

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 8th May, 2013

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

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

PRAYERS

QUORUM CALL AT COMMENCEMENT OF SITTING

The Speaker (Hon. Ethuro): Order! Hon. Senators, could we confirm if we have a quorum?

The Clerk of the Senate (Mr. Nyegenye): Mr. Speaker, Sir, we have 15 hon. Senators in the House. We have a quorum

The Speaker (Hon. Ethuro): Let us proceed.

MOTIONS

APPROVAL OF SEN. ELACHI AND SEN. BULE TO COMMITTEES TO REPLACE SEN. (DR.) KHALWALE

THAT, pursuant to Standing Order No.135(3) and 177(3), the Senate approves the following hon. Senators nominated by the Rules and Business Committee to be members of the respective committees as indicated below to replace Sen.(Dr.) Khalwale, who has been discharged from the respective committees pursuant to Standing Order No.178.

STANDING COMMITTEE ON FINANCE, COMMERCE AND ECONOMIC AFFAIRS

Sen. Beatrice Elachi

SESSIONAL COMMITTEE ON IMPLEMENTATION

Sen. Ali Abdi Bule

(Sen. (Prof.) Kindiki on 08.05.2013)

(Resumption of Debate interrupted on 08.05.2013)

The Speaker (Hon. Ethuro): Senate Majority Leader! Who was contributing to this Motion when debate was interrupted?

The Senate Majority Leader Sen.(Prof.) Kindiki: Mr. Speaker, Sir, I had moved the Motion. However, negotiations were going on.

The Speaker (Hon. Ethuro): Let us have Sen. Wetangula!

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Speaker, Sir, for giving me this opportunity to oppose this Motion. When we commenced business in the Senate, there was a general unwritten agreement to approach business in a bi-partisan manner. We agreed, and we have demonstrated by conduct, that in more ways than one, the interests of the Senate are supreme. We should not engage in a manner that demonstrates intolerance and one that stifles hon. Senators' freedom of expression.

Mr. Speaker, Sir, we listened to my learned friend, the Senate Majority Leader, move the Motion. He singled out one incident that Sen. (Dr.) Khalwale, Senator for Kakamega County, in so many words, was comforting "enemies"; that he had proposed a Senator from the opposite camp to become a chairman of a committee. We forgive our colleague because he is new to this kind of business.

Practice has it that once hon. Senators are assigned committees, they go to the committees to serve the interests of the Senate, the country and for that matter the counties for which we are responsible. Perhaps, if my learned friend was advised of what happened in other committees, he may re-think the trajectory he has taken, which, in my humble view, is unhelpful, destructive and does not build bi-partisan bridges that we are looking for. It should not be lost. For example, I am a member of the Senate Committee on National Security and Foreign Relations. I lead the minority in this House yet I proposed Sen. Haji, from the Majority, to be the Chairman of the Committee. James Orenge, Senator for Siaya County seconded the appointment of Sen. Haji to be the Chairman of the Committee. I do not think we did anything wrong because we are approaching this process with the interest of the Senate, counties and the country at heart, not narrow partisan interests that are totally unhelpful.

In the same committee, Sen. Haji, Senator for Garissa County seconded Nominated Senator, Sen. Ongoro, as the Vice Chair. Why is Sen. Haji not being de-whipped for doing that if what Sen.(Dr.) Khalwale did was wrong? You cannot be selective in deciding what is right and what is not. Sen. Ongoro did not win, but I know that Sen. Haji seconded her proposal to be the Vice Chair of that committee. We were all happy that it was a fair contest. It was democratic and open in the manner we conducted our business. But the vote was secret and we moved on.

Mr. Speaker, Sir, if we want to build this country, the greatest enemy of our progress has always been intolerance; that because I hold a view inimical to your feelings, I am an enemy. In fact, the Mover of the Motion used very unguarded language against Sen.(Dr.) Khalwale. I want to encourage that we do not engage in this kind of conduct of business in this House.

Mr. Speaker, Sir, the other committees where members of the Majority are chairing--- In fact, for this particular committee, we have not even elected the Chair. This is still pending. If yesterday I attended the Rules and Business Committee, I would have opposed the Committee approving such a misguided Motion because we are setting dangerous precedents. Hon. Senators will go to committees - if we approve this Motion - hon. Senators - it is said in Kiswahili, *ukiona kichwa cha mwenzako chanyolewa tia chako maji* - it cuts both ways. I want to urge hon. Senators that much sooner than later, the degree of intolerance being exhibited by the leadership of the Majority will visit on

any one of you. You will be told to vote in a certain way, your conscience will not allow you to vote in the way you are being herded to vote; the next day there will be a Motion here against you.

Hon. Senators, let me tell you for free, there was a Prime Minister in Pakistan called Zulfikar Ali Bhutto, when he was Prime Minister, a law was brought before Parliament to allow Queens Counsel from the United Kingdom to practice law and represent clients in Pakistan. The law was passed by the House, he vetoed it as a Prime Minister. Four years down the line, he was overthrown by a man called Zia-ul-Haq. No lawyer in Pakistan was ready to defend Zulfikar Ali Bhutto. He invited two Queens Counsel from London to defend him; he was shown the law he vetoed and he was told: "From the stroke of your pen, you barred those lawyers from coming to defend you." He was taken to court, charged, tried, convicted and hanged. So when we do things, it is important to know that the knives we sharpen today are the same ones that will slice us tomorrow. When the shoe is on the other foot, you never feel how that foot feels. But when it gets to your foot, you eventually have to feel it. I want to urge this House that this not a partisan Motion. This is a Motion that touches on the very core operation of hon. Senators, whether you are going to operate as elected and nominated hon. Senators coming here with a brain, a conscience and a right to do what is good for the country or to be pigeon holed into supporting the unsupportable issues that parties may bring on this Floor, mine included. It is only by taking that approach that we will see the import of this Motion. We will also see the danger of passing an instrument of terror at the very nursing stages of this Senate.

An hon. Senator: He is out of order!

The Senate Minority Leader (Sen. Wetangula): What is out of order?

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

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

Sen. Billow: Mr. Speaker, Sir, is the hon. Senator in order to talk of a Motion which is not before this House? The Motion before this House is the appointment of Sen. Elachi and Sen. Bule to two respective committees. There is no Motion before this House that the hon. Senator is debating. The Chair should protect us from this kind of a discussion.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, if you read this Motion, it starts by de-whipping Sen.(Dr.) Khalwale.

Hon. Senators: It does not!

Sen. Billow: On a point of order, Mr. Speaker, Sir. It does not!

The Senate Minority Leader (Sen. Wetangula): What is to replace an hon. Senator?

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

The Speaker (Hon. Ethuro): Order, Senator for Mandera County! You raised your point of order.

Sen. Kerrow: I have another point of order, Mr. Speaker, Sir.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I have not even responded to his point of order.

The Speaker (Hon. Ethuro): Same to you, hon. Senator for Bungoma County! The two of you cannot treat this House to an altercation between yourselves! That is why it is a House of rules. You speak and if another hon. Senator raises a point of order, you

respond and then the Chair will dispose the matter. So, respond and I will allow the Senator for Mandera County to have another point of order.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I am absolutely relevant. If you read this Motion, it de-whips Sen.(Dr.) Khalwale, that is why he is being replaced. For those hon. Senators who are new and who are not schooled in the language of law, to replace and de-whip are one and the same in these circumstances. That is why Sen.(Dr.) Khalwale is being replaced because he has been de-whipped. The Mover of the Motion---

An hon. Senator: On a point of order, Mr. Speaker, Sir.

The Senate Minority Leader (Sen. Wetangula): For heaven's sake, I am responding to a point of order! The Mover of the Motion, and the HANSARD will bear me out---

The Speaker (Hon. Ethuro): Hon. Senator for Bungoma County, you will do well when you respond and not invite more points of order. It is the manner in which you are responding that is attracting these points of order.

The Senate Minority Leader (Sen. Wetangula): Thank you, Mr. Speaker, Sir. The HANSARD will bear me out that the Mover of the Motion mentioned Sen.(Dr.) Khalwale when he was moving the Motion. He went on to say he was now nominating the two hon. Senators to be members of these committees. Indeed, Sen. Elachi is being nominated, not to increase the numbers of the committee beyond those allowed by the law, she is being nominated to replace Sen.(Dr.) Khalwale because he conducted himself in a manner that was not tolerable by his leadership.

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

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

Sen. Billow: Mr. Speaker, Sir, with all due respect to you, we have to replace the position left by our departed brother in the different committees. To do this, we must bring a Motion to replace him with another hon. Senator. We will not bring a Motion to discuss whether or not that person is being replaced. The Motion before us clearly says that the Senate approves the following nominees. Sen.(Dr.) Khalwale has already been replaced under Standing Order No.178, which does not require to be debated in this House. The Whip, acting on Standing Order No.178, has already removed him from that committee. The issue before this House is the appointment of the two hon. Senators. Whether or not that can be considered as terror in the language that Sen. Wetangula has used, is really not acceptable. We cannot be told that appointing two distinguished hon. Senators to two committees is a terrorist act. That is not acceptable to us.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I referred to an instrument of terror. That is not terrorism.

The Speaker (Hon. Ethuro): Order, Senators! Indeed, the Motion is seeking to bring in two Members to the respective Committees. However, it is equally true, to some extent that the basis of that replacement, which is indicated in the Motion, is to replace. So, in a way, it is in order for the Senator for Bungoma to delve a bit into the history and the background. But, that cannot be the only component of this Motion. In fact, we are dealing with extremely peripheral matters. You should confine yourself to the substance of the Motion which the Senator for Mandera is raising so that you mention the other one in passing. But when you use strong words like "terror" and we know that the word "terrorism" is derived from the word "terror---"

(Laughter)

Sen. Murungi: On a point of order, Mr. Speaker, Sir. I rise on a point of order to seek guidance from you regarding the interpretation of Standing Order No.178 which in full reads;

178(1) “A Parliamentary party that nominated a Senator to a select committee may give notice, in writing, to the Chairperson of the Rules and Business Committee that the Senator is to be discharged from a select committee.”

All that is required is for the parliamentary party to give notice to you, Mr. Speaker, seated as the Chairperson of the Rules and Business Committee that a certain Senator is to be discharged from a certain committee.

178(2) “The discharge of that Senator shall not take effect until upon receipt by the Chairperson of the notice under paragraph (1).”

So, the removal of my friend, Sen. (Dr.) Khalwale, does not require any Motion in this House. All it requires is a notice to you. Upon receipt of that notice, the man ceases to be a member of that Committee. So, the only Motion that can be before us is about what happens after that because for you to be a member of the Committee, you must be approved by the House. We seek your guidance considering that the issue of Sen. (Dr.) Khalwale cannot be brought by the Senate Minority Leader to the Floor. He can only talk about appointment of Senator Beatrice Elachi. Dr. Khalwale’s matter is finished and closed.

Hon. Senators: On a point of order!

The Speaker (Hon. Ethuro): Let me just dispose of this matter. I think it is important for us to be clear. I will entertain all your points of order including that from my good friend, Senator for Migori.

Standing Order No.178 does not require any interpretation, it is self evident. You can read it for yourself. The language is clear. It is not ambiguous. That matter, in terms of discharging a Senator from a committee has been disposed off. It is only that as a consequence of that, that the same Senator must be replaced by another Senator. So, what we are dealing with is replacing the Members who have been proposed in the normal way that we constitute Committees and bring Members’ names to the Floor of the House. In all fairness, the Senate Minority Leader, whipping and replacing do not mean the same thing. You can replace and constitute for different reasons but not because of de-whipping. This happened in this particular case. So, in terms of the substance of the Motion, let us deal with this. The Standing Orders require that if you contribute to a Motion, you must be relevant. While I appreciate that you can mention other things in passing, surely, you cannot dwell, during your entire contribution, on a matter that is not before the House.

