

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 21st February, 2017

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

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

PRAYER

STATEMENTS

THE CONDITIONAL ALLOCATION TO COUNTIES FOR MEDICAL EQUIPMENT

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I rise pursuant to Standing Order No.45(2)(b) to seek for a Statement from the Chairperson on the Health Committee regarding the conditional allocation to counties for medical equipment. In the Statement, the Chairperson should address the following:

(i) Whether he is aware that there is a conditional allocation of Kshs4.5 billion to each county every financial year for leasing of medical equipment;

(ii) If he is aware, he should provide a breakdown of the quantum and quality of equipment in each of the counties, the date they were delivered to those counties and the cost thereof;

(iii) Confirm the number of counties that have so far received the equipment, the hospitals hosting those equipment, detailing the criteria that was used in the distribution of the medical equipment and for the counties that have not received such equipment, what is it they are paying for and if such payment is in conformity with procurement rules and procedures;

(iv) The working condition of the equipment and the post-supply service contracts and the contractor involved to ensure that it is properly maintained and functioning.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. This is a very important requisition for statement. Kindly allow me to ride on it and seek further clarification. I would also like the Chairperson to inform the House and the country how many of the specialized medical equipment as of now are actually functional and specifically indicate those county hospitals where the Intensive Care Units (ICU) are actually operational.

Secondly, when we looked at the original contract, the contracts that were supposed to be signed; laboratory contracts that were supposed to be the back up to enable the ICUs to function had not been signed. Could the Chairperson tell us whether

procurement has been done, if the contracts of the laboratories have been signed, how many county hospitals and which ones have received the specialized laboratory equipment for backup?

The Speaker (Hon. Ethuro): Can the Chairperson of the Health Committee respond?

Sen. (Dr.) Machage: Mr. Speaker, Sir, noting the importance of the statement sought and the details which it entails, I request that you allocate two weeks for me to get the answers.

The Speaker (Hon. Ethuro): So ordered.

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I have two statements to seek.

SUPPLY OF FERTILIZER AND OTHER FARM INPUTS BY NCPB

First, I wish to seek a Statement from the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries regarding the supply of fertilizer and other inputs by the National Cereal and Produce Board (NCPB) in light of the fact that agriculture is Kenya's main driver of the economy. In the Statement, the Chairperson should;

(a) Explain why NCPB has not purchased and stocked fertilizer and other farm inputs for farmers ahead of the planting season this year yet the long rains are about to start;

(b) State when the fertilizer will be availed in all the NCPB depots across the country; and,

(c) State the measures that the Government will put in place in future to avert the persistent delays in the supply of fertilizer and other farm inputs.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, allow me to thank the Senator for West Pokot and ride on that Statement by asking further that the Chairperson of the Committee, who is seated right in front of me, to further tell the House and the country the exact pricing of the subsidized fertilizer and how the Government is going to stop the usual bad habit of profiteers colluding with NCPB and buying the fertilizer in bulk at the subsidized prices and then selling back to farmers at astronomical prices.

Sen. Murungi: Mr. Speaker, Sir, I would like to thank the Senate Minority Leader for acknowledging that agriculture is a key driver of this economy as well as Sen. (Prof.) Lonyangapuo---

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

Sen. Murungi: Mr. Speaker, Sir, given the details that are required, from the Ministry and the NCPB, I request that our Committee be given two weeks to respond to this Statement.

The Speaker (Hon. Ethuro): So ordered

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Speaker, Sir. I wonder if the Chairman has a calendar that shows him, today, it is 21st February, 2017. Next Wednesday will be 1st March. The planting season starts from 1st March in the Rift Valley. Can the Chairperson shorten the days so that he can respond to this Statement in one week's time? We are nowadays digital. You can just call.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I beg that you indulge me on behalf of the many Kenyans who are worried. We are not too sure about the promise by the

Chairperson that he is going to consult and bring us the answer because word coming from his county is that he consults a witchdoctor. Could you assure us that the consultation will not be part of the answer that we are looking for?

(Laughter)

The Speaker (Hon. Ethuro): Sen. Karaba, do you also have an intervention on this matter?

Sen. Karaba: Mr. Speaker, Sir, the question on fertilizer had been put in the last Session and the answer that was given was quite satisfactory. There is actually need for farmers to be told the truth about the supply of fertilizer---

The Speaker (Hon. Ethuro): Order Sen. Karaba! It is Statement hour.

Sen. Karaba: Mr. Speaker, Sir, can the Chairperson of the Committee on Agriculture, Livestock and Fisheries in his answer tell us why prices of fertilizer differ from one region to another given that there are some who buy from the NCPB and then sell at a higher profit?

Sen. Murungi: Mr. Speaker, Sir, first, I beg you to tell off the Senator for Kakamega County, Sen. (Dr.) Khalwale. He is extremely mischievous. I issued a statement yesterday which was covered in *The Standard* saying that the only people that I need for me to win the governor's seat in Meru are not witchdoctors. I need the voters and blessings of God. I therefore invite the Senator to read my rebuttal statement in *The Standard* yesterday. I do not think that those farmers require the intervention of witchdoctors to get fertilizer in this country.

