

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 1st October, 2015

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

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

PRAYERS

The Speaker (Hon. Ethuro): Hon. Senators, are you looking at the Order Paper? On the appendix papers, we have a Paper to be laid by the Chairperson of the County Public Accounts and Investment Committee (CPAIC). I recall yesterday a special reference was made to you with regard to the same Order.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, could you guide me?

The Speaker (Hon. Ethuro): It is on page 702, the second last page of the Order Paper.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I have no Papers. They have not given me the Papers.

*(The Serjent-at-Arms handed the Papers to
Sen. (Dr.) Khalwale)*

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, the Papers have just been handed to me now.

The Speaker (Hon. Ethuro): Proceed, Sen. (Dr.) Khalwale. I appreciate your predicament.

PAPERS LAID

REPORT OF THE AUDITOR-GENERAL ON THE FINANCIAL OPERATIONS OF NAROK COUNTY ASSEMBLY

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I beg to lay the following Paper on the Table:-

Report of the Auditor-General on the financial operations of Narok County Assembly for the year ended 30th June, 2014.

(Sen. (Dr.) Khalwale laid the document on the Table)

The Speaker (Hon. Ethuro): Who is presenting part (c) and (d) of Papers?

REPORTS OF THE COMMITTEE ON LABOUR
AND SOCIAL WELFARE ON VARIOUS BILLS

Sen. Madzayo: Mr. Speaker, Sir, I beg to lay the following Papers on the Table:-
Reports of the Committee on Labour and Social Welfare on the following Bills:-

- (a) The Persons with Disabilities Amendment Bill, 2013
- (b) The Senior Citizen Care and Protection Bill, 2014
- (c) The Employment Amendment Bill, 2014
- (d) The County Library Services Bill, 2015

(Sen. Madzayo laid the documents on the Table)

NOTICE OF MOTION

OUTSTANDING PERFORMANCE OF KENYAN
ATHLETIC TEAMS

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

THAT, WHEREAS Kenya is traditionally known for its outstanding performance in athletics, especially in middle and long distance running;

AND WHEREAS athletics is part of Brand Kenya efforts and has immensely contributed to marketing the country abroad;

APPRECIATING that the Kenyan athletes are good ambassadors and have greatly improved the image of the country;

FURTHER APPRECIATING the performance of the team that participated in the recently concluded 2015 IAAF Championships in Beijing, China and were ranked number one overall out of the thirty two countries that participated;

NOTING the sterling performance that yielded winning a total of sixteen medals of which seven were gold, six silver and three bronze;

RECOGNIZING that the country won a gold medal in the elusive 400 meters hurdles; which has not been our specialty and a gold medal in the field event of javelin;

ALSO APPRECIATING the Sterling performance of our sportsmen and sportswomen who participated in the just concluded All African Games in Congo, Brazzaville where they won a total of 12 medals of which three were gold, five silver and four bronze and finished in position nine out of 37 countries that participated;

COGNIZANT that such outstanding performances will inspire and spur upcoming athletes and generally boost the Kenyan spirit;

The Senate—

1. records its commendation to the Kenyan teams for the sterling performance at the IAAF World Championships in Beijing, China and the All African Games in Congo, Brazzaville;

2. calls upon the National Government to recognize and honour the teams with appropriate awards; and

3. resolves that this Resolution of the Senate with the HANSARD report on the deliberations on this Motion be forwarded to our athletes and sportsmen/sportswomen who participated in the respective events.

(By leave of the Senate)

The Speaker (Hon. Ethuro): Hon. Senators, that Motion is on the Order Paper of today by leave of the House, so we will slot it at some stage during this particular Session on only one condition from the Chair, that Order Nos.8 and 9 are equally handled. I hope the Whips and the leadership of the House are listening.

The Motion whose notice has been given by Sen. Melly is listed on the Order Paper as item 10. It is by the leave of the Senate. I am putting a rider that it can only be done if the Whips ensure that we have numbers for Order Nos. 8 and 9.

Hon. Senators, we need to put requests for statements. We will take the requests and then we come to the ones that are already scheduled as per the annex. Before we do so, I will make a communication.