Sen. (Dr. Khalwale): On a point of order, Mr. Speaker, Sir. With all due respect, what we are seeing at play now is the lack of previous experience. Is the hon. Senator for Meru in order to mislead the House about the removal of my name and why it cannot be mentioned while with the benefit of the HANSARD, the few Members who were in this House, who have had an opportunity to sit in the House Business Committee – you will remember that I have previously sat in this Committee for five years? Every time you introduce a new Member after the initial exercise has been done, it has been and it is

evident in the HANSARD, in the Lower House that the person moving the Motion must account for why a change is being introduced in that particular membership of the Committee. It is for that reason that I find it perfectly in order that the Senate Minority Leader mentioned why the replacement was being done and brought up my name. Similarly, hon. Wetangula is perfectly in order to refer to it. It is not like we are hanging to a Committee. We want to follow the rule of law. Is he in order to mislead the House?

The Speaker (Hon. Ethuro): Sen. Khalwale, you are the one misleading the House. The Senator for Meru was very clear about the Standing Order that he was quoting. After saying that, the matter has already been disposed and that is a fact. The communication was made to the Chairman of the Rules and Business Committee. I can confirm that. It says that this shall not take effect until upon receipt by the Chairperson. So, once the Chairperson received the communication, then your matter was disposed of. Let us not repeat this because there is no amount of English that will clarify this matter. It is very clear in my mind that the Motion is about replacing Members. You give a reason in passing but a Member dwelling on peripheral matters cannot form the core basis of the argument. That is the point.

Proceed, Sen. Wetangula.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, thank you for protecting me and saying that I was relevant. Indeed, I am relevant. I am opposing the nomination of Sen. Beatrice Elachi to the Committee on Finance, Commerce and Economic Affairs because it is irrational, unprocedural, dictatorial, unfair and contrary to the rules of natural justice. The removal of Dr. Khalwale to be replaced by Sen. Elachi--- I have no doubt, I am being relevant.

The Speaker (Hon. Ethuro): There you are relevant.

The Senate Minority Leader (Sen. Wetangula): The removal of Dr. Khalwale, contrary to the rules of natural justice – I consulted with Dr. Khalwale and found out that they did not even ask him to explain. They did not even give him a hearing and yet we are being told that---

Sen. Kembi-Gitura: Mr. Speaker, Sir, we are being taken back to the same arguments that we went through today. You have ruled that Standing Order No.178 does not require any interpretation. Therefore, if my learned friend, Sen. Wetangula, has an issue with Sen. Elachi being in that Committee, that is a different issue and has no annexure to the fact that Sen. (Dr.) Khalwale has been discharged.

Sen. (Dr.) Khalwale is no longer a member of that Committee. The sooner we realize that, the better. Therefore, the only issue outstanding now is whether or not the Senator for Tana River and nominated Senator Beatrice Elachi are competent and able to discharge their duties in those two Committees if they are appointed but their appointments cannot be negated by the fact that Sen.(Dr.) Khalwale has been discharged. I think we have been taken down the same road in a circumvent way which I want to invite you to reject.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, we will not subject you to rule on every mundane issue. That, obviously, is not a point of order. It was a point of argument.

The Speaker (Hon. Ethuro): Order, Sen. Wetangula! While I agree that I do not have to rule on every matter, neither does that confer to you the reason to give the same ruling.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, those of us with the benefit of sharing Parliament with the late hon. Martin Shikuku knows that we need to have some light moments in this House. We cannot just be serious on every issue. You will remember how Martin Shikuku used to conduct business. I have just said that I am opposing the nomination of Sen. Elachi, not because she is incompetent – I have great respect for her – but because the procedure being used to bring her to the Committee, obviously, is irrational, like I said. That is why I am opposing it. I have no difficulty with Sen. Ali Bule. But in fact I have serious difficulties with Sen. Ali Bule as well.

(Laughter)

This is because he is also a beneficiary of the de-whipping of Dr. Khalwale. He is also a beneficiary of grave injustice. I want to urge you, Senators, that if you value the future of this House, you reject these nominations and compel the Senate Leader of the Majority to go back and reinstate the de-whipped Senator to his position. Just like I said, we want to face the work of this country, through this Senate, in a manner that takes the interest of our country first. We want to be above narrow partisan thinking. I want to urge every Member who will speak on this issue, those who are right-thinking, to support the fact that the two Senators are being nominated to these Committees to benefit from a flawed process and from an injustice. If that injustice is left to live, the future of this Senate and the conduct of our work will be at stake.

I beg to oppose.

Sen. (Dr.) Khalwale: Thank you Mr. Speaker, Sir. I rise to oppose this Motion. I want to start by thanking the Senate Leader of the Majority for putting my name, in the first place, in these committees. For the benefit of this House and the entire country, I never, ever, approached the Senate Majority Leader so as to have my name put in this Committee. When the Senate Majority Leader was purporting to be putting my names in these committees, my names were already in those committees anyway.

The Senate Leader of the Majority circulated a form where he asked Senators to complete and propose the committees that they wanted to join. Hon. Muthama did the same and I submitted by names to him. Sen. Muthama put my names on this list. That is a fact. I would like it to be abundantly clear that I hold all the Senators with immense respect and I have no doubt that anyone of them can serve in this Committee. I would be the first person to vote for Sen. Beatrice to be, not just in this Committee but in any other Committee and so would I vote for hon. Sen. Billow Kerrow. I have carved a niche for myself even if nobody sings it for me because I respect parliamentary democracy. The truth be said, that there are only two reasons why I am being dewhipped. The first one is in respect of Sen. Beatrice Elachi's arrival, which I opposed. I am being dewhipped because I have refused to stop competing against Sen. Billow Kerrow for the position of Chair of the Committee for Finance, Commerce and Economic Affairs. We voted once, twice and three times and Sen. Billow Kerrow was unable to defeat me. Had I also taken the vote on Monday, because what is lost to the movers and shakers of the Jubilee side of the Government is that to win in a committee, you lobby, talk to colleagues but you do not call them names and show how mighty you are and how you come from a preferred party. Had the vote been taken on Monday which was yesterday, I would have won. If you had delayed because I continued lobbying as you, guys, continued shooting in the

wrong direction, if the vote would be brought days after this, again I would win because I am lobbying Senators who are both here and without. That is lost on you, Senate Majority Leader. So, with all due respect, I do not see any reasons - if you are really in love with me as somebody who should support your side of the Government - why I should be dewhipped for being good and lobbying for votes.

The second reason why I am being dewhipped and why I oppose this Motion is the inclusion of Sen. Ali Abdi Bule. I have absolutely nothing against Sen. Ali Abdi Bule and as I said about Sen. Billow, the same applies to you. The reason why I am being removed is purely because of lack of experience in parliamentary practice. The Senate Majority Leader or whoever advised him to remove my name think that once members go to a committee and want to be leaders in those committees, then they have to follow the thinking of their parties. You were even quoted elsewhere as having said when we were in a function in Naivasha that once committees have been formed, whoever becomes the chair will depend on who the committee prefers. It would be interesting from our own experience, for you people to know that I came to Parliament in 2007 on a party that had only two members of Parliament, that is New FORD(Kenya) but I chaired the most powerful committee in Parliament for five years and yet I had only one vote in that committee. As a matter of fact, I had nobody to propose me; I had nobody to second me if parties were supposed to second their own people. Let us impress and demonstrate parliamentary democracy and I would recommend a very nice book to you. I bought it at the bookshop in the House of Commons because it is not in Kenya. The book talks about Commonwealth parliamentary practice. It is to this issue that I am addressing myself. In fact, if the Senate Majority Leader was to reserve his decision and put me back to this Committee, I would run against Sen. Billow, defeat him and then resign so that you can remain happy because I am able to make friends both on the CORD and Jubilee sides and Kenya would be happy. We do not want our Senate to face the same media treatment the way the Lower House is being treated. Look at what they are doing about the Public Accounts Committee (PAC) and the Public Investments Committee (PIC). Why can they not ask some of us? I am the only Member of Parliament in the Republic of Kenya who has been invited in the House of Commons to address chairs of PAC of Commonwealth countries as a facilitator. I have also been invited to the Republic of South Sudan for the same reason. I have been invited to Rwanda again for the same reason. I hope I am not offending you.

Sen. Murungi: On a point of order, Mr. Speaker, Sir. My point of order is about relevance.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I am very relevant. It is this experience that I use to persuade, beg and cajole colleague Senators to see the value of me being the Chair of the Finance, Commerce and Economic Affairs Committee. I am not in any way demeaning you. This particular one of the Committee on Implementation, if the real reason I am being replaced is because I proposed Sen. Orengo, I have no regrets because of partly what Sen. Wetangula has said and the other part is what I am about to say: In the Committee of Agriculture, Lands and Natural Resources which voted before my committee voted, Sen. Khaniri proposed Sen. Kivuti. Sen. Khaniri is a member of UDF. When Sen. Khaniri's time came and he counted his support on Sen. Kivuti, it was not forthcoming. Secondly, in the Committee of Legal Affairs and Human Rights is where there is more drama and Senators would like to know this. Sen. Wako went unopposed.

The reason why he went unopposed is one of the reasons I have refused to step down for Sen. Kerrow Billow because the Senate Majority Leader had the audacity to come and create a *quid pro quo* between me and Sen. Wako. Allow me to say it in Kiluhya!

(Laughter)

The Speaker (Hon. Ethuro): No!

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, allow me to speak in Kiswahili. With due respect, allow me to mention in Kiswahili; “*Kwa sababu wewe ni Mluhya*, we would like that we give Sen. Wako the committee on legal and you step down.”

The Senate Majority Leader (Sen. (Prof.) Kindiki): On a point of order, Mr. Speaker, Sir. We are listening carefully but is the hon. Senator in order to try to belittle regional balancing as a fact that should be taken in place when constituting committees?

The Speaker (Hon. Ethuro): Sen. (Dr.) Khalwale, I think you should have hidden what the Senator for Meru told you. While I appreciate the regional depths in terms of your beloved bullfighting drama, maybe just minimize it for purposes of this Motion.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I would not therefore wish to dwell further on the difference between ethnicity and regionalism.

Mr. Speaker, Sir, what offended me most as a believer in democracy is that Sen. Wako in the presence of the Senate Majority Leader, Sen. Wako, called me and told me that they are in a meeting with the Senate Majority Leader and other people. So, they wanted me to step down.

Sen. Bule: Kwa Hoja ya Nidhamu. Nafikiri tuko hapa kwa haja muhimu ya kufanya shughuli muhimu ya Seneti. Hatuko hapa kusikiliza lugha nyingi.

Sen. (Dr.) Khalwale: Hon. Senators, I am not trying to waste your time.

Hon. Senators: You are not wasting time!

Sen. (Dr.) Khalwale: It is good that you see the background of this mistake that we want to create in the history of the Senate. As a result of that, Sen. Wako became the Chair. So, if it was right for the Senate Majority Leader to help Sen. Wako to become a chair of the Legal Affairs and Human Rights committee, what is wrong in me assisting Sen. Orenge to become the chair of the Committee on Implementation? This is what we should be thinking about and I ask you because you are an intelligent man, as indeed all of us are, to go and think about it. If anybody who was in that office and who Sen. Wako was referring to might be any of the people I fear they are, let me tell you that in this country, Mr. Kibaki was the President for ten years and he introduced the culture of tolerance. Mr. Kibaki never hit the roof when I passed a vote of no confidence in his Minister for Finance.

Mr. Speaker (Hon. Ethuro): Time up!

Sen. (Dr.) Khalwale: I oppose.

Sen. Kagwe: On a point of order, Mr. Speaker, Sir. Given the expected sway in this debate and given the fact that I do not think it pays much dividend for us to discuss a Senator like our friend Sen.(Dr.) Khalwale in that manner, could I be in order to request the Mover to be called upon to reply?

Sen. (Dr.) Machage: Mr. Speaker, Sir, I beseech the Members of this House to listen to me. We are a House of the wise and indeed the Upper House---

Sen. Kagwe: On a point of order, Mr. Speaker, Sir. There was silence on my point of order.