The Speaker (Hon. Ethuro): Order, Sen. Murungi. Does it really matter whom you consult if you deliver the fertilizer?

(Laughter)

Sen. Murungi: Mr. Speaker, Sir, where we come from, it matters. Maybe where you come from, that would not matter.

I understand the urgency of the matter and the blame should go to the Senator for West Pokot, Sen. (Prof.) Lonyangapuo. He knows the calendar and that the rains come in March. Why did he not ask this question one or two weeks ago? I am not the only one in control of this calendar. If he wants that answer from the Committee, please, give us the two weeks. We will do our best. If I get it earlier, I will notify the Chair.

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Speaker, Sir. Sen. Karaba has just confirmed here that this question was asked last Session around September or October. That was the best time for the Chairperson and the Ministry to have delivered this Statement. Mine was a reminder now that things are getting out of hand. The Chairperson should own and confess that they are unable to execute their mandate.

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

Sen. Kagwe: Mr. Speaker, Sir, in addition to the issues that have been raised by my colleagues, could the Chairman also include in his answer an assurance regarding to quality of the fertiliser? This is because---

The Speaker (Hon. Ethuro): Order Senator, that intervention is sufficient.

Mr. Chairman, I cannot order Sen. (Dr.) Khalwale off because that is not the job of the Chair. I may only order him out of order but in this particular instance, I will not order him out of order because he was seeking your assurance. What you did was in the media and the House does not rely on media reports, but it also has its own mechanisms. So, what you have said is enough for our purposes.

Secondly, Sen. (Prof.) Lonyangapuo cannot be blamed for bringing the question late because he is doing oversight. There are other state organs that have and manage the calendar. All the House is trying to do is to ensure that that Calendar is being effective. So, I direct that you bring the statement.

In your opening remarks, you appreciated the Senate Minority Leader for appreciating the role of agriculture. It is that important that we should get the response in one week's time. Failure to do so especially during drought and famine is that you will get into trouble with food security concerns.

Let us have the second statement to be sought by Sen. (Prof.) Lonyangapuo.

DOUBLE TAXATION BY COUNTY GOVERNMENTS
VIA COLLECTION OF CESS ON AGRICULTURAL PRODUCE

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I rise pursuant to Standing Order No.45(2)(b) to seek a statement from the Chairperson of the Standing Committee on Finance, Commerce and Budget on Double Taxation via Collection of Cess on Agricultural Produce by County Governments. In the statement, the Chairperson should:-

(a) Explain the current policy and legal framework relating to the payment of cess on agricultural products, especially when they are transported from one county to another.

(b) Confirm whether there are incidences of double taxation through cess collection from farmers transporting agricultural produce from one county to another.

(c) State measures that the national Government has put in place to stop double taxation and ensure that cess is paid to the county of origin of the agricultural produce.

The Speaker (Hon. Ethuro): The Chair.

Sen. Billow: Mr. Speaker, Sir, the Senator for West Pokot has sought a very important statement. I am sure this is a statement that is important to many people particularly in the farming zones. I would like to tell the Member that we will get an answer to the statement in two weeks' time because it is a matter of national importance.

The Speaker (Hon. Ethuro): That is so directed, in two weeks' time.

THE PLIGHT OF FARMERS IN MWEA RICE IRRIGATION SCHEME

Sen. Karaba: Mr. Speaker, Sir, I rise to seek a statement under Standing Order No.45(2)(b) from the Chairperson of the Committee on Agriculture, Livestock and Fisheries regarding the plight of farmers in Mwea Rice Irrigation Scheme. In the statement, the Chairperson should clarify the following:-

(1) If the Government is aware that farmers in Mwea Irrigation Scheme in Kirinyaga County are facing serious challenges in the production of rice including but not limited to the poor yields.

(2) Confirm whether the Government will extend any financial assistance to the farmers in Mwea.

(3) Explain the long-term measures that the Government will take to make sure that production of rice in Mwea continues to be high.

Sen. Murungi: Mr. Speaker, Sir, we request for two weeks to respond to this Statement.

The Speaker (Hon. Ethuro): So ordered; it will be answered in two weeks' time.

Hon. Members, that is the end of Order No.7 on Statements. I have a communication from the Chair and then we will go back to Order No.6

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF MEMBERS OF THE PARLIAMENTARY NETWORK ON WB AND IMF

The Speaker (Hon. Ethuro): Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of a visiting delegation of Hon. Members of Parliament from various countries who are Members of the Parliamentary Network on World Bank (WB) and the International Monetary Fund (IMF). I request each member of the delegation to stand when called out so that we may acknowledge them in the usual Senate tradition.