COMMUNICATION FROM THE CHAIR

ADDRESS TO A JOINT SITTING OF PARLIAMENT BY
H.E (DR.) JAKAYA MRISHO KIKWETE, PRESIDENT
OF THE UNITED REPUBLIC OF TANZANIA

The Speaker (Hon. Ethuro): Hon. Senators, I have a communication to make on the Joint Sittings of Parliament on Tuesday 6th October, 2015 at 2.30 p.m. for purposes of address by visiting dignitary. The Speakers of the two Houses of Parliament have received a request from the Office of the President to allow His Excellency (Dr.) Jakaya Mrisho Kikwete, President of the United Republic of Tanzania to address a Joint Sitting of the Houses of Parliament on Tuesday 6th October, 2015. His Excellency President Kikwete will be on a State Visit to Kenya.

Hon. Senators, Standing Order No.25(2) states as follows:-

“The Speaker may, in consultation with the Speaker of the National Assembly, arrange for a Joint Sitting of Parliament for purposes of an address by a visiting Head of State or such other visiting dignitary.”

In this respect, I wish to inform the House that the Speaker of the National Assembly and I, have consulted and consented to the request. This is, therefore, to invite all Senators to a Joint Sitting of the Houses of Parliament which will be held on Tuesday 6th October, 2015 in the National Assembly Chamber, Main Parliament Building at 2.30 p.m. for the purpose of an address by His Excellency (Dr.) Jakaya Mrisho Kikwete, President of the United Republic of Tanzania.

This being the first time that a visiting Head of State will be formally addressing our Parliament, I wish to take this earliest opportunity to request all of you Senators to avail yourselves for this auspicious occasion. If what I heard from the Floor is anything to go by, I can assume that it is an affirmation.

Due to the normal legislative agenda before the Senate, particularly on the various Bills, the Senate will continue with its normal sitting shortly after the address by His Excellency the President of Tanzania.

I thank you.

What is it Sen. Khaniri?

Sen. Khaniri: On a point of order. Mr. Speaker, Sir, whereas we appreciate and welcome President Kikwete to address the Houses of Parliament, in your reading of Standing Order No.25(2), there is a provision in that Standing Order No.25(1) which says:

“The Speaker may, after consultation with the Senate Majority Leader and the Senate Minority Leader, allow a visiting Head of State or other visiting dignitary, to address the Senate.”

Mr. Speaker, Sir, I just want to get your clarification if the Senate Minority Leader was consulted because this is provided for in the Standing Orders.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, when I look at today’s Order Paper, I do not see any Motion that will grant this House an opportunity to start on Tuesday 6th October, 2015 at a time other than 2.30 pm as far as the Standing Order is concerned. When we will adjourn this evening at 6.30 p.m., we will be expected to be back at 2.30 p.m. on 6th October. Where on this Order Paper do we have this Motion that will give you the legal power to convene this House at a time other than 2.30 p.m. on Tuesday, next week?

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I wholeheartedly welcome the address to both Houses by President Jakaya Kikwete, who is not only a distinguished son of this region, but one of the few African Presidents who has resisted the greed and temptation to even imagine that he can go for a third term. We welcome that very much. We know how articulate and convincing President Kikwete is. In fact, I can put it on record that he is the only East African Head of State who always addresses the African Union in Kiswahili which is also an official African language, so, we will welcome him.

Sen. George Khaniri has referred the Chair to Standing Order 25 (1).

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

I want that Clerk to give you room to give me undivided attention.

The Speaker (Hon. Ethuro): You know the utility of the Clerk to the Chair. As you canvas your issues, I am also consulting.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I know we are on a learning curve and we do not want to either indict or even say something untoward to the Chair.

The Speaker (Hon. Ethuro): Hon. Senators, I hope you know that the Senate Minority Leader is on the Floor and he requires maximum attention from the Speaker.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I just want the Chair to acknowledge that there is an omission and we are on a learning curve. In future when we have such distinguished guests, we will follow the Standing Orders. We have no intention of standing in the way or even saying that your acceptance that the distinguished President of Tanzania addresses us is in any way not right. It is absolutely

welcome. In future, we would wish that we get not only involved, but consulted. You must be assured that we will never withhold such consultation or request because it enriches the House and the country.

Sen. Ong'era: Thank you, Mr. Speaker, Sir. I will take the unprecedented approach by disagreeing with the Senate Minority Leader and also with the distinguished Senator for Vihiga. When I read the Standing Order No. 25(1), which will require the Speaker to consult the two leaders only in instances where the visiting leader will address the Senate.

