.

### MESSAGE FROM THE NATIONAL ASSEMBLY

#### CONCURRENCE OF THE SENATE ON THE ENVIRONMENTAL MANAGEMENT AND COORDINATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 31 OF 2014)

**The Speaker** (Hon. Ethuro): Order, Senators! I have a Message from the National Assembly on the Environmental Management and Coordination (Amendment) Bill, National Assembly Bill No.31 of 2014.

Hon. Senators, I wish to bring to the attention of the Senate that pursuant to Standing Order No.40, paragraphs 3 and 4, the Clerk has delivered to me a Message from the National Assembly regarding the Environmental Management and Coordination (Amendment) Bill, National Assembly Bill No.31 of 2014. The Message which is dated 5<sup>th</sup> December, 2014, was communicated to all Senators pursuant to Standing Order No.40, paragraph 5 on 23<sup>rd</sup> December, 2014. It states as follows:-

“Pursuant to the provisions of Standing Order No.142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly:-

Whereas the Environmental Management and Coordination (Amendment) Bill, National Assembly Bill No.31 of 2014 was published in the Kenya Gazette Supplement No.114 of 25<sup>th</sup> July, 2014 as a Bill concerning county governments in terms of Article 110 (1) (A) of the Constitution and provisions of the Fourth Schedule of the Constitution;

And whereas the said Bill whose objective is to give effect to Article 72 of the Constitution was considered and passed by the National Assembly on 4<sup>th</sup> December, 2014;

Now, therefore, in accordance with provision of Article 110 (4) of the Constitution and Standing Order No.142 of the National Assembly Standing Orders, I hereby forward the said Bill to the Senate, the effect of which is to seek the concurrence of the Senate to the said Bill as passed by the National Assembly.”

Hon. Senators, Standing Order No.148 requires that a Bill which originates in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order No.129. I would like to draw your attention to the fact that this is a Bill with a constitutional deadline in accordance with Article 261 (1) and the Fifth Schedule to the Constitution. Consequently and as indicated in today’s Order Paper, it shall be read the first time today.

Hon. Senators, pursuant to Standing Order No.130, paragraph 1, the Bill shall stand committed to the Standing Committee on Land and Natural Resources. I further direct that pursuant to Standing Order No.130, paragraph 4, the Standing Committee facilitates public participation and concludes consideration of the Bill as soon as possible, so that the Second Reading is commenced without delay.

I thank you.

## NOTICE OF MOTION

### APPOINTMENT OF MEMBERS OF THE RULES AND BUSINESS COMMITTEE

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

THAT, pursuant to Standing Order 176(1), the Senate approves the following Senators to be Members of the Rules and Business Committee:-

1. Sen. David Ekwee Ethuro - Speaker of the Senate - Chairperson
2. Sen. (Prof.) Kithure Kindiki - Senate Majority Leader
3. Sen. Moses Masika Wetangula - Senate Minority Leader
4. Sen. Beatrice Elachi – Senate Majority Whip
5. Sen. Johnson Nduya Muthama – Senate Minority Whip
6. Sen. Beth Mugo
7. Sen. Charles Keter
8. Sen. Kiraitu Murungi
9. Sen. (Prof.) John Lonyangapuo
10. Sen. James Orengo
11. Sen. Janet Ong’era
12. Sen. (Dr.) Agnes Zani

**The Speaker** (Hon. Ethuro): Hon. Members, before I invite the Senate Majority Leader to proceed with the Motion, regarding the Message from the National Assembly on the Environmental Management and Coordination (Amendment) Bill, we had indicated that it would appear in today’s Order Paper. However, if you look at the Order

Paper, it is not there. This is because the first business is to appoint the Rules and Business Committee (RBC). We are proposing to the RBC to slot it as a matter of priority tomorrow.

The second matter is that as you are all aware, we recently lost one Member of Parliament. We are still working on the details for a proper eulogy. We hope that by tomorrow, we will give the rest of you an opportunity to do so. For now, I request you to stand for one minute of silence in his honour.