- | | | |
|---------------------------------------|---|--|
| 1. Alain Destexhe (Belgium) | - | Senator, Board member of the Parliamentary Network |
| 2. Sado Nazaire (Benin) | - | MP |
| 3. Immaculée Ndabaneze (Burundi) | - | Senator |
| 4. Fadil Aliyoum (Cameroon) | - | MP |
| 5. Mbutoh Njingum Musa (Cameroon) | - | MP |
| 6. Pana Merchant (Canada) | - | Senator |
| 7. Jean-Luc Reitzer (France) | - | MP |
| 8. Maminiaina Rebenirina (Madagascar) | - | MP |
| 9. Gerry Randriambolaina (Madagascar) | - | MP |
| 10. Abdul Rashid Godil (Pakistan) | - | MP |
| 11. El Hadji Mansor Sy | - | MP |
| 12. Åsa Erikson | - | MP |
| 13. Zitto Zuberi Kabwe (Tanzania) | - | MP |
| 14. Joseph George Kakunda (Tanzania) | - | MP |
| 15. Olfa Soukri Cherif (Tunisia) | - | MP |
| 16. Arda Zengin (Turkey) | - | MP |
| 17. Cemalettin Torun (Turkey) | - | MP |
| 18. Taha Ozhan (Turkey) | - | MP |
| 19. Nathan Nandala-Mafabi (Uganda) | - | MP |

They are accompanied by the following staff:-

1. Nayé Bathily, Head of Parliamentary Engagement, World Bank Group.
2. Glenn Gottselig, Senior Communication Officer, IMF.
3. Vera Rosauer, Communication Officer, AFREC, World Bank Group.

4. Hana Rakem, Consultant, Parliamentary Network on the World Bank and the IMF.

On behalf of the Senate and on my own behalf, I welcome you all to the Senate and wish you well for the remainder of your stay in the Parliament of Kenya. I thank you.

(Applause)

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, allow me to join you in welcoming the distinguished guests in your Gallery. I am delighted to note that among the delegation are my two good friends; Hon. Zitto Kabwe from Tanzania and Hon. Nandala-Mafabi from Uganda. Equally delightful is the fact that Parliamentarians have an interest in what the World Bank and the IMF do.

I want to encourage them in their engagements to encourage the World Bank to upscale its activities in the Third World Countries and move away from endless studies and researches. By the time any projects come to fruition, they find the World Bank having gone through a feasibility, an evaluation and re-evaluation. By the time you get to the project, the parameters have changed and nothing works.

So, this committee being comprised of Parliamentarians should encourage the World Bank that when a third world country needs a road, they should finance the road. There is no point spending money to study a road that has been there for 100 years before you tarmac it.

Sen. Murkomen: Mr. Speaker, Sir, allow me to also join you and the Senate Minority Leader to congratulate and welcome the team from various countries who are interested in matters of World Bank. I join the Senate Minority Leader to say that this is a very important team. They may not be known to this House.

When I went to study for my Masters degree in law, I was a World Bank funded student because I won a World Bank scholarship. That scholarship was based on building capacity for lawyers to do trade and investment in developing countries.

Mr. Speaker, Sir, it is with great satisfaction for me to see that many countries including our neighbours Tanzania and Uganda are here. It is also important to say that as country members of World Bank and IMF, it is important that democracy is increased and decision-making in World Bank and IMF reflect the numerical strength of developing countries. This is because there being MPs from different countries in the world, it is time we started talking about reform of those institutions to reflect the word "democracy."

This is a democratic institution and our colleagues over there come from democratic institutions. It is important that democracy is discussed within World Bank and the IMF, so that we do not have crude representation of a few people and especially if you have a rogue president like Donald Trump because one or two people will just make a decision on behalf of everybody in the world.

Mr. Speaker, Sir, I thank you and welcome the colleagues.

The Speaker (Hon. Ethuro): Hon. Members, let us be very brief because I can see the interest is great.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, very briefly I would like to acknowledge this unique team in the House.

Sen. Haji: On a point of order, Mr. Speaker, Sir. Is it in order for Sen. Murkomen to say that the President of America is a rogue president? Is he in order to discuss the President of a friendly country?

Sen. Billow: On a point of order, Mr. Speaker, Sir. Is the Senator for Garissa, Hon. Haji, in order to ask the obvious when indeed the Senate and the House of Representatives in the United States of America (USA) have referred to the President as a “rogue president” many times? Is he in order to assume we do not know what is going on?

Sen. Kagwe: Mr. Speaker, Sir, just like you, I welcome the guests and I would like to make a small correction.

The Speaker (Hon. Ethuro): Order Senator, that is another one because we are still on this issue.

Sen. Kagwe: Mr. Speaker, Sir, I have been a member of the Parliamentary Network on World Bank. Is Sen. Murkomen in order to propose that these are democratic institutions when actually they are akin to a shareholding group where the more money you have and have invested, the more power you command? Is he in order to make arbitrary statements that make no sense?

The Speaker (Hon. Ethuro): Sen. Murkomen, could you confirm?

Sen. Murkomen: Mr. Speaker, Sir, on the last statement by my colleague here, shareholding of the World Bank and IMF; even if you were to weigh the shareholding of developing countries, you find that it does not stop decision-making by the other members because cumulatively, developing countries are also major shareholders and I understand where he is coming from. Aside from that, Sen. Kagwe must not trivialise a matter in terms of ownership of the World Bank and IMF and their relationship with the United Nations and many other complex matters that are related to multilateral institutions.

Mr. Speaker, Sir, I do not want us to trivialise this matter and it is not as simple as Sen. Kagwe thinks.

The Speaker (Hon. Ethuro): Order!