However, under Standing Order No.25(2), when it comes to Joint Sitings, then the Speaker need not to consult the two distinguished leaders. There, the Speaker will only consult with the Speaker of the National Assembly and arrange for a Joint Sitting for the purpose of an address by a visiting Head of State or such other visiting dignitary. There, the two Speakers will use their discretion.

I thank you.

The Speaker (Hon. Ethuro): Order! Senators. Sen. Wangari, let me give you the last chance.

Sen. Wangari: Thank you, Mr. Speaker, Sir. It is actually an honour for the Speaker to sit and give me a chance. So, I feel greatly honoured. I want to agree with Sen. Ong'era in terms of the application of Standing Order 25(2), but even in 25(1), it only gives a "may" option. "May" is either you can or you may choose not to. I support Sen. Ong'era. Again Standing Order 25(1), gives the Chair a leeway to choose and I know he always prefers to consult. This is a good practice. The word "may" indicates that it is not a must that he does so. But if it was "shall", he would not have otherwise, but to consult. That is my understanding of this Standing Order. It is not a monopoly of anyone in this House to read the Standing Orders.

The Speaker (Hon. Ethuro): Order, Senators! There is no point ventilating on a matter that you have already agreed on.

I will start with Sen. Wangari's concern. Contrary to the expectation of Sen. Ong'era, she is absolutely right. The word used is "may" and she is making a distinction between "may" and "shall". That is okay.

An Hon. Senator: You are wrong!

The Senate Minority Leader (Sen. Wetangula): You speak very good English but---

The Speaker (Hon. Ethuro): Order, Members! I do not only speak good English, but I also read and understand English. There are certain usages in English and law that result in compulsion and options. That is a fact.

In any case, Sen. Wetangula, I believe you may be a senior lawyer to your Whip in many respects. Standing Order No. 25(1) says:

"The Speaker may, after consultation with the Senate Majority Leader and the Senate Minority Leader, allow a visiting Head of State or such other visiting dignitary, to address the Senate."

I am already done with Sen. Wangari. I am now addressing Sen. Ong'era. She is absolutely right. That was my understanding, our reading and that is why we felt Standing Order No.25(1) – this was a matter for Sen. Khaniri – referred to the Senate. That is why we used Standing Order No. 25(2) which is referring to a Joint Sitting of the two Houses. It does not make any reference to the Senate Majority or Minority Leader,

contrary to my own expectations. By the way, I do not have a problem working with the leadership of the House. I know they will always grant it just as the Senate Minority Leader has confirmed this afternoon.

Surely, under those circumstances, do we really need to continue debating on a matter that we seem to be agreeable?

(Loud consultations)

In fact, if I had my way, I would have consulted the political leadership of the House, but it is not a requirement.

Sen. Kembi-Gitura: On a point of order, Mr. Speaker, Sir. I listened to Sen. Ong'era, and I am convinced that she is completely right. The President is coming to address the Joint Sitting of Parliament. However, with greatest respect to you, I disagree. The "may" regards ---

The Speaker (Hon. Ethuro): Order, Sen. Kembi-Gitura! I hope you know you are my deputy.

(Laughter)

Sen. Kembi-Gitura: Mr. Speaker, Sir, I am. That is why I have a bigger duty than anybody else to help where I can. The word "may", in my considered opinion, has to do with allowing him to come. That is my understanding. However, regarding consultation, under Standing Order No. 25(1), it is mandatory. In my view, that word "may" has nothing to do with the consultation. It has to do with allowing the dignitary to come.

The Speaker (Hon. Ethuro): I expect that from Sen. Orengo and not Sen. Kembi-Gitura.

Sen. Orengo: On a point of order, Mr. Speaker, Sir. Let me, first of all, say that I am completely in agreement with the Deputy Speaker and the distinguished Senator for Murang'a County. I hold him in high distinction because I have practiced law with him from opposite sides, and I know his ability.

With the greatest respect, the word "may" applies to your discretion to allow a visiting Head of State to address the Senate. He might be the greatest power in the world, but you still have that discretion. The consultation with the Senate Majority Leader and the Senate Minority Leader, is a condition precedent so that you cannot make that decision without making those consultations.

I plead with you, where you are right, we will agree with you like on Standing Orders No. 25(2). Sen. Ong'era and your ruling are absolutely correct. However, on the first one, the consultations with the Senate Majority Leader and the Senate Minority Leader is what we call in law, a condition precedent. Therefore, you cannot make a decision without those consultations.