*(Hon. Senators stood up in their places and observed a minute of silence)*

### MOTION

#### APPOINTMENT OF MEMBERS OF THE RULES AND BUSINESS COMMITTEE

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

THAT, pursuant to Standing Order 176(1), the Senate approves the following Senators to be Members of the Rules and Business Committee:-

1. Sen. David Ekwee Ethuro - Speaker of the Senate - Chairperson
2. Sen. (Prof.) Kithure Kindiki - Senate Majority Leader
3. Sen. Moses Masika Wetang'ula - Senate Minority Leader
4. Sen. Beatrice Elachi – Senate Majority Whip
5. Sen. Johnson Nduya Muthama – Senate Minority Whip
6. Sen. Beth Mugo
7. Sen. Charles Keter
8. Sen. Kiraitu Murungi
9. Sen. (Prof.) John Lonyangapuo
10. Sen. James Orengo
11. Sen. Janet Ong'era
12. Sen. (Dr.) Agnes Zani

Mr. Speaker, Sir, every Session, as Members know, there is need to reconstitute the Sessional Committees. These committees include the RBC. The importance of this Motion is to ensure that we are able to transact business because this is the Committee that sets the agenda and the business of the House. Therefore, the importance of Senators debating this Motion and hopefully passing it is to ensure that the House starts on a smooth plane.

We have just resumed this afternoon from a break of two months and over that time, a lot of things and events have transpired in our country. There are things that are of utmost importance. Members will recall that before we broke for recess in December, we had a number of Bills which were either in Second Reading or Committee stage. Therefore, the importance of passing this Motion is to ensure that we can continue with prioritizing the Bills that need to be discussed, debated and passed by this House.

Mr. Speaker, Sir, as you have just communicated, we have the Makueni County issue which has taken a different dimension because it is an issue which has been with us

in the last Session. We now have a request from the President under Article 192, for the Senate to consider the membership of a commission to deal with the situation in Makeni County. I am sure that there are so many other things that this Senate needs to deal with. Members will remember that during recess, the President made nomination of the Inspector General of the Kenya Police Service, which requires the vetting of both Houses of Parliament. There is a lot to be done and it is therefore important to get the RBC up and running and, hopefully, meet as soon as possible so that we can have business flowing from tomorrow.

I do not intend to take a lot of time but let me just comment that from both the Majority and Minority sides, we have not made any changes to the RBC. We consulted with my counterpart, Sen. Wetangula, the Senate Minority Leader and we unanimously – I do not know whether that is correct English because “unanimous” has to do with numbers, but between the two of us – we agreed that our Members in the RBC have done a good job in the past and we see no need of making any changes.

Mr. Speaker, Sir, some of the nominees into the Committee are there by virtue of office. These include the Chairman as well as the Senate Majority Leader, the Senate Minority Leader, the Majority and Minority Whips who must be Members of the RBC according to the law and Standing Orders. However, in terms of the other Members, it is my view that from the Majority side, we are very satisfied with the work our nominees have done in this Committee. I also have confirmation from Sen. Wetangula that he is equally satisfied, and his side is equally satisfied with the contribution that the membership from the minority side has made in this Committee.

Without much ado, I beg to Move this Motion and request Sen. Muthama, the Minority Whip, to Second.

**The Speaker** (Hon. Ethuro): If it can help the Senate Majority Leader, unanimity applies to more than one. There is the contention of larger numbers but the most important thing is that there was no disagreement.

Please proceed, Sen. Muthama.

**Sen. Muthama:** Thank you, Mr. Speaker, Sir. I stand to second the names which are listed here. It is true that I wrote a letter yesterday and signed it; confirming the names that are appearing here. The important thing now is to move fast and approve these names so that the Rules and Business Committee (RBC) can programme the business of the House. From the look of things, today’s Order Paper does not contain any business. For us to move fast, we need to work on this. I confirm that the names are correct.

I support what the Senate Majority said; that the names have been agreed upon by both sides.

With those few words, I beg to second.