The Speaker (Hon. Ethuro): I am looking at the Order, then I will respond to you.

Sen. (Dr.) Machage: Mr. Speaker, Sir, I very much understand the matter of the Motion. The matter of the Motion is for Sen. Elachi and Sen. Ali Abdi Bule to be appointed to these committees and be approved by this House. In the Motion moved by the Senate Majority Leader, he introduced issues that cannot go undebated.

We chose Sen. (Dr.) Kuti as our Chairman and we gave him all the nine votes. He is not a Member of my party but we thought he was fit for that position. We made a mistake in ignoring a very competent person who has actually served in the Departmental Committee on Justice and Legal Affairs and who is very experienced in the labour movement to serve as Deputy Chairperson. I congratulate her for that. However, this House should not forget that proper leadership will give us the mileage of respect. We should not throw away experience and expertise and ability to lead to replace it with matters of parties and self-gratification. Otherwise, this House will make blunders when we go out there to the international community with a chairman who is not even fit to lead but because of party strength, he was chosen as a chairman of that parliamentary committee. You will be so ashamed.

Sen. Murkomen: On a point of order, Mr. Speaker, Sir. Is it in order for Sen. (Dr.) Machage to try and speculate, imagine and doubt the qualification of Sen. Billow who is, in fact, more qualified as a finance person than the other candidate who is only a doctor?

The Speaker (Hon. Ethuro): Order! First, Senator from Migori, every Senator present in this Senate qualifies for membership and to be elected to chair a committee if the other Senators decide so irrespective of all your other considerations. Second to Sen. Murkomen, I did not hear the Senator for Migori mentioning a particular name. I have been listening very carefully and he did not. On that basis, because this debate is now moving to dangerous grounds in terms of discussing other Senators which I do not think is healthy for the House, I will take what the Senator for Nyeri requested.

Sen. (Dr.) Machage: Mr. Speaker, Sir, I had not finished!

The Speaker (Hon. Ethuro): Order! I gave you the bonus out of respect, because I should have disposed off the matter much earlier and you did not carry me along the lines I expected you to pursue. So, I do not want to engage in more debates. I will put the question according to Closure of Debate Standing Order at Article 96.

(Question, that the mover be called upon to reply, put and agreed to)

Could the Senate Majority Leader reply?

The Senate Majority Leader Sen. (Prof.) Kindiki: Mr. Speaker, Sir, I want to take this opportunity to thank all the Senators who have spoken either in support or in opposition of this Motion. The spirit of parliamentary debate requires Senators and Members to express their views. However, I want to add a rider that the freedom of debate and the freedom of expression should not be misused so that it becomes an opportunity to brag or even to try to intimidate other Senators. I am saying so because I have listened here to some of my colleagues whom I have a lot of respect for, either because of the professional interactions I have had with them in the past or even as

citizens of this country. I have interacted with people like Sen. Wetangula, Sen. (Dr.) Khalwale and other distinguished Kenyans who have done great things for our country and we are very proud of them. However, I am not going to sit here and be intimidated by any Senator. I am the Senate Majority Leader by right and I do not want to be lectured on how the majority party should conduct its affairs. That notwithstanding, my respect for everybody is still intact only that we should actually compete in respecting one another and not to demand respect or try to bulldoze your way into dignity.

The issue as you have ruled is very simple; whether the names of distinguished Sen. Elachi and Sen. Bule of Tana River can be approved by this House to sit in the Finance, Commerce and Economic Affairs Committee as well as the Implementation Committee respectively. So, I just want to urge honorable Senators to approve those names so that the Committees can proceed with their business. It is not that the committees cannot proceed with business because the rules of quorum are also there, but just to remind us that the issue at hand – as you have guided this House – is not whether my friend, Sen. (Dr.) Khalwale, should be de-whipped or not because that happened a long time ago in accordance to the law of our country.

The Second point I want to make in that connection as a peripheral issue is that unlike what my brother and friend, Sen. Wetangula, has said, what the Jubilee is doing is to promote fidelity to the Constitution of our country and the Political Parties Act which requires every Member to stop the habit of political freelancing and abide by the rules of the parties that have brought them to this House. I want to urge Senators to consider this Motion in its context---

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

The Speaker (Hon. Ethuro): Sen.(Dr.) Khalwale, just relax, I think you had your field day.

The Senate Majority Leader Sen. (Prof.) Kindiki: Thank you, Mr. Speaker, Sir. So, I want to urge Senators to---

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 do not know what is burning honorable colleagues. Is it really in order for an honorable Senator to use unparliamentary and unpleasant language to a colleague? I would beg that you rule that the Senate Majority Leader withdraws that language. He does not need to apologize because I do not need an apology. I am saying this because I am not freelancing; I have been elected by the United Democratic Front (UDF) party which has three Senators, one Governor, 12 Members of Parliament and 57 Members of the County Assembly and I do not have to do anything to remain a Senator for five years. Please, let him withdraw his words, and young Sen. Murkomen, I urge you, if you may consider withdrawing what you said that I am a so-called doctor, for you to go and remember how many of your classmates in your year made it to the school of medicine and which position they used to be in your school.

(Laughter)

The Speaker (Hon. Ethuro): Leader of Majority you may withdraw the offending words to Sen. (Dr.) Khalwale.

The Senate Majority Leader Sen. (Prof.) Kindiki: Mr. Speaker, Sir, I just used the words “freelancing politically” to demonstrate ungovernable movement politically and I do not think there is anything offensive there. But if you order that I withdraw, I will be happy to withdraw. So, we do not want to---

The Speaker (Hon. Ethuro): Please, withdraw!

The Senate Majority Leader Sen. (Prof.) Kindiki: Mr. Speaker, Sir, I withdraw.

Sen. Wetangula: Well done!

The Senate Majority Leader Sen. (Prof.) Kindiki: Mr. Speaker, Sir, I think we should not spoil the good start this House has had. We should deal with the issue at hand. The other issues about bi-partisanship and reaching out to others are issues we will continue working on, and we are doing well if you compare us to the Lower House. So, let us just approve the nominees to these committees to enable them proceed with their work.

With those remarks, I beg to move.

The Speaker (Hon. Ethuro): Order hon. Senators! Before I put the Question, I want to draw your attention to Standing Order No.69 on voting on a matter other than a Bill and wish to rule because the moment I talk about Standing Order No.69 you must all know. It reads:-

69 (3) “When the Senate votes on a matter that does not affect counties, each Senator has one vote”

(Question put and agreed to)

Hon. Senators: Division! Division!

The Speaker (Hon. Ethuro): Order, hon. Senators! I am informed that you have the requisite number to call for a Division. Ring the Division Bell!

(The Division bell was rung)

DIVISION

(Question put and the House divided)

The Speaker (Hon. Ethuro): The procedure for voting is that the Clerk will call out your names and you will indicate from where you are whether you are voting for “yes”, “no” or whether you wish to abstain. That will also be recorded. The voting is on this basis. You will vote “yes” if you are supporting the Motion and “no” if you are opposed to the Motion or abstain if you are neither supporting nor opposing. So, we can only take three of them; yes, no and abstain. We will now have names being called out, please.

Sen. Orengo: On a point of order, Mr. Speaker, Sir. After giving your guidance and direction---

The Speaker (Hon. Ethuro): Sen. Orengo, who gave you the chance?

Sen. Orengo: Mr. Speaker, Sir, I am sorry. You were looking at me.

The Speaker (Hon. Ethuro): I did not know whether it was you or another Senator. However, now that you have confirmed that it is you by verbalizing it, proceed.

Sen. Orenge: I was saying that you have gone out of your way to give us guidance and direction on how to vote. There are only three ways to vote. After an hon. Senator is called and does not vote in those three categories, would I be correct to say that is a spoilt vote and should not, therefore, be counted?

The Speaker (Hon. Ethuro): Order, hon. Senators! Fortunately, the Senate exists on rules and even the Court of Appeal is residing within the Senate through the Chair. The rules are very clear; the ones I stated. Any Senator acting to the contrary will be out of order and will have to abide with what we are saying. There is no spoilt vote as per now.

Sen. Kajwang: On a point of order, Mr. Speaker, Sir. Earlier in the morning, you gave direction when we were voting. You said that the Motion we were voting on required that we vote on delegation; either as head of a delegation or as a Member who is nominated by the head of delegation in writing. However, this is another Motion, altogether, which is procedural. I do not know whether this requires our vote to be public and that everybody should know how we voted. This one requires that every Senator votes. I would have wished, in that case, that we come here and indicate how we will vote without shouting on how we are voting. You may bring many more of these de-whippings depending on how people vote here and bring about a lot of disharmony.

(The Speaker (Hon. Ethuro) consulted with the Clerk of the Senate (Mr. Nyegenye))

The Speaker (Hon. Ethuro): We are just consulting. Our Standing Orders have taken us to where we should be but of course we have started from where we are not supposed to. The voting should be electronic. That is what is provided for. Basically the only secret voting we have is the voice vote because even there, you can tell who is shouting which is not provided for either. I was strongly persuaded by the contribution by the Senator for Homa Bay and it has occurred to me that you know where you are going. If it is a yes, you will come to my right and if it is no, you will come to my left. So, what is the difference? Why not save you the trouble? Under the circumstances and since the suggestion does not improve our lot, I am inclined to go by my original ruling that we will call out your name, you rise from where you are and just indicate yes, no or abstain. So, let us proceed alongside those lines.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. When we started, we were advised by the Clerk and subsequently by yourself that the manner in which you are going to read out the names on the list is a reflection of our seniority but I noticed that when we voted the other time, it was all jumbled up. If it is alphabetical, it does not matter but if you have set something that you are going to follow, it is better to follow it. So, I expect that all the time Sen. G.G. Kariuki will be the first to be called and then others. That is what you told us when we started.

The Speaker (Hon. Ethuro): Order, Senators! While I appreciate that the Senator for Bungoma wants to aspire to the same level of the late hon. Martin Shikuku of being a stickler to rules and reminding the Chair consistently, on this particular one, it is alphabetical. Where you have the ranking is on the first business when you are electing the Speaker and the Deputy Speaker. In terms of parliamentary practice and democracy

all over the world, there are other benefits outside this House where ranking counts. For purposes of voting, we will go in the alphabetical order.

(The Clerk read out the names as follows)

The Clerk (Mr. Nyegenye):-

Sen. Adan Dulo Fatuma
Sen. Billow Adan Kerrow
Sen. Boy Juma Boy
Sen. Ali Abdi Bule
Sen. Liza Chelule
Sen. Abu Mohamed Chiaba
Sen. Beatrice Elachi
Sen. Gertrude Emma Mbula
Sen. Kembi-Gitura
Sen. Joy Adhiambo Gwendu
Sen. Mohamed Yusuf Haji
Sen. Godana Hagura
Sen. Abdirahman Ali Hassan
Sen. Hassan Omar Hassan
Sen. Gerald Otieno Kajwang
Sen. Kanainza Nyongesa Daisy
Sen. Dickson Daniel Karaba
Sen. G.G. Kariuki
Sen. Charles Cheruiyot Keter
Sen. Bonny Khalwale
Sen. George Khaniri
Sen. Paul Kimani Njoroge "Wamatangi"
Sen. Kithure Kindiki
Sen. Mike Sonko Mbuvi Kioko
Sen. Harold Kipchumba Kimuge
Sen. Kisasa Mshenga Mvita

The Speaker (Hon. Ethuro): Order, Sen. Kipchumba. The wording is, I vote yes, no or abstain or any sign language.

Sen. Kipchumba: I said no in Kiswahili.

The Speaker (Hon. Ethuro): I know it is allowed but why do you really want to be different for now?

Sen. Kipchumba: No.

The Speaker (Hon. Ethuro): Proceed.