Sen. Abdirahman: On a point of order, Mr. Speaker, Sir. Let me start by saying that English is not the preserve for only those who studied law, but it is understood by many other gentlemen and ladies. However, I just want to say that in respect to Standing Order No.25(1) --

Sen. Kembi-Gitura: On a point of order, Mr. Speaker, Sir. There should be decorum in this House. We will not sit here and accept insults coming by way of our contribution. We have not claimed that we know more English than anybody else because we are lawyers. We are lawyers, we are proud of that fact. However, we will not allow anybody to misuse the parliamentary privilege to trade insults in this House. It is not acceptable.

(An hon. Senator spoke off record)

(Laughter)

The Speaker (Hon. Ethuro): Order, Senators! Now, which is worse? One lawyer misrepresenting what Sen. Abdirahman has done and another one standing on his volition disregarding whether the Speaker has allowed him to do it or not.

Proceed, Sen. Abdirahman. You are entitled to your opinion.

Sen. Abdirahman: Thank you. Mr. Speaker, Sir. I do not intend in any way to demean the legal or any other profession for that matter. Let me leave that since you have allowed me to do it.

However, with regard to Standing Order No. 25(1), all I want to stay is that the Speaker's Office is an institution and runs the institution of Parliament. An institution of Parliament, though headed by the Speaker, has the wings that form the majority and minority leadership. Therefore, it only adds value.

Standing Order No.25(1), "at your discretion", only helps to portray a better image in terms of working together. Therefore, it is important as clearly spelt by the Senate Minority Leader.

The Speaker (Hon. Ethuro): Order, Members! Let me rest this matter by saying that I seem to be a bit persuaded by the submission of Sen. Orengo, Sen. Kembi-Gitura and Sen. Ong'era. All of them happen to be lawyers. However, because this was a sub-matter and not the matter that was brought forward by Sen. Khaniri, I will also use this opportunity to assert myself in the near future to look at it more critically. If I will get an opportunity to prove you otherwise, I will seize the moment. If I will not, I will also come and concede before you.

Secondly, I do not think that Sen. Abdirahman said anything bad about lawyers. He just assessed the number of contributors and realized that a majority of them happen to have been lawyers. You know how lawyers speak; they speak with a lot of conviction as if the rest of you never went to school. That is why they refer to themselves as learned friends. Who doubts that? Therefore, hold your opinion; I agree with it.

Sen. (Dr.) Khalwale said that they have not brought a Motion. There is a communication to the Senators about this Sitting. Furthermore, a Joint Sitting is always gazetted. Therefore, that information will be provided through a gazette notice. In any case, Tuesday is naturally a Sitting day. So, all we will inform you is the time and where you will be sitting that particular day.

What is it, Sen. (Dr.) Khalwale? I hope that it is not another professional matter. Unfortunately for you, there are not many doctors in the House. At least, there is Sen. (Dr.) Machage.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. I thank you for the accolades that you have given the legal fraternity in the House after you agreed with them that they are right. However, equity demands that after you have agreed with me, you should also give the same accolades to the medical profession because Sen. (Dr.) Machage, Sen. (Dr.) Kuti, although he is not in the House, and I, are here. Could you, please, exercise equity?

The Speaker (Hon. Ethuro): I always exercise equity, but there was no demand to acknowledge doctors. However, there was a deliberate and provocative demand from the Deputy Speaker, supported by Sen. Orengo for me to acknowledge lawyers. Therefore, I needed to address that matter. Your day will come under the sun and you will receive the same accolades, if not higher.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir.

STATEMENTS

DEMONSTRATIONS ALONG HARAMBEE AVENUE AND PARLIAMENT ROAD

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, my request goes to the Committee on National Security and Foreign Relations. Pursuant to the Standing Orders No.45(2)(b), I rise to seek a statement from the Chairperson of the Committee in relation to an incident that occurred on 29th September 2015, in which some citizens were allowed to demonstrate along Harambee Avenue and Parliament Road while others were barred from demonstrating. In the statement, the Chairperson should explain:-

1. Why the police allowed some citizens to demonstrate, but barred others from doing so, in violation of their rights to demonstrate and picket which constitutional right is provided for in Article 37 of the Constitution?

2. Whether he is aware that the act of allowing some people to demonstrate while denying others was discriminatory and contrary to Article 27 of the Constitution?

3. What the Government is doing to ensure that Article 3 of the Constitution is upheld at all times and public officers do not violate the Constitution.