*(Question proposed)*

**Sen. Khaniri:** Thank you, Mr. Speaker, Sir. While I support this Motion, I have one or two reservations to put on record. However, I will begin by joining you in welcoming my colleagues back to this Session.

*(Applause)*

I am happy that Standing Order No.176 has been followed to the letter. I want to congratulate Members who have been elected to this Committee. The Mover of the Motion, the Senate Majority Leader, has renewed the old membership of the Committee who served in the last Session. Indeed, I want to agree with him that they did a good job and they deserve that. However, that does not mean that they are the only ones who can do the job.

Standing Order No.176(1)(d) tells us who should serve in this Committee. There are mandatory Members who are the Speaker, the Senate Majority Leader, the Senate Minority Leader and the two whips. It is mandatory that these Members serve in the Committee. However, with regard to the rest of the Members; the seven Members, it is my suggestion that since this is a sessional committee, we should have new faces. We should have as many Members as possible gaining experience and privilege to serve in this very important Committee that decides the business of this House.

I support the membership and wish them well in their duties.

**Sen. Wako:** Thank you, Mr. Speaker, Sir, for giving me a chance to speak to this important Motion which we, Senators, now regard as a mere formality. From the outset, I support the Motion in totality. However, I have one or two comments. One, along the lines of my friend, Sen. George Khaniri, I support the current Members who have done an excellent job. Although we were assured that procedures were followed, I would want to be further reassured, in the light of the statement by the Senate Majority Leader, that he agreed with the Senate Minority Leader that the same Members should come back.

This is not just a matter of the Senate Majority Leader agreeing with the Senate Minority Leader and bringing a Motion here. This Standing Order says that a number of them by virtue of their offices which is well and good. However, there are others whom Sen. Khaniri was talking about who are nominated by the parliamentary political parties. If we had a democratic system within the parties, I would have known before today that consultations took place and that we had agreed to renominate Members from the CORD Coalition.

I am sure that the same thing has happened with the Jubilee Coalition. I am not sure that any of them will say that he was consulted and agreed with the matter. I want to add that both the Jubilee and CORD Coalitions should not take us for granted. They should consult us. In most cases, we will agree but we want to be consulted so that we feel recognised. That is part of the process. That is the first point I wanted to make.

The second point is that it is a duty to programme legislation. I just want to put my views forward for consideration as the Committee considers other issues. There have been important Bills which were supposed to be passed in the last Session, as the Senate Majority Leader said. There are some which are yet to come. These Bills directly touch on the functioning of the county governments. There are other Bills which are of a more general nature. I urge, in prioritizing Bills, attention be given to Bills which directly touch on the functioning of the county governments. There is, for example, the Natural Resources Benefits Bill that was brought forward by Sen. (Dr.) Zani. From where I sit, let that be the most important Bill that we will ever pass in this House; a Bill that will contribute to the extra financing of the county government so that the people in those areas also benefit from their natural resources. I urge that this Bill be given priority because it touches on the actual functioning of the county governments.

There are also two other Bills coming, one of them is on County Attorneys Bill which will provide for the office of the County Attorneys in all the counties. County Attorneys are the legal advisers of counties and no Government can do without proper legal advice. When the Bill comes, I want it to be given priority because it touches directly on the functioning of the county governments.

**Speaker** (Hon. Ethuro): Order. The Motion is to approve the names. The business will come later. I have allowed you, for obvious reasons, to sight one or two but you cannot give us an entire list.

**Sen. Wako:** Mr. Speaker, Sir, I agree with you that I cannot give you the entire list. But now that the Members are here, I want to drum it to them that the two important Bills I have mentioned plus another Bill---

**The Speaker** (Hon. Ethuro): Order, Senator! You may resume your seat. Give them the job first and then give them the assignment.

**Sen. Wako:** Thank you. With those few remarks I support the Motion. Let them also consider the County Governments (Amendment) Bill by Sen. Sang---

**The Speaker** (Hon. Ethuro): Order Senator!

*(Laughter)*

**Sen. Kagwe:** Thank you, Mr. Speaker, Sir. I also join you in welcoming back my colleagues and wish them well in this new Session. I rise to support the names proposed here and the contribution by Sen. Khaniri that it is good for us to expand the membership of this Committee so that other Senators can also get some experience in this area. There is absolutely nothing wrong with that.