Sen. Murkomen: Mr. Speaker, Sir, let me settle the one by Sen. Haji on the issue of the President of the USA. I understand that you cannot discuss the conduct of a Head of State of a friendly country without a substantive Motion. However, I have been watching news and seeing congressmen in America. I guess that America’s president and America as a nation no longer retains the moral high ground they have had to lecture us on matters of democracy because the country itself is under siege. It is right to say that when a nation---

The Speaker (Hon. Ethuro): Order Senator! You have plenty opportunities to say many things but you cannot say all the things all the time on this Floor. So, let me read to you the necessary Standing Order No.90(1). It states as follows:-

“Neither the personal conduct of the President, nor the conduct of the Speaker or of any judge, nor the judicial conduct of any other person performing judicial functions, nor any conduct of the Head of State or Government or the representative in Kenya of any friendly country or the conduct of the holder of an office whose removal from such office is dependent upon a decision of the Senate shall be referred to adversely,

except upon a specific substantive Motion of which at least three days' notice has been given."

I have no notice before me, it has not been given any number of days, you have referred to a Head of State as "rogue" and your point of references are from watching news, a very unreliable source for our purposes under the circumstances. Withdraw and apologise.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. I think the Chair should give better clarity to this issue of personal conduct. If I stand here and say you are a smiling Speaker, is that your personal conduct? If I say that the distinguished Senator for Baringo is ever laughing, is that personal conduct?

To me, referring to somebody as rogue does not amount to discussing the personal conduct of that person unless he goes on with overt acts that explains what he has said. In any event, as a long serving Member of the Kenyan Parliament, I want to refer the House to the ruling of the late Jean-Marie Seroney that a Member of the House should not be challenged on a matter that is pretty obvious.

The Speaker (Hon. Ethuro): Order! Let me dispose the one for the Minority Leader. I am afraid your wide knowledge of the English language has serious limitations in this particular instance. The issue of the conduct and discussing the conduct is on the basis that you are bringing a substantive Motion to discuss. Now, there are words that are not offensive. "Smiling" is not offensive, "distinguish" is not offensive and "honourable" is very desirable. In the ordinary meaning of the word "rogue"; that cannot be equated to smiling. It is the opposite.

I have directed that the honourable Senator who is the Deputy Majority Leader, Sen. Onesmus Kipchumba Murkomen, withdraws and apologises.

Sen. Murkomen: Mr. Speaker, Sir, before I do what you have said, I would like to request that you retreat and think through what the Senate Minority Leader has said about that Standing Order because it might in future inhibit debate. For now and for purpose of us making progress, I would like to withdraw the word "rogue" and replace it with a "different" President like Donald Trump. I apologize for the word rogue and replace it with different.

The Speaker (Hon. Ethuro): Order, Sen. Murkomen! This is a non-issue and there is no amount of discipline of the English words. Now, the directives are very clear; there should be neither preface nor a forward. It is a directive.

Sen. Murkomen: As I said Mr. Speaker, Sir, I said I withdraw and apologize for the word rogue and replace it with that unusual---

The Speaker (Hon. Ethuro): Order! What is it, Sen. (Dr.) Machage?

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir. I rise under Standing Order No. 110 (e). Are Sen. Murkomen and Sen. Wetangula in order to doubt your interpretation of the Standing Orders and your ruling on a matter before this House; on Sen. Murkomen's disorderly behavior in breaching Standing Order No. 90?

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Machage! Sen. Wetangula did not question me. He only invited me to consider some other perspectives and I determined that matter. The Member that is the culprit who the Chair should deal with is the originator and the defender of those words who is none other than Sen. Murkomen himself. So, the Chair is magnanimous and appreciates the circumstances in which the deputy majority leader is operating now in his county.

(Laughter)

Let him just withdraw and apologize.

Sen. Murkomen: Mr. Speaker, Sir, thank you for recognizing the security challenges we face in Kerio Valley which not only affects my county but also affects your county and Sen. Moi's which is Baringo. I withdraw and apologize.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I am impressed by the kind of visitors you have had in your Gallery. I want to ask them to send our greetings to the heads of states of Tanzania and Senegal. Due to the issue of governance, the Head of State of Senegal allowed the President elect of Gambia to be sworn into office from Senegal and in the process averted a crisis that could have deteriorated into genocide.

Mr. Speaker, Sir, I also want them to send my greetings to the Head of State of Tanzania because of the concerted effort that he is leading in the fight against corruption. On the issue of Members of the delegation from the World Bank and International Monetary Fund (IMF), I would like to urge them to consider before making a decision of giving money to African countries the input of the national Parliaments. If they were doing that, maybe we would not be where we are. For example, in a period of four short years, the Jubilee government has over borrowed to the extent that we are now running into a debt of over Kshs3 trillion.

In conclusion, Mr. Speaker, Sir, may I warn other African leaders who do not want presidents elect to be sworn in that we now know a new standard. Should anybody joke in Kenya, we shall go and be sworn in from Tanzania this year.