The Clerk (Mr. Nyegenye):-

Sen. Zipporah Kittony
Sen. Leny Kivuti
Sen. John Munyes
Sen. Mohamed Abdi Kuti
Sen. Wilfrend Rotich Lesan
Sen. Sammy Leshore

Sen. Naisula Lesouda
Sen. Lonyangapuo John Krop
Sen. Wilfred Machage
Sen. Steward Madzayo
Sen. Elizabeth Ongoro Masha
Sen. Isaac Kipkemboi Melly
Sen. Mohamud Halima Abdile
Sen. Gideon Moi
Sen. Peter Mositet
Sen. Beth Mugo
Sen. James Mungai
Sen. Muriuki Karue
Sen. Kipchumba Murkomen
Sen. Kiraitu Murungi
Sen. David Musila
Sen. Mutahi Kagwe
Sen. Johnson Muthama
Sen. Danson Mwazo
Sen. Catherine Mukite Nabwala
Sen. Henry Ndiema
Sen. Stephen Ntutu.

AYES: Sen. Adan, Sen. Billow, Sen. Bule, Sen. Chelule, Sen. Elachi, Sen. Mbura, Sen. Kembu-Gitura, Sen. Gwendu, Sen. Haji, Sen. Karaba, Sen. Karaba, Sen. G.G. Kariuki, Sen. Keter, Sen. Kimani, Sen. (Prof.) Kindiki, Sen. Kisasa, Sen. Kivuti, Sen. Lesan, Sen. Leshore, Sen. Lesuuda, Sen. Melly, Sen. Mositet, Sen. Mugo, Sen. Mungai, Sen. (Eng.) Muriuki, Sen. Murkomen, Sen. Murungi, Sen. Kagwe, Sen. Nyakeriga, Sen. Onchwangi and Sen. Sang.

Teller of the Ayes: Sen. Sang.

NOES: Sen. Hargura, Sen. Kajwang, Sen. Kanainza, Sen. (Dr.) Khalwale, Sen. Khaniri, Sen. Kipchumba, Sen. (Dr.) Machage, Sen. Mohamud, Sen. Nabwala, Sen. Obure, Sen. Ongoro, Sen. Orengo, Sen. Sijeny, Sen. Wetangula and Sen. Zani

Teller of the Noes: Sen. Boy.

Abstentions: Sen. Hassan, Sen. (Prof.) Lonyangapuo, Sen. Madzayo and Sen. Musila,

(Question carried by 30 votes to 16)

The Speaker (Hon. Ethuro): Hon. Senators, because the Committee on Finance, Commerce and Economic Affairs has not been able to hold its elections and it lacked quorum last time according to Standing Order No.181, I, therefore, wish to direct that the Committee meets on Friday morning at 8.00 a.m.

MOTION

ESTABLISHMENT OF PUBLIC UNIVERSITIES IN ALL COUNTIES

THAT, aware that during the first years after independence the best equipped public schools were established in certain regions of Kenya to the exclusion of other regions, resulting in such regions having undue advantage in producing educated manpower; appreciating that the introduction of the devolved system of Government in the Constitution of Kenya, 2010 was aimed at achieving equalization of development and other opportunities, including education, across the country; noting that the Government has lately embarked on establishing more public universities in the country; concerned that the majority of public universities are currently concentrated in a few regions of the country to the exclusion of the rest of the country; the Senate urges the Government to take urgent and immediate steps to ensure that there is equitable distribution of universities in the country and to ensure that at least one public university is established in every county in Kenya before the expiry of the term of the current Government.

(Sen. (Dr.) Khalwale on 7.5.2013)

(Resumption of Debate interrupted on 8.5.2013 Morning Sitting)

The Speaker (Hon. Ethuro): You recall in the morning we deferred the matter on the vote on the Motion by the Senator for Kakamega, Sen. (Dr.) Khalwale - the Motion on Education – to this afternoon at 3.30 p.m.

According to the clock on my wall, it is now 4.14 p.m. and part of the extension was requested by the hon. Senators who had actually wanted the precise time. But I suppose for purposes of not earlier, they wanted later. I am referring to the Senator for Homa Bay and the Senator for Siaya who were in total agreement with the Chair. So, the only business, therefore, we have is to vote on this particular Motion.

According to Standing Order No.69, this is a Motion for the counties and, therefore, I will direct that the Division Bell be rang for another eight minutes and this time, the voting is by county delegation.

(The Division bell was rung)

The Speaker (Hon. Ethuro): Order, hon. Senators! Let us resume our seats. Eight minutes have elapsed. Close all the doors and draw the bar. Voting by Delegation.

DIVISION

ROLL CALL VOTING

(Question put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Billow, Mandera County; Sen. Boy, Kwale County; Sen. Bule, Tana River County; Sen. Haji, Garissa County, Sen. Harguara, Marsabit County, Sen. Karaba, Kirinyaga County; Sen. G. G. Kariuki, Laikipia County; Sen. Kembi-Gitura, Murang'a County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Khaniri, Vihiga County; Sen. (Prof) Kindiki, Tharaka-Nithi County; Sen. Mbuvi, Nairobi County; Sen. Kivuti, Embu County; Sen. (Dr.) Kuti, Isiolo County; Sen.(Prof.) Lesan, Bomet County; Sen. Leshore, Samburu County; Sen.(Prof.) Lonyangopuo, West Pokot County; Sen. (Dr.) Machege, Migori County; Sen. Madzayo, Kilifi County; Sen. Melly, Uasin Gishu County; Sen. Moi, Baringo County; Sen. Mositet, Kajiado County; Sen. (Eng.) Muriuki, Nyandarua County; Sen. Murkomen, Elgeyo-Marakwet County, Sen. Musila, Kitui County; Sen. Kagwe, Nyeri County; Sen. Ndiema, Trans Nzoia County; Sen. Obure, Kisii County; Sen. Orenge, Siaya County; Sen. Sang, Nandi County; Sen. Wako, Busia County and Sen. Wetangula, Bungoma County.

Teller of the Ayes: Sen. Karaba

The Speaker (Hon. Ethuro): Hon. Senators, I wish to announce the results as follows.

AYES: 32

NOES: Nil

Teller of the Noes: Sen. Boy Juma

ABSENTIONS: Nil

You will appreciate that this vote has exceeded the threshold of 24. Therefore, the Motion is carried.

(Question carried by 32 votes to 0)

COMMUNICATION FROM THE CHAIR

CHANGE OF MEETING DATE: COMMITTEE ON FINANCE,
COMMERCE AND ECONOMIC AFFAIRS

The Speaker (Hon. Ethuro): I would like to revise the time for the meeting of the Committee for Finance, Commerce and Economic Affairs from Friday at 8.00 a.m. Hon. Senators have petitioned me that they would prefer to be done with the House business before they proceed to the funeral and from there to their constituencies rather than come back to the House.

We will, therefore, have that meeting tomorrow morning, Thursday, 9th May, at 9.00 am. We have a Motion of Adjournment on a matter of definite national importance under the provisions of Standing Order No.33, not later than 5.00 pm. The other Motion must also start at 6.00 p.m. Therefore, we have strict timelines. I will, therefore, use this opportunity to call upon the Senate Minority Leader to move it.

MOTION FOR ADJOURNMENT

MOTION OF ADJOURNMENT UNDER S.O.33: SPATE OF
INSECURITY IN THE COUNTRY

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

THAT the House adjourns to discuss a matter of grave national importance.

I want to thank you for allocating me time to move this Motion. I want, in advance, to thank the Senate Majority Leader for taking a bi-partisan position and agreeing to second the Motion. Security in any country is very critical for the development and the well-being of the people. We have seen a spate of challenges to security in many parts of the country. We have witnessed the events of Tana River and Baragoi where we lost over 40 police officers. We have seen the events in Busia, Bungoma, Turkana and many other places. It should not be lost upon us, as Senators, that our primary duty is to be custodians of interests of the counties that we represent and this includes security. Senators cannot on their own provide security. We can only advocate, represent and call upon the national government to continue making serious efforts to secure the lives and properties of Kenyans.

Mr. Speaker, Sir, what prompted me to bring this Motion are the events that have taken place in the last three weeks that have cast serious challenges to security in Bungoma and Busia counties. Three weeks ago, a gang of unknown criminals raided a neighbourhood in Bungoma and injured over ten people. One of the casualties of the raid was a retired principal of a high school who was hacked savagely to death and a visitor in the neighbourhood who was cut in the neck and died instantly. The teacher's wife was also very severely injured and she is still undergoing treatment. A week later, another marauding gang raided villages of Mayanja Kikwechi, Mukwa and Manani in Bungoma County. The mayhem they visited on people that night will cause anybody to shed tears. The victims are children aged as low as three years and old people. Among the savage injuries that people received are two women whose hands were cut off in the manner you used to see in Liberia. Two young girls of school going age of about 12 years had their eyes gorged out. One man had his leg cut. Another lady had her rear part sliced off. There were many other very serious injuries. A total of 69 people were injured that night. This gang terrorized the village from 9.00 p.m. in the evening until 2.00 a.m. That is the time the security forces arrived. As if that was not enough, a week later, another gang of criminals attacked a village in the outskirts of Bungoma called Ndengelwa. Vigilant *wananchi* got out, resisted, got hold of two of the thugs and lynched them. I salute those courageous villagers. Four days later, another gang of thugs raided a village within Bungoma Town next to the National Cereals and Produce Board (NCPB). They attacked a private school owned by a former Member of Parliament of Sirisia called John Munyasia and injured six children who are in hospital now.

Mr. Speaker, Sir, after that, they moved to Busia, a county represented by Sen. Wako and terrorized five villages leaving two people dead and scores injured and are in hospital. Some of the injured are being given specialized treatment at the Moi Referral Hospital, Eldoret. Others are in hospitals in Bungoma and Busia. In fact, in Bungoma, two wards were evacuated for the exclusive use of the victims of these attacks. One asks; why this sudden wave of violence? You will hear people casually say that this is political. We have gone to elections since Independence and apart from the post-election clashes of 2007 and the land clashes of 1991/1992, in Western Province, we have had no cases of people turning against each other. Of course, we have the exclusive case of Mt. Elgon

which was different. We want to urge, as a Senate, the Government agencies responsible for security to provide adequate provisions to protect *wananchi* and their properties. I want to thank the Head of State in his speech when he acknowledged that Kenya is the least policed state in the world. The ratio of police to the citizenry is very low. This can be explained. Bungoma County with close to two million people has only 40 policemen. We also find that the stations there have no equipment. There are no vehicles and if you talk to the police sometimes, they tell you that some criminals are better armed than them. This is replicated in many parts of the country like Baragoi, Lamu and Tana River. I want to urge that as a Senate, as the custodians of the interests of counties, if our counties are going to compete for economic development, and I want to see in a few years a county like Marsabit competing with Mombasa in Gross Domestic Product (GDP) contributions or a county like Kisumu competing with Nairobi in GDP contribution. This can only be done when there is peace and security. I urge that the Government takes full responsibility for what has happened, compensate the victims of this violence, pay their hospital bills, take stock and provide adequate policing in all parts of this country. Where there are inadequate police men and women, we can move to community policing and have reservists who can help communities to protect themselves against criminal gangs. This Senate will do a lot of good to this country by sending a message to criminal gangs in this country whether they are Sungu Sungu, Mungiki or MRC, that their days in civilized Kenya are numbered and that the Government has the responsibility to track them anywhere and everywhere and ensure that *wananchi* are at peace.

Kenyans go through very painstaking processes to acquire little properties, then groups of marauding unknown people come, destroy your door, cut your wife or your children. You can imagine a young girl of 12 years going to school with one eye gorged out by ruthless and merciless criminal elements.

Mr. Speaker, Sir, I want many of my colleagues to speak on this Motion. I want to urge that we speak with one voice and send a bi-partisan message to Kenyans that we all care, we are all concerned and that their security is our security.

I beg to move and invite the Senate Majority Leader to second the Motion.

The Senate Majority Leader: Sen. (Prof.) Kindiki: Mr. Speaker, Sir, it gives me a lot of privilege to second the Motion which has been introduced to this House by my friend, the Senate Minority Leader. As we have stated before, it is a commitment that we have given to this country and the leadership of the political parties in this House. On matters that touch on the good of our country, we will stand united, firm, unapologetic and extremely robust in terms of defending the interests of the people of Kenya who sent us to this House.