While supporting the names, I would also like to urge the Committee to go out of their way and think about the oversight capability of the Senators. Even as they go to assign responsibilities and prioritize the Bills we will be discussing, the Committee, working in conjunction with the Parliamentary Service Commission, ought to think seriously beyond just the Bills and ask ourselves whether we have the capability to interrogate, debate and contribute to the Bills that they are going to propose.

Mr. Speaker Sir, part of the problem that you can see around the country including in Narok and elsewhere is that we, as Senators, do not have the capability to execute our constitutional responsibility in oversighting county governments. If you are in Turkana County, you do not even have a vehicle as the county Senator to move around the county; you do not have the personnel to help you go out there and investigate what the governors and their County Executive Committees (CECs) are doing. Then the issue of what we have been mandated to do by the Constitution becomes a big challenge. Therefore, I urge the Committee and particularly those who are also Members of the Parliamentary Service Commission to address that issue very seriously.

Mr. Speaker Sir, as we read yesterday, Members of the county assemblies have been empowered, through offices even in the county assembly and ward levels, to create offices to oversight the wards. How then is a Senator going to oversight a county if they have less support than a ward representative? Therefore, I urge that this matter be part of the mandate and discussion that the new Committee is going to have.

I beg to support.



*(Interruption of Debate on Motion)*

**POINT OF ORDER**

OUTBREAK OF CHOLERA IN MIGORI COUNTY

**Sen. (Dr.) Machage:** Thank you, Mr. Speaker, Sir. Before I comment on this list, allow me to comment on a matter of serious nature happening today in Migori County. We have had about eight deaths in the last 24 hours due to a mysterious disease in Rongo and as a medical personnel, I think it could be cholera. Allow me to pass this message to the people of Migori County on the Floor of this House. This is a serious contagious disease and can spread very fast. I, therefore, urge Migori County residents to avoid unnecessary communal feasting and especially so, unnecessary funeral feasts because this will enhance the spread of this disease. I also urge politicians to go slow on public rallies, especially at funerals.

Thank you, Mr. Speaker.

*(Resumption of Debate on Motion)*

**Sen. (Dr.) Machage:** Mr. Speaker, Sir, I very much share the sentiments raised by Sen. Khaniri on appointment of Members to Committees in this House. The Senate Majority Leader and the Senate Minority Leader seem to be fatigued and seem to have no time to sit and think over when they are making such a list. This is not the first time such an issue has been raised in the Floor of this House. If they are so fatigued, they can always raise their hands up so that other Members can be elected to serve in that capacity.

Mr. Speaker, Sir, it is not that this list is of dubious membership; all these people are able but we know that more often than not, this Committee has hitherto nearly missed a quorum. We are privy to that information. We know that there are Members of this Committee who never attend or have never attended meetings of the Committee. Whatever reason this has to be done this way, the two know what is in their mind. Anyway, they are Members of this House and we have no reason to reject them apart from our comments and require that they change their habits and serve us.

Mr. Speaker, Sir, I beg to support.

**Sen. Keter:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this Motion by the Senate Majority Leader and the new spokesman of the Meru Community.

*(Laughter)*

I also wish to join you in welcoming my colleagues back to this Session and wish them a Happy New Year. All the Members who are on this list are equal like anyone of us who is not on the list. As a Member of this Committee, there is no time this Committee has failed. If this Committee had failed like other committees, we would not have had any business. So, there is no day during the last two years where we have missed an Order Paper or missed to sit because of the failure of this Committee. So, I want to correct the impression created by Sen. (Dr.) Machage that they are privy to such

information and yet you know very well that this is a Committee which is dedicated to its work. The Members of this Committee, every Tuesday at exactly mid day, will sit up to 2.30p.m, even miss lunch, and come straight to this House. Therefore, what has been going round is not correct.