Sen. Gwendo: Thank you, Mr. Speaker, Sir. I want to thank you for granting me the opportunity to be a Member of the Parliamentary Network and also serving in the Board of the Parliamentary Network on World Bank and IMF. It is unfortunate that they have left but I would like to bring to your attention that being a Member of the Parliamentary Network---

Sen. Kembi-Gitura: On a point of order.

The Speaker (Hon. Ethuro): What is it, Sen. Kembi-Gitura?

Sen. Kembi-Gitura: Mr. Speaker, Sir, if I am right, these points of order that are coming up are to join you in welcoming the people in the Gallery but I cannot see anybody. So, I wonder where this debate is going. Is it for the HANSARD or to talk to the people in the Gallery who are supposed to be sitting there and welcoming them? How do you welcome people who are not here? I think we are taking unnecessary time on a debate that is not going anywhere.

The Speaker (Hon. Ethuro): Order, Sen. Kembi-Gitura! It is necessary sometimes not to think loudly. One, there is no debate, two, the Members are associating with my sentiments. Three, Sen. Gwendo is a Member of the team. She will use a copy of the HANSARD to convey the feelings of the House. This is a House of record. They do not have to be there to hear. They can read what you said about them. Not many people from Murang'a County listen to you live but I am sure if they are interested, they will ask for the HANSARD to get to know what you said on a particular matter.

What is it, Sen. Kembi-Gitura?

Sen. Kembi-Gitura: On a point of order, Mr. Speaker, Sir. When you use the words that "it is wiser to keep quiet"; if you are not sitting on that Chair if you are a

Member of this House; I would have referred to Standing Order No. 90 and requested you to stop that Member from imputing an ill motive upon me. In the same way that we use words, when you use the words “wiser to keep quiet”, in my honest opinion, you are imputing that I did not have a right to stand up and raise a point of order. I raised it in good faith.

The Speaker (Hon. Ethuro): Order, Sen. Kembi-Gitura! One, you are misrepresenting the Chair and you sit on this Chair. I never said “it is wiser to keep quiet”. I said “it is wiser sometimes not to think aloud”.

Proceed, Sen. Gwendo.

Sen. Gwendo: Thank you, Mr. Speaker, Sir. This visit has been educational for them and for me too. Yesterday, we managed to meet the Country Director of World Bank who happens to be a woman because we still fight to be on the decision making tables but she is there as the country director of the World Bank. She welcomed us the same way you have welcomed them to the Senate.

The previous field visit that the Parliamentary Network took, we went to Indonesia and they were trying to compare Indonesia to Kenya. I must bring back to this Senate that they have learnt a lot and we as a country are very far despite the way we look at our country negatively. They have learnt a lot from devolution from what the Speaker told them about our country. I want to take this opportunity to thank you for giving me the chance to be in that board and also thank the House for the support that I have received and for interacting with the Parliamentary Network.

As a point of information, the Parliamentary Network is a platform created for Members of Parliament from different countries to look at their governments and question what those governments are doing.

The Speaker (Hon. Ethuro): Order Members. We will now refer to the supplementary Order Paper. I will invite the Senate Majority Leader to give a Notice of Motion and proceed with the Motion as per Order No. 13.

NOTICE OF MOTION

APPROVAL OF SENATORS TO SERVE IN SESSIONAL COMMITTEES

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

THAT, pursuant to Standing Order Nos. 177, 179 and 210, the Senate approves the following Senators nominated by the Senate Business Committee to serve in the respective sessional Committees as indicated below:-

A. COMMITTEE ON DEVOLVED GOVERNMENT

1. Sen. Murkomen Kipchumba
2. Sen. Lesuuda Naisula
3. Sen. Billow Kerrow
4. Sen. Beatrice Elachi
5. Sen. (Prof.) Wilfred Lesan
6. Sen. Sitswila Wako Amos

7. Sen. Janet Ong'era
8. Sen. Omar Hassan
9. Sen. Tiolo Ndiema Henry

B. COMMITTEE ON IMPLEMENTATION

1. Sen. Haji Mohammed Yusuf Haji
2. Sen. Bule A. Ali
3. Sen. Chelule Liza
4. Sen. Mbura Emma Gertrude
5. Sen. (Dr.) Kariuki Godfrey Gitahi
6. Sen. Ali Hassan Abdirahman
7. Sen. James Orengo,
8. Sen. Muthama Johnson
9. Sen. Nyongesa Kanainza Daisy

C. COMMITTEE ON DELEGATED LEGISLATION

1. Sen. Sang Stephen
2. Sen. Gwendu Joy
3. Sen. Onchwang'I Hosea
4. Sen. Mbura Emma Gertrude
5. Sen. Karaba Daniel
6. Sen. Madzayo Stewart
7. Sen. Sijeny Judith
8. Sen. Musila David
9. Sen. Omondi Godliver Nanjira

The Speaker (Hon. Ethuro): Next order!