Mr. Speaker, Sir, the issue of insecurity is a matter that is of concern to all of us. In this country, we have witnessed mind boggling cases of atrocious crimes committed by our fellow citizens. Perhaps, they who have been unable to appreciate that a country that respects itself cannot be a country where people do not live in peace, harmony and their properties are protected. Mine is to say two things: First, the Jubilee Coalition Government has committed itself to tackle the situation of insecurity head on. The Commander-in-Chief of the Kenya Defence Forces has made it extremely clear in his speech and through other avenues. The Deputy President is directly involved as well as other officials of the Government. The second point is to say that as a country and as Members contribute on how we can improve security in our country, we are looking for

solutions in our country. The era of blame game and shifting blame for cheap political scores is gone. This country requires each one of us whether in the majority or minority to offer concrete solutions. Having said that, I want to say that from the majority side, we stand with the solidarity of the people of Kenya and we want to see the security situation improve in our country.

With those few remarks, I beg to second.

(Question proposed)

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

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

Sen. Orengo: Mr. Deputy Speaker, Sir, I found it appropriate to sit on your Chair. It looks like if you sit on the Deputy Speaker's Chair, you are likely to catch the Chair's eye. Thank you for giving me this privilege.

I want to commend the Senate Minority Leader for moving this Motion together with the Senate Majority Leader and for their firm statements which they have made on matters of security. I agree with them that this House should work together and speak with one voice on matters that relate to security, so that any Kenyan can see that, we, as a House and as a Senate, will not prevaricate. We will stand firm with our brothers whose lives and property may be in jeopardy because of the incidences of insecurity. I just want to catch up with what the Senate Majority Leader has just said. He said one of the reasons there are blame games on issues of security is because they are never really dealt with firmly and decisively. What is apparent is that over the years, it appears that there is a systematic problem within our security forces. When these things happen we make a lot of rhetoric statements, for instance, no stones will be left unturned and so on. I can assure you that every speech after every incident, is the same as the last one. The statements that were made after what happened in Bungoma and Busia counties were very much similar to the statements which were made when we had incidences in Baragoi, Garissa and Tana River.

Mr. Deputy Speaker, Sir, the intelligence community in this country should have the capacity to foresee incidences like the ones that happened in Busia County because it was not just one strike in one home. It was a strike in several homes at the same time in two counties over a number of days which involved little children, including school going children, *wazee* and the like. Again, if you look at what happened in Tana River County, there were some blame games this time, not necessarily coming from non-state actors, but from the State itself. In Tana River County, the blame game was on politicians. When the prosecutions were mounted against politicians no prosecution was carried out to conclusion. So, what I want to suggest in the interim is that it is important to have some security forces in the hands of the Governor, so that when there is trouble in the county, there is at least responsibility at the county leadership of dealing with it. This is Because the last time these things happened in Bungoma and Busia counties, there was a chopper, loads of policemen and other people from Nairobi going to inspect the area and assess the situation and come back to Nairobi and see how to react to it. If you were to do that in a war situation, you are finished. There should be forces on the ground. That is why

devolution is important in, not just carrying out economic activities, but also in incidents of insecurity. We must have sufficient security at the counties with the local leadership in charge that can report to the local community and be accountable to the local community.

With those few remarks, I beg to support.

Sen. G.G. Kariuki: Thank you, Mr. Deputy Speaker, Sir, for allowing me to contribute to this matter. I listened to the Senator who spoke before me and I think the bottom line is that we are very concerned with what is happening. This matter of insecurity has persisted for too long until every one of us begins to wonder whether it is being done by criminals or by people who are supposed to protect wananchi. There is no explanation from anybody who can come forward and tell us the reason for these things happening all the years. As I speak here, in my county, a child was killed yesterday and yet we keep talking about this matter. This is a matter which has been wished away all the time. I believe with the new Government, maybe the President and the Deputy President will do something to see to it that insecurity is controlled. What one needs to ask himself is what is lacking. Is it the funds for research or lack of proper investigations, so that we cannot know the reason Kenya is in this situation? Kenya is known all over the world to have the best police officers who are very well trained. In fact, our standards are comparable to South Africa. We were even better than the United States of America. If you look at this issue, you will definitely conclude that it is a matter of very grave concern and it is known by some people in authority. For anything to happen like it is happening in Laikipia County every now and then, and what happened the other day in Bungoma and Busia counties, for that matter, no Government will tell you that they are not aware. I am very sure that any Government that does not take care of the life and property of its own citizens, then it is not worth being called a Government.

I will bring a Motion to this House and I hope hon. Senators will support me to dig into this matter. Let us unite and see whether we can bring this country back to sensible people rather than surrendering it to criminals. Cattle rustling has now been commercialized by some people. It is not like those days when people used to collect animals, take them home and they were met with jubilation. Nowadays they are packed in a lorry and delivered in Nairobi slaughterhouses. How do they get here? I think we have totally failed unless we are saved by the new Government. The past Government did very badly in terms of security. The last Government totally failed. It is good the Senate Majority Leader is here. We need to---

Sen. Orengo: On a point of order, Mr. Deputy Speaker, Sir. Is the hon. Senator in order to be selective in the way he is presenting his argument without being truthful? Why is he forgetting the Government before the last Government which was worse than the last Government in matters of security? He participated and we would all be in jail today.

Sen. G.G. Kariuki: Mr. Deputy Speaker, Sir, I hope some of us are going to mature soon. It has taken Sen. Orengo a longer time to know whether he is a Senator or an ordinary Member of Parliament.

(Laughter)

Sen. Orengo, we are debating a very serious matter. I know what I am talking about. During my time, there was no political murder.

Sen. Orengo: There was!

Sen. G.G. Kariuki: You tell me which one?

Sen. Orengo: Ouko!

Sen. G.G. Kariuki: I was not there and that is why I am saying that you are not serious.

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

Sen. G.G. Kariuki: My goodness!

Sen. Lesuuda: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. Let me, first, thank the Minority Leader for bringing this very important Motion so that we can discuss the rising insecurity in our nation and also thank the Majority Leader for seconding the Motion. It is quite unfortunate that when I look in the House we are just a few Senators who have remained to discuss this very important Motion. I think it is the most important one that we have had since we sat this morning. This is because we are talking about the lives of citizens of this country who elected or who we represent in this House and also our lives. If the citizens are not safe out there, we are also not safe wherever we are because we also make our way to the counties. So, it is not just their lives, but even our own lives as the leaders from those areas.

I would like to point out what we are seeing in the country right now is more worrying than ever. I would like to say that insecurity is rising to some levels that we have never seen. It is happening in Bungoma County now, in Nyandarua yesterday, Mombasa and in Nairobi. It used to be a preserve of Samburu, Tana River and Mandera counties. But now we are seeing precedents of other areas where we never used to witness this level of insecurity. We need to ask ourselves what is happening in our country. I do hope that now it is touching various areas because when it was Samburu, Tana River and all those areas, it was left just to continue. This is a wake-up call for all of us when we come to terms that we are not safe and that we have to do something regardless of our party affiliations.

Since this is a new Government, we are looking at it very keenly to see how it will deal with issues of insecurity. Definitely, as leaders and legislators, it has our support. But again we also want to see things expedited. We want to see things put in place. Just like those who have spoken before me, this is not a matter that we can be rhetorical about. It is not a matter that we can be saying that we will see what we will do and simply go there, fly in choppers for five minutes, sit in meetings and then come back to Nairobi and then nothing happens until other lives are lost. We see a repeat of the same. It is sad for me to say that schools have reopened because there are children in Samburu who cannot go back to school. There are children in Samburu County who will not sit for the Kenya Certificate of Primary Education examinations (KCPE) in December because of insecurity. I know of cases in Isiolo and Tana River counties where children did not sit for their national examinations because of insecurity. When these children are home for holidays, they are not safe. They are not safe in school and neither are they safe when they are at home. For example, in Baragoi, a Class Four child was shot and beheaded while herding. We have had over 500 police officers in that area since the massacre incident. Right now, they are asking for the removal of those police officers. They would rather stay without them. As we represent counties here, we know that one way that counties can be suspended is when there is insecurity in that area. Unless there are

counties which we want suspended and taken back to the Central Government, we should be informed. We should all collectively secure the interests of those people in the areas where insecurity has been high so that they can benefit from this devolution that we are talking about.

In some areas, we know the causes of insecurity. If it is the politicians and other leaders who are instigating violence, they should be arrested and interrogated and, probably, charged. We do not want to see impunity taking roots in our counties. Whereas they are safe with their children in Nairobi or wherever they are, others are suffering. So, let us see things done differently once and for all, so that our people are secure.

I support the Motion.

Sen. (Prof.) Lesan: Thank you very much, Mr. Deputy Speaker, Sir. First, I want to thank you for the opportunity to contribute to this very serious Motion on the insecurity in our country. First of all, I would like to send my condolences and those of my county which is, at the moment, in apparent peace unlike in Bungoma County, to those who have lost their loved ones and their properties. I would like to lay the blame of insecurity on the Government. I say so because this country is not using intelligence-gathering to make sure that the country is at peace. This can be done if the Government is aware and sensitive to the early warnings. The early warnings would give us an indication that we will have trouble. There are some early warnings that I think - and have experienced this, in this country, occur before these things happen. The first is when there is an increased consumption of alcohol and illicit drugs in the country. Once this happens, this becomes an indication that something will not go right. This is an early warning.

Secondly, you might think that this is not related, but there is increased poaching of wildlife going on in the country. Again, this you may think is unrelated, but it has always happened and, subsequently, been followed by incidences of insecurity. Of course, there is also the illegal trade in hard drugs. When you see these things happening; if the system in the country cannot detect them, then it is not paying attention to the early warnings in the country. I have been seeing those three things happening in the country. I am, therefore, not surprised that there is insecurity in the country because these things are happening. If we paid attention to the early warnings that are there all the time, then we would safeguard our citizens. Right now, we should be using the intelligence and not armed people.

You could see that the people had been hurt and killed using crude weapons. These people who had gone to Bungoma are not foreigners, but people who are living among the communities there. We can only get to know them if we have intelligence on the ground. However, this should not be intelligence officers who appear in helicopters one afternoon and disappear late in the afternoon not to be seen again. The intelligence officers must be grounded. The county governments we are setting up must be given all the tools and the ability to collect information and take up early warnings, so that we can safeguard our citizens in the country.

I beg to support the Motion.

Sen. Haji: Mr. Deputy Speaker, Sir, I stand to support the Motion on the grounds that it is on the lips and the minds of every Kenyan today as to what is happening to the security of this country. There are criminal elements causing havoc all over the country. We, as leaders, cannot just stand and be spectators and merely apportion blame. It is

incumbent upon every citizen of this country to decide that enough is enough and that we do everything possible to make sure that we return the security of this country to its rightful place, so that every Kenyan can go about their business without any fear. As I said, one would ask why these things are happening in many parts of this country. I do not agree that this is merely because of poverty or because of other reasons. We must find out the reasons contributing to the insecurity.

When I was contributing to the Presidential Speech, I said that time has come when the Government should appoint a Judicial Commission of Inquiry to interrogate every citizen who is willing to say what is ailing this country. It is not enough to send security forces to undertake operations, particularly in a locality where the residents are living in cities or towns because you would not catch the criminals. Once they know that they are being hunted, they hide their weapons and run away. Therefore, you might not get the truth and you may end up pursuing other people who are not even involved in the criminal activities.

The other reason I want a Judicial Commission of Inquiry to be appointed is because recently, we supported the fact that the Government should do everything possible to quell the killings in Garissa. We watched on television a story about somebody who was arrested by security forces in his home and his body found in Thika.