Mr. Speaker, Sir, you may recall that there were very loud noises out here against one of the Senators. However, a group that was demonstrating in support of the Senator was brutally kept away from even approaching the precincts of Parliament. This is a violation and a disgrace. The Chairperson of the Committee is here, so can he tell us when he will answer because the obscenities that were hauled at a distinguished Senator were totally unpalatable.

The Speaker (Hon. Ethuro): Sen. Dullo, please, proceed.

An Hon. Senator: The Chairperson of the Committee is here.

The Speaker (Hon. Ethuro): My apologies. I am stuck in the whole arrangement where the Vice Chairperson was to take the lead. Please, proceed Chair.

Sen. Haji: Mr. Speaker, Sir, I do not mind delegating to her.

This is a straight forward matter that will not require a lot of investigation. It happened in Nairobi. The police headquarters is here as well. Therefore, I will give an answer by Thursday, next week.

Sen. Hassan: Mr. Speaker, Sir, I also seek to know whether a Petition was actually submitted by the demonstrators for the removal from office of Sen. Muthama and whether those demonstrators are aware of the procedure for the removal of a Senator so that we avoid the eventuality of people trying to get you out of your job unprocedurally and making nuisance at your place of work.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, mine is connected to the same, but directed at you. It is now becoming quite evident that members of the public want to express themselves through that manner. In other Parliaments, there are particular areas that are designated for picketing. Could you guide us as to when you will designate a particular place in the precincts of Parliament where members of the public can go and picket without them unnecessarily interfering with the entrance and exit of the Members of Parliament?

Mr. Speaker, Sir, it is not a very pleasant thing to see a naked human adult trying to express a point. As much as they are comfortable with it, there are some things that we like seeing in our own bedrooms.

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale!

Please, proceed, Sen. Ong'era.

Sen. Ong'era: Mr. Speaker, Sir, further to that statement, I would like the Chairperson of the Committee on National Security and Foreign Relations to state the correct procedure for bringing petitions to Parliament and how they are supposed to be received.

Sen. Haji: Mr. Speaker, Sir, regarding the issue raised by my brother Sen. Hassan, it is very difficult for anybody to decide what demonstrators will say or do. One time, we were in the United Kingdom with the former President, His Excellency Daniel Arap Moi and there was a demonstration. We were told that demonstrators are normally paid. Therefore, only their master knows what they will say.

With regards to Sen. Ong'era's question, that is not under my purview. It is only the Speaker who can decide on how petitions are brought and received by the House.

(Loud consultations)

The Speaker (Hon. Ethuro): Order, Members! This matter is very clear. If you have further issues, you can inform the Chairperson. The issues raised will be handled accordingly.

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

The Speaker (Hon. Ethuro): Sen. Hassan, I hope that it is on a different issue. If not, I will rule you out of order.

Sen. Hassan: Mr. Speaker, Sir, of late, when you see a copy of a Bill on a blue coloured paper, it means that it is a Senate Bill. If you receive a copy of a Bill on a green coloured paper, it means that it is a National Assembly Bill. Lately, we are getting printouts in various colours; some in green, pink, yellow, white and many others. What is the Clerk communicating to us when a paper is green in colour? Does it mean anything when a paper is pink in colour? Does it mean that we are expressing solidarity with people in pink? The Senate has become quite pink with its paper work.

The Speaker (Sen. Ethuro): That is a very serious observation and I will give it my very serious consideration. Allow me to respond to your question next week.

Sen. Nabwala: Thank you very much, Mr. Speaker, Sir, for giving me this opportunity.

(Loud consultations)

Can I be protected from the men from the Coalition for Reforms and Democracy?

The Speaker (Sen. Ethuro): Sen. Mukite, the men are very far from you.

CAUSES OF HIGH INFLATION RATE IN THE COUNTY

Sen. Nabwala: Thank you, Mr. Speaker, Sir, for giving me an opportunity to seek a very important Statement. In pursuant to Standing Order number 45(2)(b), I rise to seek a statement from the Committee on Finance, Commerce and Budget with regard to the receding economic status of the country. In particular:-

(a) The high inflation rate of 5.97 per cent as at September 2015 which has a spillover effect to the consumers, borrowers, investors, business people, energy, *et cetera*.

(b) The high debt ratio of Kshs1.4 billion loans since 2014 to date which binds the country to date in payment until 2085 according to a Report from the Treasury to the National Assembly.