MOTION

APPROVAL OF SENATORS TO SERVE IN
SESSIONAL COMMITTEES

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

THAT, pursuant to Standing Order Nos. 177, 179 and 210, the Senate approves the following Senators nominated by the Senate Business Committee to serve in the respective sessional Committees as indicated below:-

D. COMMITTEE ON DEVOLVED GOVERNMENT

10. Sen. Murkomen Kipchumba
11. Sen. Lesuuda Naisula
12. Sen. Billow Kerrow
13. Sen. Beatrice Elachi
14. Sen. (Prof.) Wilfred Lesan
15. Sen. Sitswila Wako Amos
16. Sen. Janet Ong'era
17. Sen. Omar Hassan

18. Sen. Tiolo Ndiema Henry

E. COMMITTEE ON IMPLEMENTATION

10. Sen. Haji Mohammed Yusuf Haji

11. Sen. Bule A. Ali

12. Sen. Chelule Liza

13. Sen. Mbura Emma Gertrude

14. Sen. (Dr.) Kariuki Godfrey Gitahi

15. Sen. Ali Hassan Abdirahman

16. Sen. James Orengo,

17. Sen. Muthama Jonhnsen

18. Sen. Nyongesa Kanainza Daisy

F. COMMITTEE ON DELEGATED LEGISLATION

10. Sen. Sang Stephen

11. Sen. Gwendu Joy

12. Sen. Onchwang'I Hosea

13. Sen. Mbura Emma Gertrude

14. Sen. Karaba Daniel

15. Sen. Madzayo Stewart

16. Sen. Sijeny Judith

17. Sen. Musila David

18. Sen. Omondi Godliver Nanjira

Mr. Speaker, Sir, these Senators have been nominated by the SBC to serve in the Sessional Committees. As previously noted in this House, we have largely seen that there might be need for continuity given the fact that this is a very short session because it has been truncated by the elections. For purposes of continuity, as the Senate Majority Leader together with my counterpart, the Senate Minority Leader, in consultation with our Members, the entire leadership and the SBC, we recommend that we retain the membership of the Sessional Committees as they have been. Therefore, I do not want to speak too much on this Motion because it is a straightforward Procedural Motion.

I urge Senators to support this recommendation. I beg to move and request the Senate Minority Leader to second this Motion.

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

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

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I would like to request the Senate Majority Leader to make a slight clarification. In the membership of Departmental Committees, Sen. (Dr.) Machage who is the Senator for Migori County is in the Committee on Health. However, he has defected from the Orange Democratic Movement (ODM) to a party called the Democratic Party (DP) which is not a parliamentary party and not a member of the either of the two coalitions. Could he tell us under which auspice is the Senator for Migori County finding himself into the membership of a Committee of this House?

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

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, is Sen. (Dr.) Khalwale in order to talk about Sen. (Dr.) Machage who has exercised his right just like Sen. (Dr.) Khalwale when he migrated from the United Democratic Forum (UDF) to his new home? I wish it was somebody else talking and not him.

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

For the record, Sen. (Dr.) Khalwale did not migrate from UDF to Ford-Kenya. UDF was dissolved and killed by a grouping called Jubilee. That is how Sen. (Dr.) Khalwale found himself in Ford-Kenya. If you look at the law and the Constitution, when such a murder of a political party is committed, the Members do not die with it.

(Loud consultations)

The Speaker (Hon. Ethuro): Order, Members! Let us conclude this ---

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I want to second this Motion---

The Speaker (Hon. Ethuro): Order, Sen. Wetangula! I want to agree with the Senate Minority Leader for the purposes of Sen. (Dr.) Khalwale. This is because I have a letter from him where he cited the relevant law. I may not share the same expression with the Senate Minority Leader in terms of words like “murder” or “most foul” and so on. However, it is also true that Sen. (Dr.) Khalwale cannot use this Floor to peddle rumours, innuendos or newspaper reports. As far as I am concerned and from where I sit, which is very authoritative, I have not gotten a letter similar to what I got from Sen. (Dr.) Khalwale from Sen. (Dr.) Machage.

Proceed, Sen. Wetangula.

(Loud consultations)

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I will not go that route. This is because there are so many things that we can talk about including my distinguished colleague who has since adopted red shirts.

(Laughter)

(Sen. Njoroge interjected)

I beg to second.

On a light note, knowing the propensity Sen. Njoroge to fire his gun without provocation---

(Laughter)

We may require a thorough physical check on him before he enters the Chamber. This is a continuation. The King of Meru advises me to buy a bullet proof vest since I am always standing in front of Sen. Njoroge.

I second the Motion. This is a continuation of membership of the Committees. We have a very short session. We encourage Members who have been given the opportunity to continue serving in the Committees to finish the pending work. We are seriously indicted as a House for our inability to process Petitions that have come to this House. I want to urge these Committees to give utmost priority to any pending Petitions that they

might have since members of the public bring them here because they need help which they cannot get elsewhere.

I want to urge that you put the question and we dispose of the matter and move on to something else.

(Question proposed)

(Question put and agreed to)

The Speaker (Hon. Ethuro): Next order.

MOTION

ADOPTION OF REPORT ON VETTING OF NOMINEES TO THE NATIONAL CLIMATE CHANGE COUNCIL

Sen. Obure: Mr. Speaker, Sir, this is a report of The Joint Committee on Lands and Natural Resources in respect to the vetting of candidates to the National Climate Change Council.