Secondly, we also saw somebody who had been arrested and his wife was talking. This person was shown to the television. His wife talked and said that he had been tortured and burnt using electricity and later released. There must be something that we are not seeing. We need to go deeper into this matter. Therefore, I urge the Government, particularly as the Chairman of the Senate Committee on National Security and Foreign Relations, to get to the root cause of this problem. We cannot allow people in Bungoma to be hurt.

During the police briefing to the Deputy President, they said that the insecurity was political instigated. If politicians are involved, we would like to know who the politicians are. They should be brought to court as another speaker said. This is not just an issue that we should watch and see it happening. It must come to an end. If you go to a doctor, he will first ask you what is ailing you and you will, probably, say headache. He will then ask you: *Unaenda choo?* You may say no and the doctor goes ahead to prescribe the medicine that he should give you. For us to catch these thugs, we must find out what is causing them to do the things they are doing.

With those remarks, I beg to support.

Sen. Hassan: Thank you, Mr. Deputy Speaker, Sir. This is quite an opportunity for me to speak after the Chairperson of the Committee on National Security and Foreign Relations.

The Senate gives us a fresh opportunity to assist the Government in rethinking its shift in terms of paradigm of insecurity. We have failed in the last 50 years in bringing proactive security in this country. We have also got it wrong when it comes to bringing reactive security. Most of you may understand that proactive security is when you capacitate the citizens to keep the peace.

When His Excellency President Uhuru Kenyatta says that we are the less policed country, what does this mean? It means that we have done relatively well in proactive security. However, there is a direct correlation in terms of security and development and in terms of security and enjoyment of other fundamental rights. Security severs from the

enjoyment of fundamental rights and freedoms. Therefore, there is need for this Senate to assist to shift the paradigm of security in this country. For the years I was at the Kenya Commission on Human Rights (KCHR), I always urged Government to do things differently when it came to insecurity. They are too conventional, archaic and outdated. I think that shifting paradigms of security is the democratisation of security, meaning that you have more citizens' participation in security, but arm citizens with the confidence of the security apparatus so that they assist the security apparatus. Our security is not in the hands of our people in the sense that we have created a lot of suspicions in the way that we manage the organs of national security in this country. Organs of national security are extremely excessive. When they hear of an issue in Bungoma, rather than use intelligence guided security to flash out those criminals, they end up violating an entire city or town. This prejudices the entire security apparatus and further undermines security in those regions. I want to share solidarity in all those areas, particularly in western Kenya, which have been hard hit by the recent wave of insecurity. There are all forms of insecurity in Mombasa, northern Kenya and in other areas. Therefore, there is need for the Government to reinforce the issue of proactive security which means that you capacitate people with employment, education and means of development, so that they develop their cities and states and have security in this country.

Thirdly, time and again, it is easy for the Inspector of Police to blame insecurity on others. Now, there is a politician who has done it and next it will be someone else who will have done it. Rarely do they take personal responsibility in terms of insecurity. It is high time that people resigned from positions of authority and responsibility that they hold if they fail to ensure that there is security in this country. They cannot constantly say that they blame it on the Mungiki, Mombasa Republican Council (MRC) and on everybody else, but themselves. What have they been doing for three years, year in, year out? It is important that the President and the Government, through the Senate Majority Leader, to ensure that people who fail in their responsibilities take political responsibility. Therefore, it does not suffice that we constantly blame others for insecurity in this country.

Lastly, we want to see a classical resolution of the insecurity in western Kenya. To blame it on the political class is one thing. We also blame it on the Internally Displaced Persons (IDPs) because this is proactive responsibility. This demonstrates negligence across the arms of national security. Why would a political person threaten the security of his own people? For what particular reasons and net benefit would he do this? Politics are over. They cannot continue to give us blanket interpretations and statements of things that do not necessarily meet the test of logic.

In terms of western Kenya, we want a report done expeditiously. I urge this Senate to take a proactive step through its security committee to document incidences of insecurity and to recommend robust measures towards resolutions. So, the Senate should not only debate on this issue, but also make a resolution to ensure that we have an intervention. That intervention must be enforced through this Senate. We must prevail on the duty bearers to discharge their responsibilities under the Constitution and under the law. We will not, again, expect to be treated to the theatre of police officers attending to the pretences of reactions only for them to allow the matter subside and nothing else happens after that. So, we are looking forward to that. We do not want victimisation of anybody; not even of a political person. We want security bodies to be objective and

robust in their investigations and to give us the truth and answers, so that we can resolve this matter, once and for all.

I beg to support.

Sen. Kisasa: Thank you, Mr. Deputy Speaker, Sir, for giving me this opportunity. I also want to thank my colleagues for being here to listen to me. Sometimes we tend to use a gun to kill a cockroach.

Initially, we used to have administration policemen who used to go for training and they would be sent to work back home. I do not know what happened to that. This business of mixing administration police with other forces brought about problems. If you can recall, when the former late Minister for Provincial Administration and Internal Security, Mr. Michuki, was in charge of the police force, he started mixing the Administration Policemen (AP) with other policemen. This caused a problem because the wrong doers are our own children, brothers and sisters. So, when we have the AP coming back home to work with the chiefs, we end up getting the inside story regarding insecurity.

I would like to suggest that AP be sent back home after their training, so that they liaise with the people at the grassroots level. This would help us know the wrong doers and those people who are behind instigation of the insecurity cases in this country.

Sen. Wako: Mr. Deputy Speaker, Sir, thank you for giving me the opportunity. I want to thank the Senate Minority Leader for bringing this particular Motion which was triggered by what has happened in Bungoma and Busia counties. I represent Busia County in this Senate. Busia County is a cosmopolitan county which even escaped what happened in 2007/2008. It is a very peaceful county because we believe in unity in diversity. These are people who believe in peace. So, for it to happen in Busia County, is a wakeup call for the entire country to look very critically at issues of national security. Sen. Wetangula has outlined the incidences and I will not go into them. Sen. Lesuuda has spoken very well on how people are suffering. So, I will not go into that. I will just go straight into the issues of national security in this country.

The right to life is the most fundamental right of them all. In fact, without this right to life, all other rights are meaningless. There are a few questions that we should ask. We have had police reforms in this country, so let them not be confined only to changing people at the leadership level when the rest is the same. Reform must take into account the issues of recruitment. In Busia County, we have had instances of police officers being involved in criminal activities. That is a warning signal. When I say criminal activities, I mean the violent crimes like robbery and so on.

Mr. Deputy Speaker, Sir, when you talk about reforms, has the Criminal Investigation Department (CID) been reformed properly? That is a question that must be asked because at Independence, and I think Sen. G.G. Kariuki will confirm, our CID was almost like Scotland Yard. Nothing went wrong. Today this does not happen. What we are seeing is when police are defeated in investigating a particular crime they impute politics. If a politician has done that thing, to me, he is no longer a politician. He is a criminal who should be investigated, convicted, tried and put in. So, I do not want to hear that it is politics causing the problems.

Mr. Deputy Speaker, Sir, let us talk about the National Security Intelligence Service (NSIS). What are they doing? Why can they not warn us when these gangsters want to strike? If you look at the sequence of happenings, you will see that the senior

officers will go there and when they go away it happens again. When they come to Nairobi to meet with the Deputy President, again, it happens after that. Who are these organized criminal gangs who are doing things with impunity even where they know that the national leadership is involved? We must ask that particular question.

Although our Constitution states that the national Government and county governments are distinct, we know they are also inter-dependent. The area where they can be inter-dependent is the area of security. Another Senator talked about the people being involved in this issue. At one time, there was community policing. This policy worked very well, except that when now the people who belonged to community policing in a particular area were forced on people, it never worked. When they were elected by the people, it worked. Why has the idea of community policing failed? If there is an effective community policing then, at least, a number of these gangsters who come from the community in which they are attacking would have been known and dealt with on the spot.

Mr. Deputy Speaker, Sir, I want to conclude that the county governments must somehow be involved. In the legislation that we enacted, we said that the Governor should be the Chairman of the Security Committee in that area. If the Governor is in charge of security in that area, I have not seen Governors both in Bungoma and Busia counties being involved by the national security officials in the management of the security in those particular areas. They have not been involved. It is like the police force is acting parallel to what the Governor is doing. The Governor and the county assembly representatives are the elected political leadership in the county. So, how are we going to be effective in dealing with this matter at the grassroots level if we are not involving the political leadership in a particular county? That would call for a proper policy on how the Governor and other leaders in the county can be involved rather than the police acting parallel to the county governments that now exist.

Mr. Deputy Speaker, Sir, we are talking about the causes of crimes. People come up with their own theories. There was a very big supplement in the newspapers about a national crime and research centre. This is supposed to help this country identify the causes of crimes. This will help people to be cautious. So, what are they doing to help us on that issue?

So, what can the Senate do? Sen. Haji, please, do something, you are the Chairman of the Committee on National Security.

Sen. Boy Juma Boy: Asante sana, Bw. Naibu Spika. Ningependa kuungana na wenzangu na Seneta aliyeleta Hoja hii ya Usalama. Usalama ni mojawapo wa haki ambazo Mkenya anatakikana apate anapokuwa katika nchi yake. Sasa imekuwa ni jambo la kawaida kutokuwa na usalama. Utasikia swala hili likizungumziwa kule Mombasa, Kwale, Bungoma na kwingineko nchini. Hata hivyo, katika Serikali kuna vyombo vinavyohusika na kuleta usalama nchini. Tuna polisi wa kawaida na majasusi ambao kazi yao muhimu ni kuchunguza kwa udani. Haya mambo tunayoyazungumzia leo hupangwa katika fikira za wanadamu kabla ya kutekelezwa. Watu hupanga mambo kabla ya kuyatenda. Tuliona katika runinga watu wakigonga madirisha na kuwalazimisha watu kuvua suruali walizokuwa wamezivaa siku iliyotangulia. Kitendo hiki kinamaanisha kwamba majambazi walikuwa na *intelligence* yao. Tuliona mwizi akimwamurisha mwenye nyumba kutoa suruali aliyoivaa jana. Walijua hata rangi ya suruali zilizovaliwa na wenye nyumba. Ni wazi kwamba tendo hili lilipangwa kabla ya siku hiyo. Tunasema

kwamba kabla neno halijatekelezwa, kuwe na njia ambayo itahakikisha kwamba halitatendeka. Kwa maoni yangu, haifai maafisa wa polisi kuwa katika kituo kimoja miaka nenda, miaka rudi. Afisa moja anafanya nini miaka kumi Kaunti ya Bungoma? Kwa nini tusiwabadilishe kila wakati? Afisa kama huyo anajua njia ya kujitetea na anapohamishwa anarudi hapo mahali. Ana mbinu zake za kuhakikisha hajahamishwa. Huu unakuwa ni mchezo wa paka na panya; hakuna linalofanyika. Kwa hivyo, mahali panapokuwa na shida, maafisa waondolewe mara moja. Kama vile mwenzangu alivyosema, kama ni mlegevu, basi afutwe kazi. Wakati mwingi, afisa kama huyo akifutwa kazi, atasema kwamba kabila lake linaonewa. Mambo hayo yanaturudisha nyuma. Tulibalisha Komishina wa Polisi na tukawa na Inspekta Jenerali. Je, mabadiliko haya yamefika mashinani? Hayajafika. Tumebadilisha majina ya askari wa utawala lakini, je mambo haya yametiririka na kufika kule chini? Hakuna. Hali ni ile ile. Sisi kama Seneti jukumu letu muhimu ni kulinda kaunti zetu. Ikiwa kaunti zetu hazina usalama, basi nchi haina usalama. Hakuna haja yetu kuvaa tai nzuri na suti za halili ikiwa hakuna usalama katika kaunti zetu. Kwa kaunti kuwa sawa lazima usalama uwepo. Hilo ni neno la wazi na halina haja ya kujadiliwa. Kwa hivyo, kama Seneti, ni lazima tuchukue jukumu la kuhakikisha kwamba usalama wa raia wetu unalindwa vilivyo.