This Committee also went beyond their mandate by even appointing the *ad hoc* Committee chaired by the Deputy Speaker, to look into the welfare of Members; you know its position very well. Therefore whatever has been said, some of the information is not correct. If my colleagues feel that the Members who are on this list should have been changed, it could have been better done in the next Session to propose to the Senate Majority and Minority Leaders so that those views can be incorporated.

I beg to support.

**Sen. (Eng.) Muriuki:** Thank you, Mr. Speaker, Sir. I would like, once again, to welcome Senators from a long working holiday. However, as I stand to support this list on my own and perhaps in support of Sen. Khaniri's sentiments, with all due respect to the two leaders and with due respect to their wisdom, I think it is about time we reviewed how the Rules and Business Committee (RBC) is appointed. This is because whereas it is true that five of the Members on the list are there by virtue of their offices, but the other seven are nominated by the two leaders. I suggest that we rotate them, although we may need a few for continuity maybe outside the few official ones. I would like to strongly support the idea that we have different names every Session. This is a Sessional Committee and it is deliberately so; it is not for the whole term. Therefore, let us have different Members.

Having said that, as we approve this list, we should ensure we have some rationale when we appoint Members to various Committees. I have noticed that sometimes we have a Committee where some Members will never appear while others appear only once in a long while. It is important for the RBC, when they meet, to appoint new Members to other committees so that we do not extend this trend. We may approve this list, but let this be the last one so that next time we are appointing the Sessional Committees, let us also put some seriousness in it because there seems to be some laxity in putting a bit more effort in this.

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

**The Speaker:** What is it, Sen. Hassan Omar? Are you on a point of order?

**Sen. Hassan:** Mr. Speaker, Sir, Senators have spoken sufficiently on this matter and I think there is no need to commit so much time of the House saying the same thing. So, I suggest that we just go ahead and vote for this list.

*(Applause)*

**The Speaker:** Order, Senators! I think Sen. Hassan Omar is right. If you remember, each and every one of them was making reference to the initial observation by the Senator for Vihiga; now, that amounts to being repetitive. But being the first day and seeing that there are not any more requests except about five to go, I will allow those five appearing on my screen and they should stick to two minutes each; those will just be 10 minutes. I think that is not too much time.

*(Applause)*

Proceed, Sen. Abdirahman.

**Sen. Abdirahman:** Thank you, Mr. Speaker, Sir, for allowing me to contribute to this Motion. I stand to support the Motion but with a few comments. I have heard the Senate Majority Leader saying that the two leaders consulted. That consultation, in my own assessment, is narrow. Consultation ranges from two people to bigger groups; we will encourage them next time to do wider consultations. I have no doubt in my mind that the male and female Senators in this list are people of high competence and capabilities; I do not doubt that. But while I agree that we need to have some of them back for purposes of institutional memory, as they say in organizations, probably in the next session, we would want to see a different list.

Finally, Mr. Speaker, Sir, since you have narrowed down to two minutes, I propose that the RBC should be a bit more proactive. We will not want to have Senators complaining about Bills which would have fallen on our lap; they must be proactive, engage the two Speakers, support them and see to it that we are not people who stand to make noise from the back.

With those few remarks, Mr. Speaker, Sir, thank you very much.

**Sen. Mohamud:** Thank you, Mr. Speaker, Sir, for giving me this chance. First of all, I would like to welcome Senators back; Happy New Year. May I take this opportunity to thank the Senators who served in the various committees during the last Session. I know that the same Senators are the ones who served us since we opened this Senate and I congratulate them for their efforts. I know the time allocated for this matter under consideration is limited, but in future, I would like to see some fresh blood in those Committees.

Thank you, Mr. Speaker, Sir.

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Speaker, Sir. I am glad to be back and see so many faces. I just have one or two comments. One, I have no particular objection to this Committee and its composition, but I only have one suggestion. Last week, the Senate was analyzed in terms of the work that we have done in the last Session, and it appeared as if the report seemed to suggest that we have been working in a manner that is slow. I am going to suggest that this Committee, being the singular most important Committee in terms of House Business, that we either have a meeting to discuss pending business and how they will be handled so that at the end of this Session, we possibly can have a better record than the one we already have that suggests that the Senate of the Republic of Kenya should be meeting on a monthly basis because we do not transact any business.