We sat on several occasions to discuss criteria upon which we make recommendations to this House. This was going to be done in accordance with the Public Appointments (Parliamentary Approval) Act No.33 of 2011 and the specific criteria included academic qualifications, employment record, professional affiliations, potential conflict of interest, knowledge of the relevant subject, overall suitability for the position, tax compliance, integrity and morality, vision and leadership as well as expectations and key priorities.

The four nominees that we considered were discussed at the joint meeting on 14th, December 2016 and in this particular respect, the Committee had invited submissions from the public on their suitability---

The Speaker (Hon. Ethuro): Order Senator. You have not moved the Motion.

Sen. Obure: Thank you very much, Mr. Speaker, Sir.

I beg to move the following Motion:-

That pursuant to Section 7 of the Climate Change Act 2016, Section 8(1), the Public Appointments (Parliamentary Approval) Act 2011, and Senate Standing Order No.65, the Senate adopts the report of the Joint Sitting of the Senate Standing Committee on Lands and Natural Resources and the National Assembly Departmental Committee on Environment and Natural Resources on the vetting of nominees for appointment to the National Climate Change Council laid on the table of the Senate on Wednesday, December 28th, 2016 and approves the recommendations of the Committee as follows:

- i) Approves the nomination of Messrs. Suresh Patel and John Kioli for appointment to the National Climate Change Council;
- ii) Rejects the nomination of Cynthia Wachabe and Dr. Jane Mutheu for appointment to the National Climate Change Council; and
- iii) Recommends that the appointing authority submits nominees of the female gender to represent the marginalized communities and the

Commission for University Education as prescribed by The Public Appointments (Parliamentary Approval) Act.

Mr. Speaker, Sir, on the 14th of December, 2016, the Joint Committee sat to receive public submissions on the nominees' suitability for appointment to the membership of the National Climate Change Council. The criteria upon which these members would be considered included: Academic qualifications, employment record, professional affiliations, potential conflict of interest, knowledge of the relevant subject, overall suitability for the position, tax compliance, integrity and morality, vision and leadership as well as expectations and key priorities.

We examined the various submissions made from members of the public and our conclusion was that both Messrs. Suresh Patel and John Kioli were suitable for appointment because they had accomplished a number of tasks in this specific area of climate change and shown considerable interest in the subject and had represented the country in many forums, both locally and abroad.

In regard to Cynthia Wachabe and Dr. Jane Mutheu, their appointments were declined because they were both not considered suitable. In the case of Dr. Mutheu, the Committee felt that she was not properly accredited by the universities which nominated her name and we felt that she was not properly representing the university fraternity.

In respect to Cynthia Wachabe, we felt that although she may have had knowledge on this subject, she was not representing the marginalized group that she purported to. She did not come from the marginalized group and therefore her appointment was rejected.

We believe that this Committee did very good work and I am appealing to the Senate to approve the recommendations.

I beg to move.

The Speaker (Hon. Ethuro): Who is seconding you?

Sen. Obure: Mr. Speaker, Sir, I am requesting my brother, the Senator for Trans Nzoia, Sen. Ndiema to second.

Sen. Ndiema: Mr. Speaker, Sir, I beg to second this Motion that seeks to approve nomination of Suresh Patel and John Kioli for appointment to the National Climate Change Council.

The two are distinguished people in the field of environment. They have wide experience and have been involved in matters of climate change for many years. The other two nominees, Cynthia Wachabe and Dr. Jane Mutheu were found not to be suitable.

I beg to second. One of the nominees was to represent the marginalised communities but when the joint Committee looked at the matter, it was found that she was not quite a suitable representative for that group. Equally, concerning Dr. Jane Mutheu, who is a distinguished scholar, the process that led to her being nominated to this position was found by the Committee to be wanting.

Mr. Speaker, Sir, you will note that two of them are ladies. It is not that the Committee was not gender sensitive, but merely because they were not suitable. The Committee feels that when these positions are advertised, their gender should be considered when next the names of nominees are submitted.

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

(Question proposed)

(Question put and agreed to)

The Speaker (Hon. Ethuro): Order, hon. Senators. Order No. 8 is deferred to tomorrow.

BILLS

Second Readings

THE CONSTITUTION OF KENYA (AMENDMENT) BILL
(SENATE BILL NO. 16 OF 2015)

(Bill deferred)

Let us proceed with Order. No.9.

THE CONSTITUTION OF KENYA (AMENDMENT) (NO. 2) BILL
(NATIONAL ASSEMBLY BILL NO. 2 OF 2015)

(Sen. (Prof.) Kindiki on 3.11.2016)

(Resumption of Debate interrupted on 3.11.2016)

The Speaker (Hon. Ethuro): Order, hon. Senators. This is Division at the Second Reading. I, therefore, order the Division Bell to be rung for five minutes.

(The Division Bell was rung)

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

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. Considering that we are unable to get the numbers required to vote, would I be in order to request you to postpone the putting of the question to another day?

The Speaker (Hon. Ethuro): It is so ordered. The matter will appear on the Order Paper tomorrow.

(Putting of the Question on the Bill deferred)

Next Order!