Mimi nazungunza kutokana na tajiriba ya miaka mingi. Sehemu kadha wa kadha zimevamiwa katika Kaunti ya Kwale. Wakati huu tuna simu za rununu. Jambo la kuhuzunisha ni kuwa ukimpigia polisi simu kumwaarifu umevamiwa, anachukua masaa mawili kabla hajafika. Ikiwa polisi watachukua muda huo wote, je, kutakuwa na usalama kweli?

Mwisho, ninaunga Mkono Hoja hii kwa kuwauliza wanaohusika na usalama, wafanye bidii zaidi. Usalama wanchi hii upewe kipaombele na Serikali hii.

Sen. Khaniri: Thank you very much, Mr. Deputy Speaker, Sir, for according me this opportunity. Let me at the very outset join my colleagues who have spoken earlier in sending my deepest condolences to the families affected by this spate of violence. I want to thank the Mover of this Motion, Sen. Wetangula, for bringing this important Motion. I also want to thank the Senate Majority Leader for seconding the Motion. I am so elated by the unity that was displayed by the two leaders. When it comes to important national matters, we have to put our partisan interests aside and deal with it as a Senate. Indeed, the Senate should cut that image. This is; the House that cares for Kenyans and that discusses issues that affect Kenyans. *Kudos* to my brother, Sen. Wetangula.

The wave of violence that has been experienced in Busia and Bungoma counties is unprecedented. As Sen. Wako said, these are areas that are known to be very peaceful in this Republic. Therefore, it is very disturbing that this has occurred and it has gone on for three good weeks without the Government doing anything or stopping this violence. I want to remind the President of the Republic of Kenya and his Deputy that the first and top most responsibility of any Government is to protect the lives of its citizens and their properties. I also want to remind them that the honeymoon is now over. Let them fold their sleeves and get to work to ensure that Kenyans live peaceful wherever they are. There will be no meaningful development that will be achieved anywhere in the counties if there is no peace. Therefore, peace should be the first priority that this Government should tackle.

We who live in the neighbourhood of the affected counties are getting worried. This wave started in Bungoma County. Before we knew it, we heard it had moved to

Busia County. We are worried because Kakamega County and Vihiga County where I represent is next door. Siaya and Trans Nzoia counties are also in the neighbourhood. We are urging the Government to do three things; first, move in and ensure that this is stopped immediately. Secondly, investigate and get the motive of these incidences. Thirdly, we would like them to hasten the much talked about police reforms because as you heard from Sen. Wetangula, some of these criminals are better armed than our security agencies. Therefore, they cannot tackle them. I believe these are part of the police reforms that we have been talking about all along.

Mr. Deputy Speaker, Sir, this brings me to an issue that other speakers have also mentioned. This is the issue of intelligence. It is mind boggling that criminals can plan a crime of this magnitude and we have our intelligence service and they do not get to know that this is being planned. It is disturbing. Year in, year out, we vote in so much money to the National Intelligence Service (NIS). Somebody somewhere is sleeping on the job. They must wake up and ensure that, in future, they are able to detect such things before they actually occur.

Thank you. I support.

Sen. Musila: Thank you, Mr. Deputy Speaker, Sir. I stand here to support this Motion. It is a very important Motion because it touches on the security of our people. I have been following the story of Bungoma and Busia counties on these attacks. It is a very sad story. Children cannot go to school because parents are afraid that their children will be killed. I saw a story where the head of a family has to arm his children with *jembes* and then he tells his wife that her work is simply to scream if she sees anything, and then he goes to keep vigil outside. Is this Kenya 50 years after Independence?

I want to tell my colleagues in Busia and Bungoma counties that they are not alone in this problem of insecurity. Just the other day, raiders went to Narok County and killed people. They were allegedly from Tanzania. There are many areas where bandits are raiding without those cases being reported. In my own county, every now and then at the border with Tana River, raiders are coming from that neighbouring county and killing our people. This morning I read in the newspaper that yesterday there were raiders or bandits – whatever you call them – in Nyandarua, the story is the same. There were also attacks in Kiambu. So, this is not a matter limited to distant counties. It is a nationwide problem. What annoys me is that whenever police officers are unable to arrest criminals of this magnitude, they always blame it on politicians. They say that it is politically motivated. For goodness sake, if it is politically motivated, why do they not arrest those who are responsible? They are using politicians as scapegoats when they cannot do their work.

Mr. Deputy Speaker, Sir, the NIS is busy tracking politicians and doing other things that they are not supposed to do whereas this institution is a national security intelligence. The purpose for the national security intelligence is to detect and get the intelligence information on the intended areas to be attacked, but not to just follow politicians. These are people we are paying very well. They are the best paid public servants and yet they do not do their work. You have heard Sen. Boy say that even if you report to the police officers, they ask you for fuel. They tell you to go back to the place and if you see the criminals, again, you call them. Whatever is happening in the police force today is deplorable. It is like we are living in a country that has no Government. It is like we are living in a country where the law of the jungle reigns.

For your information, some of us have been in security operations with Sen. Haji who is here, Sen. G.G. Kariuki was my Minister of State once upon a time. They will tell you that some of the things we are seeing today, could not happen in those days. Sen. Ndiema was my District Commissioner (DC) in Murang'a. So, we are all surprised that today security has deteriorated so much while, in fact, it should have improved. So, this Senate must unanimously stand up and call upon the Government of the Republic of Kenya to improve the security of every mwananchi in this country. If we cannot do so, they would have no business being in government.

I support.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, you appreciate that we have to end this debate in the next 15 minutes. You can see that there is still a lot of interest in it. You know that it is a debate which we do not have to put a Question at the end. So, if you agree, we may have to reduce the time that each of you has to speak. Otherwise, only three of you are going to speak, but I can see almost seven of you on your feet. I think we are going to limit this to two minutes, so that everybody who wishes to have a word can have a chance. So mind your time.

Sen. Murkomen: Mr. Deputy Speaker, Sir, I rise to support this Motion. From the onset, I watched on one of the local televisions a family man - it was cited by Sen. Musila - who has turned himself into a police man of some sort. You look at small children looking helpless. In fact, I told myself that those children were being trained into hooliganism; the fact that they were supposed to protect themselves. So, basically, you are actually telling those children that they must take the law in their own hands.

The existence of the State under the social contract theory was that all of us surrender the power of revenge and possibility of fighting to the State, so that the State can be the sole institution that can legitimately exercise violence. I really get worried when we continue having this kind of situation in every county. The main concern of this House is the interest of the counties under Article 96. If that is the interest of the Senate--

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

Sen. Karaba: Thank you very much, Mr. Deputy Speaker, Sir, for giving me this chance. In support, it is very important that we address ourselves to this kind of problem in the country. It is true that our soldiers did and are doing very well in Somalia. It is also true that they have done very well in other foreign countries. However, we are doubtful whether they are capable of solving internal conflicts and problems that we are getting from the regions that we have heard here; Bungoma---

Sen. Haji: On a point of order, Mr. Deputy Speaker, Sir. Is Sen. Karaba in order to say that he doubts whether the Kenya Defence Forces (KDF) will be able to control our internal security and yet, it is not under their portfolio?

Sen. Karaba: Mr. Deputy Speaker, Sir, I will continue by saying---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Karaba, can you address that point of order?

Sen. Karaba: Mr. Deputy Speaker, Sir, certainly all these people were drawn from Kenya. There is a way that we can have them devolved in the whole country. There is nothing wrongful having them solve our problems here first before they go to solve the outside problems. When you wash a cup you start from the inside and not the outside. My concern was that as much as we are sending our soldiers to fight outside the country, we

should first have them solve our internal problems. When I was the Chairman of the Departmental Committee on Education, I went to some parts of the Rift Valley and you would go to a police station and you would not tell whether it was a police station, a hut or a house. They looked very dilapidated. So we need to know who is going to occupy those houses.

Those police stations are ill-equipped. Offices have no vehicles and cannot fuel their vehicles when they get grounded. These are some of the issues that the Committee headed by the same person who is standing on a point of order should look into and come up with clear-cut policies on how we are going to give service not only in Nairobi, but even in those outposts in the rural areas.

I support.

Sen. Chelule: Thank you, Mr. Deputy Speaker, Sir. I also want to support this Motion. We all know that there is insecurity in our country.

As we are seated here today, as Senators, there is a problem in the line of security in our country. I do not know whether this is a problem of investigations not being done. As I talk today, I think it is our obligation, as Senators and as leaders of this country, to make sure that we come up with modalities on how to address the issues of insecurity in our country.

As I stand here today, we have lost lives and yet nobody has been arrested. People are being hijacked and nobody has been arrested. I would like to request the Chairman of the Committee on National Security and Foreign Relations to do something about this. This is a matter of concern to all of us. I hope that he will do something. We also need to empower the DPC structures from the national level to the community level.

I support the Motion.

Sen. Njoroge: Mr. Deputy Speaker, Sir, I stand to support this Motion. I begin by sympathising and empathising with the families that have been affected by the spate of violence that has afflicted the western part of this country. Kiambu County happens to suffer from a similar fate for a long time. We, as a Senate, mandated by the law to take care of counties should realise that unless people are called upon in terms of accountability, then they will never solve problems.

In Bungoma County, for example, we have the OCPD and PPO in charge of security. Unless these people are held accountable, the security situation will continue to deteriorate. We have a Committee, for example, as it has been mentioned by my predecessor here, on National Security and Foreign Relations and we can even go further as a Senate and demand that that team be held accountable so that it makes a report to the Committee of this Senate on the state of insecurity in that area. If we find it wanting, they should be reprimanded and adequate action recommended and taken against them. If we do not hold people accountable for the jobs they pleaded to do, then they will always apportion blame.

I stand to support.

Sen. Ndiema: Mr. Deputy Speaker, Sir, I want to join the Senate leaders of Majority and Minority for supporting this Motion which is very important.

This country has of late witnessed unprecedented incidences of insecurity. There seems to be nothing being done to ensure that our citizens are safe. Our mandate, as the Senate, is to protect the counties, the residents of the counties that we represent and the whole country. We cannot say that we are protecting them if every day we see and read in

the media that people have been killed and maimed on the scale that it has happened in Bungoma. I want to say *pole* to my neighbouring people of Bungoma and Busia counties. This seems to be spreading and because of shortage of time, there are many things I would have said but will not. However, there is something definitely wrong in the way that policemen are recruited, trained and in the manner that they execute their mandate. I support the idea that it is time that county governments took over some of these responsibilities. Under Section 187 of the Constitution, the Central Government can cede or delegate some authority to the county governments. The surest way to ensure that there is security in the local area is to make sure that citizens participate in ensuring their own security. In the neighbouring countries, for example, Tanzania, Uganda or even Rwanda, they have systems called *Kumi kumi*, Lords Resistance Army (LRA) or whatever you may want to refer to them. However, these systems work.

Our country must look at how it can involve people and not to take foreign policemen to areas that they do not understand. We are talking about “foreign” in terms of the localities. We should recruit some policemen to work in the areas that they come from because they are familiar with the area.

I support.

Sen. Obure: Mr. Deputy Speaker, Sir, a situation in which innocent Kenyans are being attacked, killed and maimed night after night is totally unacceptable. This must be condemned. The killing of innocent children, mothers, women, peasants and ordinary villagers has no justification, whatsoever, in a modern society. To tell us that this is happening and yet the security apparatus in the country do not know who the perpetrators are is to take Kenyans and all of us for a ride. I am sure that the security apparatus know who these people are.

Mr. Deputy Speaker, Sir, we must remember that the primary role of any government anywhere in the world is to take care of the lives and property of its citizens. The time has now come when the Government in place should tell us whether they have failed because they are not taking responsibility for this important security aspect involving their citizens. The question that we must ask is: When all this is happening where is the police service? Where are the criminal investigators? Where is the National Intelligence Service (NIS)? The time has come when we have to redefine the role of each of this security agencies and their relationship with the county governments.

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

Sen. Mungai, you have less than two minutes.