(c) According to the Kenya National Bureau of Statistics, the economy has slowed down to 5.5 per cent compared to 6 per cent during the same period last year.

In the statement, the Chairperson should clearly explain the following:-

(i) What are the factors that have contributed to the high inflation rate, the huge debt and the economic slowdown?

(ii) What steps has the relevant Ministry taken to avert this crisis which is a worrying concern to the public?

(iii) Is the Cabinet Secretary Ministry of National Treasury capable of reversing this trend and is he competent to manage the economic affairs of this country?

Thank you.

Sen. Ong'era: Thank you, Mr. Speaker, Sir; I would like to ride on that question. Further, I would like to know why the economy is under-performing, why we have an unsustainable public finances? Why is our public finance doubling to unsustainable 10 per cent of Gross Domestic Product (GDP); 18 per cent of our revenue?

Secondly, why has our foreign debt which has overtaken the external debt risen from 4 per cent to 10 per cent and why have our exports come down to 54 per cent from 67 per cent five years ago?

Finally, is the Cabinet Secretary Ministry of the National Treasury competent enough to carry out his job in making sure that our economy is sustainable and we cannot have people living beyond their means?

Thank you.

The Speaker (Sen. Ethuro): Order, Members! You must appreciate if you are on a point of order, you deal with the intervention button.

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. This is a very important matter. Could the Chairperson also explain what measures the Government is

putting in place to stop the ever sliding Kenya shilling that has remained on a free fall from the time the Jubilee Government came into power. It came in at 80 and today we are exchanging at 106, making it very difficult for people who participate in import and export businesses to make predictions.

Sen. Orenge: Mr. Speaker, Sir, I am seeking your direction because of the import of this question. It is so important and cross cutting that, probably, you would agree with me that this is the kind of question that should be answered by the Senate Majority Leader because it impacts on the entire performance of the Jubilee Government Administration. Although I was inclined to ask Sen. Mukite that sometimes you do not need to substantiate the obvious, it is just bad leadership that is causing all these.

The Speaker (Sen. Ethuro): Order, Sen. Orenge! You have made a request for somebody else to answer. You have gone ahead to answer it.

Sen. Hassan: On a point of order Mr. Speaker, Sir. In light of the inflation, we want to know what practical steps the Government is taking to cushion Kenyans from the skyrocketing cost of living either in terms of setting the adjustments to taxation and other areas. We want to know what measures the Government is putting in place to cushion the Kenyan people from inflation.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, in responding to the statement, will the Senate Majority Leader tell the House and the country where the much publicised proceeds of the Euro bond which was US\$2 billion or thereabout, has been placed because we understand the proceeds of the Euro bond were banked outside the country yet we were told it was supposed to stabilise the foreign exchange regime and therefore stabilise the ratio of our exchange of the Kenya shilling to the hard currencies that we deal with. Where is this money from the Euro bond?

The Speaker (Sen. Ethuro): Hon. Senators, I am convinced that this is a matter squarely in the purview of the Committee on Finance, Commerce and Budget. The description of that Committee is sufficiently inclusive on all the matters you have raised. Where is the Chairperson of the Committee on Finance, Commerce and Budget? Any Member of the Committee? I think the Senate Minority Leader is a Member.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, indeed, I will transmit that information to the Chairperson. I want to reassure Sen. Orenge that on a scale of one to one, Sen. Billow will do a hundred times better than the Senate Majority Leader in tackling this matter.

The Speaker (Sen. Ethuro): Order, Sen. (Dr.) Khalwale! Do not go there, Senator.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, the reason I am going there is because we want to set the record straight---

The Speaker (Sen. Ethuro): Sen. (Dr.) Khalwale, when Sen. Kembi-Gitura was talking about lawyers, you did not raise a finger.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, how can lawyers want to give the impression that a finance expert like Sen. Billow cannot handle these and it only requires a professor of law? He will handle it better.

The Speaker (Sen. Ethuro): Order! When is the response, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, this is a very serious issue. We need the answer quickly. Ideally, it requires around three weeks. However, because of the urgency, maybe you give us two weeks.

Sen. Orengo: On a point of order, Mr. Speaker, Sir. I appreciate why you have given these questions to the Committee on Finance, Commerce and Budget. As you were saying it, I was looking at the Senate Majority Leader and he looked very relieved.

(Laughter)

The Speaker (Sen. Ethuro): That is the bit of sitting across the aisle. I have the misfortune of only looking at whoever is on the Floor.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 6TH OCTOBER, 2015

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I wish to present the Statement on the business for next week with great relief.