Second Readings

THE CONSTITUTION OF KENYA (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO.26 OF 2013)

(By Sen. (Prof.) Kindiki on 3.11.2016)

(Resumption of Debate interrupted on 3.11.2016)

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

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. Considering that the business appearing in Order Nos. 10 to 17 is about Division and it will be affected by the minimum quorum required, would I be in order to request that you postpone the putting of the question for all the divisions to tomorrow?

The Speaker (Hon. Ethuro): Order, Members. I will disallow that request because the quorum is different for Order Nos. 10 and 11. Let us follow the motions because part of the voting is usually people absenting themselves. Let us proceed.

I order that the Division Bell be rung for one minute.

(The Division Bell was rung)

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. I have counted the numbers and if it is in order, I request that you postpone the putting of the question to the next day.

The Speaker (Hon. Ethuro): It is so ordered. I order that it appears on the Order Paper tomorrow afternoon.

(Putting of the Question on the Bill deferred)

Next order!

Second Reading

THE KENYA ROADS BILL (NATIONAL ASSEMBLY BILL NO.26 OF 2015)

(By Sen. (Prof.) Kindiki on 15.2.2017)

(Resumption of Debate interrupted on 15.2.2017)

The Speaker (Hon. Ethuro): I order that the Division Bell be rung for one minute.

(The Division Bell was rung)

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. I request that the putting of the question on this Bill be postponed to the next day.

The Speaker (Hon. Ethuro): Order, Senators. This Order is also postponed to tomorrow afternoon. I hope the Majority and Minority leadership will be working hard to ensure that the requisite numbers are obtained.

(Putting of the Question on the Bill deferred)

The Speaker (Hon. Ethuro): Next Order.

Sen. (Prof.) Anyang'-Nyong'o: On a point of order, Mr. Speaker, Speaker, Sir. I apologise for raising this point of order. It is true that three or four months are better than one or two months. Since we have so many issues to go to Division, could it be in order for me to propose that tomorrow when we come to this issue after the first five orders we move expeditiously to go to Divisions? We could also limit the time spent on Statements and other issues as much as possible. There is a tendency that earlier in the sitting Members seem to be present and as we continue with making Statements for the visiting delegations people tend to drift out of the chamber.

The Speaker (Hon. Ethuro): Your point has been noted, Sen. (Prof.) Anyang'-Nyong'o. We will strive to ensure that is done. We will also not only be reading the mood of the House, but also counting the numbers. Whenever the requisite numbers have been reached we will get to that particular order.

COMMITTEE OF THE WHOLE

(Order for Committee read)

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

IN THE COMMITTEE

[The Chairperson (Sen. Ongoro) took the Chair]

THE COUNTY ASSEMBLY SERVICES BILL (SENATE BILL NO.27 OF 2014)

(Consideration of National Assembly Amendments)

The Temporary Chairperson (Sen. Ongoro): Hon. Members, we are now in the Committee of the Whole to discuss the County Assemblies Services Bill (Senate Bill No.27 of 2014).

At this point we were supposed to proceed to Division, but as you can see we do not have the requisite numbers. So, we will report progress.

Sen. Kanainza, can you move this on our behalf?

Sen. Kanainza: Thank you, Madam Temporary Speaker. Hon. Chairperson, pursuant to Standing Order No.139, I beg to move that the Committee do report progress of its consideration of the National Assembly Amendments to Clause 48 of the County Assemblies Service Bill (Senate Bill No. 27 of 2014), and seek leave to sit again tomorrow.

The Temporary Chairperson (Sen. Ongoro): Thank you.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[The Temporary Speaker (Sen. (Dr.) Machage) in the Chair]

PROGRESS REPORTED

Sen. Ongoro: Mr. Speaker, Sir, I beg to report progress that the Committee of the Whole has considered the National Assembly Amendments to Clause 48 of the County Assemblies Services Bill (Senate Bill No. 27 of 2014) and seeks leave to sit again tomorrow.

The Temporary Speaker (Sen. (Dr.) Machage): The mover.

Sen. Ongoro: Mr. Speaker, Sir, I beg to move that the House do agree with the Committee on the said report.

(Question proposed)

(Question put and agreed to)

The Temporary Speaker (Sen. (Dr.) Machage): Hon. Members of the House, due to the same reason that we have had to defer Order No.14, I will defer Order Nos.15, 16, 17, 18 and 19.

COMMITTEE OF THE WHOLE

THE PERSONS WITH DISABILITIES (AMENDMENT) BILL
(SENATE BILL NO. 13 OF 2015)

THE NATIONAL CEREALS AND PRODUCE BOARD
(AMENDMENT) BILL (SENATE BILL NO. 15 OF 2015)

THE COUNTY STATUTORY INSTRUMENTS BILL
(SENATE BILL NO.10 OF 2015)

THE BASIC EDUCATION (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO.35 OF 2014)

THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT
OF ECONOMIC AND SOCIAL RIGHTS BILL
(SENATE BILLS NO.8 OF 2015)

(Committee of the Whole deferred)

ADJOURNMENT

The Temporary Speaker (Sen. (Dr.) Machage): Hon. Members, there being no other business, the Senate stands adjourned until tomorrow, Wednesday, 22nd February, 2017 at 2.30 p.m.

The Senate rose at 4.20 p.m.