So, Mr. Speaker, Sir, I am going to challenge the RBC to live up to the expectations of Kenyans that this Senate is not what they call “*Nyumba ya wazee*” and that we are slow in terms of our work. This should be done so that during this Session, we can actually tell the country that there is value in having the Senate of the Republic of Kenya in the documents and the Constitution of Kenya.

Thank you, Mr. Speaker, Sir.

**Sen. Ndiema:** Thank you, Mr. Speaker, Sir. I stand to support the list of names proposed for the RBC. Indeed, Senators have done a good job previously and I would only want to make a few comments or suggestions to improve the work of the Senate.

Mr. Speaker, Sir, outside there, it would appear that members of the public still need civic education particularly on the roles of the Senate. Perhaps this Committee will have to look at how we can have an outreach programme whereby members of the public are educated on the role of the Senate.

In addition, Mr. Speaker, Sir, we have so many issues that are pending here; there are also issues that have gone to court, like the 'Sang Bill,' which is key to our function of oversight. That matter is in court, we do not know when it will end and I do not want to comment on it; perhaps it will be decided by 2017. I do not know which Committee will ensure that this matter is concluded as soon as possible.

Mr. Speaker, Sir, those are the issues that we have to look at, because if we have to pass Bills and Motions here, then they go and get stuck in court, then we would not be moving and performing as a House.

Thank you, Mr. Speaker, Sir.

**Sen. (Dr.) Zani:** Thank you, Mr. Speaker, Sir. Like you did, I would also like to wish the best to Members of this House as we start the New Year. I would like to start with the comments that Sen. Mutula Kilonzo Jnr. made in terms of speed tracking of Bills that come to this House, which is very critical. I would also like to state that this is a pooled effort. The RBC can only do what it can do; it can actually put on the Order Paper specific Bills, but for us to take those Bills through the First Reading, Second Reading and Third Reading successfully, we must pull together as the whole Senate so that we do not end up being called "*Nyumba ya wazee.*" I think the RBC has done quite a lot--

**The Speaker:** Sen. Mutula Kilonzo Jnr., I hope you heard the Senator, because that was directed to you.

**Sen. Mutula Kilonzo Jnr.:** Yes, I have heard, Mr. Speaker, Sir.

**Sen. (Dr.) Zani:** Through the Speaker.

**The Speaker:** That is correct.

**Sen. (Dr.) Zani:** Mr. Speaker, Sir, we have done a lot of work in terms of overseeing and ensuring that business and programmes of the House are actually done on time. On 27<sup>th</sup> February, 2014, we reviewed the Standing Orders through a sub-committee of the Rules and Business Commission (RBC) and made them more effective. Remember they had been there for quite a while and were not really suitable for the operations of the Senate. All these have really contributed to an orderly way of running the House.

Regarding the comment that was made by Sen. Khaniri, probably what we might want at this particular moment is continuity. However, even as we move forward as Sen. Mohamud said, maybe we might begin to think about a process of how we want to bring in new Members through a consultative process that may take a bit of time. I do not think as we stand now, we are in a position to get into those dynamics if we are to put another RBC in place quickly to deal with the issues that are coming in. That is very critical.

Another very important aspect that was brought up by Sen. Kagwe about the Senators is the problems that have not been addressed by the Parliamentary Service Committee (PSC).

**The Speaker** (Hon. Ethuro): Your time is up Senator.

**Sen. (Dr.) Zani:** Mr. Speaker Sir, I support.

Thank you.

**The Speaker** (Hon. Ethuro): Thank you. Senators, we have exhausted the five but there were two late entrants. We had made some savings, so I will allow them one minute each and I will mention them so that nobody else will be there. Sen. Elachi and Sen. Nabwala, one minute each then we will conclude.