Sen. Mungai: Mr. Deputy Speaker, Sir, I also take this opportunity to grief with the people of Bungoma and Busia counties. My colleague Senators have talked about those issues. It is very sad. The way I take it myself is that I have seen the way that our police force is. I have seen that our police force is lacking in equipment. When you look at the condition of the vehicles that our police have, they are not able to be where a crime is committed in time. Several times in Mai Mahiu, I had to give out my vehicle because the police vehicle that is there has a problem. So, we could be pushing the police, but they are already demoralized because they do not have facilities. So, I would request that the police be properly equipped. We also have the element of human rights which is affecting the police very much because they are condemned even when they are doing their work.

With those few remarks, I support.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, that brings us to a close of that very important Motion. It is now 6.00 p.m. and we are supposed to debate Motion No.10. I would ask the Senate Leader of the Minority to move the Motion.

Proceed, Sen. Wetangula.

MOTION FOR ADJOURNMENT

ADJOURNMENT TO A DAY OTHER THAN THE NEXT NORMAL SITTING DAY

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

THAT, pursuant to Standing Orders No.31(1) and No.50(b), and notwithstanding the provisions of Standing Order No.30; aware that the late Senator Mutula Kilonzo will be laid to rest tomorrow, Thursday, May 09, 2013, in Mbooni, Makueni County; recognizing the need for Senators to participate in giving their departed colleague a befitting send-off, the Senate resolves to adjourn until Tuesday, May 14, 2013.

Mr. Deputy Speaker, Sir, our next sitting day is tomorrow afternoon, but we also know that tomorrow is an extremely sad day for this House. This is because one of our most distinguished colleagues, Sen. Mutula Kilonzo of Makueni County will be laid to rest at his rural home in Mbooni.

Mr. Deputy Speaker, Sir, after consultations as the leadership of the House with the Speaker, my colleague in the majority, the whips and yourself, we did agree to move a Motion in the House, which I hereby do, that tomorrow be exempted from the sitting of the House of Senate to allow and enable colleagues to go and see off their departed colleague.

Mr. Deputy Speaker, Sir, we are new as a House; we are also relatively small and we have had very close inter-personal relationships. Some of us who have been in the previous House have worked with the late Sen. Mutula Kilonzo. We all know that we set aside an afternoon here and eulogized our departed brother; we do not need to belabour the point too much. I want to urge hon. Senators present that even those who will not be able to visit Mbooni home, I am sure your spirit will be with those who will be there. I am sure you will be condoling with those who will be there; the family, the friends and the constituents – having an opportunity to know that this can happen to anyone of us and that when it does happen, such a respectful and dignified send off is what we all desire in life.

Mr. Deputy Speaker, Sir, I want to encourage that we do accede to this Motion because we will have a vote at the end of it. I wish everybody a safe trip to Mbooni tomorrow, so that we can send off our brother.

As I conclude moving the Motion of Adjournment, allow me for one minute to very heartily thank the entire Senate for the outpouring of sympathy and support that you have extended to the Motion that we have just concluded in solidarity, not only to the people of Bungoma and Busia counties, but to all Kenyans who are under threat from criminal gangs all over the country. I think that we, as a Senate, have done well this

afternoon to voice those positive concerns. I do hope that at some point in time as a Senate, we should set aside a moment, divide ourselves up and have a group visit to Kenyans in Tana River, Bungoma, Busia, Kiambu, Samburu and Garissa. We want to go and have a feel of what the people whose interests we are custodians of, are going through.

Mr. Deputy Speaker, Sir, with those few remarks, I beg to move and invite Sen. Murkomen to second.

Sen. Murkomen: Mr. Deputy Speaker, Sir, I rise to second this Motion. We all know and we have eulogized our departed colleague, as the Senate Minority Leader has said here. It is unfortunate, like I have said before, that we did not benefit from his wealth of knowledge as a founding Senate under the new Constitution. Therefore, it is important for all of us who will have the opportunity to travel to Mbooni to have that time tomorrow to visit and condole with the family and the people of Mbooni. We want to extend our condolences and sympathies to, not only the family, but also the people of Makueni County for the departure of their Senator. We want to basically say that we, as a family, as a Senate, are united. I think that is the message we want to pass out there.

Mr. Deputy Speaker, Sir, sometimes we may have one or two differences of opinion and position, but allow me to note one thing that unlike the Lower House, this House has demonstrated the maturity expected of the Senate. This should go on, not only on welfare matters, but also on issues of immense importance to our country.

For that reason, Mr. Deputy Speaker, Sir, I rise to second the Motion.

(Question proposed)

The Deputy Speaker (Sen. Kembi-Gitura): Before I open the Floor, let me just remind fellow Senators that we eulogized our colleague last Tuesday and many of you had occasion or chance to give eulogy befitting him; and that this time we have the next 20 minutes only to move and pass – if you find it fit – this Motion of Adjournment. Depending on the interest that will be shown, we will decide on the timelines to give, but in the meantime, five minutes for each of the persons who want to contribute.

Proceed, Sen. Mositet.

Sen. Mositet: Thank you, Mr. Deputy Speaker, Sir. I stand here to support the Motion that it is quite important for this House to adjourn because of a great son of this nation – somebody whom we really feel, as the young Senators who have just come here – could have learned from. Makueni is quite far, but I am sure all the Senators would like to go there. I do not see how we will actually move from here to Mbooni and then come back to continue with the proceedings of the House. So, for that reason, I feel that it is good if we adjourn. I know that we have another task because most of the county assemblies have adjourned indefinitely because of the salaries of the Members of the County Assemblies (MCAs). I know that is a major task because, as Senators, we are actually supposed to be in touch with our counties and to make sure that, at least, we work on their behalf and that we protect them. Since this Motion has just come towards the end of the day, I support it. I suggest that when we resume next week, it will be good if the House Rules and Business Committee allows us to discuss the issue of the MCAs.

Thank you, Mr. Deputy Speaker, Sir.

Sen. Musila: Thank you, Mr. Deputy Speaker, Sir. I stand here to support the Motion. As you are aware, this morning we went through the burial rites in the church. I just want to stand here first as a member of the funeral committee, to thank the Senators. They rose to the occasion immediately this death was announced and they suspended all Business; they eulogized their colleague and even visited the family. This morning, I had occasion, on behalf of the family, to thank the Senate very sincerely for that action they took and for the assistance they gave.

May I, Mr. Deputy Speaker, Sir, also take this opportunity to also appraise the Senators of the programme. It runs like this: mourners depart Nairobi at 7.00 a.m. to arrive at Mbooni by 10.00 a.m. Mourners are then expected to be seated by 10.00 a.m., when the programme will begin. For those of you who are not familiar with the route, there are two ways of going to Mbooni; the first one is the Nairobi-Machakos Road where you proceed towards Kitui Road to a place called Masii. Once there, turn and go all the way to Kiima. That is the road most recommended because it is tarmacked. I think it is only two kilometres which have not been tarmacked nearer to the home, and the contractor is on site. So, that is the most recommended route; the Machakos-Kitui-Masii and then to the funeral place. We will try to signpost the road. The other alternative road is if you follow the Machakos-Wote Road, and on reaching somewhere called Kyambalasi, you turn. That will be the only path that is tarmacked. After that, you will have to travel for six kilometres on an earth road. You can only use that road if you have a four-wheel drive because it is hilly and the road is not very good. I thought this information would be useful to my colleagues who may wish to travel. Otherwise, we remain most indebted to the Senate as a whole, to both the staff and the Senators, for the support they have given and for visiting the family and for condoling them.

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

Sen. Karaba: Mr. Deputy Speaker, Sir, once again, thank you very much for giving me this time also to pay my condolences and those of my county to our beloved Senator who has just departed. I am here because of having been a teacher; I remember that when we were in the church, Governor Kibwana was trying to say how he was going to the kitchen and getting food for whoever – and I happened to have been in that school as a teacher – and I felt very sorry that one of the old boys of Machakos High School had to leave the country when it is in great demand to have old boys from Machakos High School. I identify myself with the school and I stand solidly behind whatever is happening in it. The fact that Machakos High School has produced a man like that in the name of Sen. Mutula Kilonzo is a signal that we also have schools in Ukambani that can come up with such great minds in this region. I did a lot when I was a teacher. I taught very many of those who will accompany us to Mbooni. I am, therefore, requesting whether the Senators could be provided with transport, given the fact that we are not very much aware of the roads, so that those who have small cars can save them from the terrain of the roads. It will also ensure that we reach there on time and participate in the funeral arrangements.

I support.

Sen. Orenge: Thank you, Mr. Deputy Speaker, Sir. Probably, the last word will never be said about Sen. Mutula Kilonzo, but I take it that we will continue to remember him in our thoughts, in our speeches and, as it has been suggested by other people – that those who write their memoirs, those who write the history of this country, particularly

the political history and our courts – that the work of Sen. Mutula Kilonzo will be concretized in many forms and in our political life as a whole. It is appropriate to appreciate the role that Sen. Mutula Kilonzo played in ensuring that we had a Senate. I do not think there were many people who were convinced that the Senate is an important institution in a devolved system of Government. Many thought that, actually, this should be a House of chiefs or a House of Provinces. So, I think it is befitting and quite appropriate for this Senate to fully show its support to this great Kenyan who, when it came to Constitution making, he did not just take it as a matter of duty, but as a matter of commitment for the country in terms of the current generation and for the future generation.

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

The Deputy Speaker (Sen. Kembi-Gitura): Maybe last, Sen. Hassan from Mombasa.

Sen. Hassan: Thank you, Mr. Deputy Speaker, Sir. I did not think that I will not have something to say about Sen. Mutula to essentially get us to the close of Business today. Mine is just to wish all those who are going well. I know that our Leaders of Majority and Minority will be there, so I do believe that those who will make it should represent us with the kind of *gravitas* that is deserved; so should our Speaker, who I believe will also be attending that event.

As Sen. Orengo has said, Sen. Mutula is a man who people can write scripts and scripts of his accolades. Maybe, we might never exhaust them. Today it was very humbling also to hear the simple man that he was; I think we heard the human side of it. For too long, we just heard the intellectual part – how smart he was; how he did this, how he wrote this Constitution – but from his family, they told us how humane he was, how he used to send valentines cards, how he played with his family, how he had the culture of giving gifts and many other things. What also became very outstanding for those of us who are still in the process of building families, including yourself, Mr. Deputy Speaker, is to ensure that we follow part of his characteristics and traits so that we build the modern Kenyan family where people are encouraged to take positions and to take interests that befit their aspirations; not to force our children into whatever we think is right for them. We can give them guidance, but I think that institutionally played very well; that he had created an extremely important institution of family. If there is one institution that will keep our society with the values and principles that reflect how our general unit as a country is, then it is the family. Family is the most basic unit which we must continue to encourage.

Sen. Mutula makes his final journey to his resting place, I think we want to wish that the Lord rests his soul in eternal peace. We all have shared in this very great moment of sorrow and we have all learned quite a bit about him. We hope that some of us who want to follow him in those kind of footsteps of greatness have picked a thing or two that I think reflected Sen. Mutula's quest in life. Therefore, may he rest in peace. Many of us, Senators, celebrate him with the same vigor. With the presence of Leaders of Minority and Majority and other political leaders, I believe, they will represent this political class adequately if they manage to attend.

Thank you, Mr. Deputy Speaker, Sir.

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

The Leader of Minority, you can now reply.

The Senate Minority Leader (Sen. Wetangula): Mr. Deputy Speaker, Sir, I take the opportunity to thank all Senators who without dissent, have supported the Motion. I thank you, Sen. Murkomen, for seconding the Motion. I thank Sen. Musila for giving us direction on how to get to our brother's home. I encourage that as many of us as possible take time to go and attend the send off and that may the good Lord rest his soul in eternal peace.

I beg to move.

(Question put and agreed to)

ADJOURNMENT

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, it is now time to adjourn the Senate. The Senate stands adjourned until Tuesday, 14th May, 2013, at 2.30 p.m.

The Senate rose at 6.30 p.m.