**Sen. Elachi:** Thank you, Mr. Speaker sir. I also rise to thank all the Members and also to thank you, as our Chair and to support the list. However, notwithstanding that indeed, as we move on with the new Session, I would also urge Chairmen of Committees – sometimes you find that the RBC would want to move with speed but they also pull us down – to ensure the businesses that we approve comes out from those committees as quickly as possible.

**Sen. Nabwala:** Thank you, Mr. Speaker, Sir. I also rise to join you in wishing you, my fellow Senators, a Happy New Year and we hope that 2015 will be a better year than what we went through in 2014.

I rise to support this Motion. Looking at the composition of the Members, it comprises six Members who are the leadership of this House. I have no doubt they can execute the business the way they have done in the last two years. However, I also agree with Sen. Khaniri on the issue of varying the membership of the Senators so that other Senators can also get the experience to sit in this Committee. Otherwise, I support.

Thank you.

**The Speaker** (Hon. Ethuro): Sen. Nyong'o, one minute. Another late entrant but if it was by mistake, you can withdraw.

**Sen. (Prof.) Anyang'-Nyong'o:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute. I want to follow in the footsteps of my sister who has just spoken. At the same time, since this team is running for, I suppose the third trip, and then there could be an opportunity for others to go in this rather important Committee. This is because it is the Committee that sets the agenda for the House and may be some people who have never belonged to the RBC could find an opportunity to do so. Some of us who have been in this Committee do not really mind. However, I am sure there are quite a number in the House who should get the opportunity to travel the journey.

Further, Mr. Speaker Sir, having said that, I have confidence in the Senators who have been serving in this Committee and we just ---

**The Speaker Hon. Ethuro:** Your one minute is up.

**Sen. (Prof.) Anyang'-Nyong'o:** Best of luck to all of you.

Thank you.

**The Speaker** (Hon. Ethuro): Order Members. Before I put the question I want to observe that - and I do not see the Senate Majority Leader and his Deputy.

**Sen. Hassan:** Mr. Speaker Sir, he is here.

**The Speaker** (Hon. Ethuro): The Senate Majority Leader, you will convey to your counterpart, the Senate Minority Leader - of course I see he is ably represented by the Deputy Minority Leader - the mood of the House is such that the whole meaning of a Sessional Committee is being lost by recycling the same Members. At least the majority of the membership might need an opportunity to equally serve in the same Committee and Sen. Wako in quoting paragraph 1 (d) says:

“Not more than nine other Senators reflecting the relative majority of the seats held by each of the parliamentary parties in the senate, who shall...”

The operational word is “shall.” Now I am beginning to understand why you are grappling with the word unanimity. Between the two, I suppose unanimity within the entire membership of a parliamentary party. It goes on to state:

“Be nominated by the Parliamentary parties and approved by the senate at the commencement of every session.”

We are doing the last bit but the question is on the nomination by the parliamentary parties. I will propose that in the next RBC that, as your Speaker and Chair, I would demand some minutes of a political party meeting that endorsed the names that are being forwarded for the membership so that you can sort out. I have no problem if by that time they decide to return all of you or replace one or two and of course there are Members you cannot replace because they are there by provisions of the Standing Orders.

Having said that, I also want to confirm as the Chair of the Committee, that the Committee has done a wonderful job. They have gone out of their way as the Deputy Majority Leader stated in terms of even looking at some issues that may not be expressly provided for in terms of their mandate, but issues that are very important for the Senators. I think to that extent, we need to appreciate them for that but the question is an opportunity for everybody to serve should also be availed. So, we need to marry those considerations.

*(Question put and agreed to)*

**The Speaker** (Hon. Ethuro): Order! Order, Members. Now that we have completed the business on the Order Paper, before I adjourn the House, I wish to invite the RBC to the usual place in 10 minutes time at the rise of the House, today.

### ADJOURNMENT

**The Speaker** (Hon. Ethuro): Order, Members! It is therefore time to interrupt the business of the House. The House stands adjourned until tomorrow, Wednesday 11<sup>th</sup> February 2015 at 2.30 p.m.

The Senate rose at 3:40 p.m.