Hon. Senators, on Tuesday, next week, we shall have the Rules and Business Committee (RBC) meeting at 12.00 p.m. for the purpose of scheduling the business for next week.

Subject to the directions of the RBC, the Senate is expected to continue with the business that will not be concluded this week, particularly focusing on debates on the Bills that are at the Second Reading Stage and Committee of the Whole. Some of these Bills, hon. Senators, include the following: The Climate Change Bill (National Assembly Bill No.1 of 2014), The Tobacco Control Regulations, The County Early Childhood Education Bill (Senate Bill No.32 of 2014), The Universities (Amendment) Bill (Senate Bill No.31 of 2014), The Public Appointments (County Assembly Approval) Bill (Senate Bill No.20 of 2014), The County Assemblies Services Bill (Senate Bill No.27 of 2014) and The Parliamentary Powers and Privileges Bill (Senate Bill No.15 of 2014).

Hon. Senators, as you are also aware, please note that prior to the sitting of Tuesday, next week – as communicated by the right hon. Speaker – there will be a Joint Sitting of Parliament on Tuesday which all of us have been invited to.

On Wednesday, 7th October, 2015, the Senate will continue with the business that will not be concluded during the Tuesday sitting, especially considering Bills at the Committee of the Whole Stage. The Senate will also consider any other business that the RBC may reschedule.

On Thursday, 8th October, 2015, the Senate will consider Bills at Second Reading, deliberate on Motions and any other business scheduled by the RBC.

Hon. Senators, the Bills listed in the Committee of the Whole have been scheduled for business for that last two consecutive weeks, but have not been concluded simply because of lack of adequate numbers to transact business. Therefore, I request all colleague Senators to avail themselves next week so that we can dispense with these Bills.

Thank you, Mr. Speaker, Sir. I now wish to lay this Statement on the Table of the Senate.

(Sen. (Prof.) Kindiki laid the document on the Table)

The Speaker (Hon. Ethuro): Hon. Senators, I also support the assertions of the Senate Majority Leader in terms of Members participating in voting. In the past two weeks, we have been unable to take any vote. The business of this House is through resolutions by taking a vote on any matter, be it a Bill or a Motion. I encourage the Whips to crack the whip next week. If it is broken, they should bring it to me for repairs.

Sen. Khaniri: On a point of order, Mr. Speaker, Sir. You heard the Senate Majority Leader talking about Members availing themselves for a vote and you have also asserted it. Is he in order to bring the point because yesterday we were here, but he was not around? There were 23 Delegations and, therefore, we lacked only one Member for us to take a vote. It is not only yesterday that he was not around. That has always happened every other week when we have a vote to take.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, my colleague, Sen. Khaniri, who is my agemate, but my senior in politics, is misleading this House. I have always been present, except yesterday because I had gone to address the Tharaka-Nithi County Assembly in a special sitting. On all the other days, the Deputy Senate Majority Leader – who has done a good job – is always here whenever the Senate Majority Leader is not here.

I have always heard Senators say that I should talk about myself. We have the Office of the Senate Majority Leader and that is why it has a Deputy. If I have to be away, I always ensure that the Senate Majority Leader is here. Actually, the problem of quorum has been caused by Members of the “international skyteam” which the Senate Minority Leader has now joined. The whole of last week, he was in the skies of the world. I am sure that he is about to travel. Therefore, Members of the Minority side should not put their problems on us. We are always here and we shall be here even on Tuesday.

Hon. Senators: On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Ethuro): Order, Members! I will not allow this House to be used as a blame game. I am the one to make general statements which might serve your interests, Senate Majority Leader. Let me make this observation.

First of all, whether you are a Member of the local or international sky team, you are still sky bound and not available on the ground. Secondly, last week, the Senate Minority Leader was on an official engagement on behalf of this House. Therefore, it is unfair to blame each other. The Senate Majority Leader has also excused himself saying that he was on another official business in his county.

My only request to Members is that unless you are on official business on behalf of this House, all other engagements should be organised at a time when the House is not sitting.

Thirdly, the Senate Majority Leader has forgotten a very simple observation. The issue is not the majority versus the minority. It is about leaders of delegations. Unfortunately, whether the Senate Majority Leader has a Deputy, the Deputy on his own right is not a Member of Tharaka-Nithi Delegation, but another Delegation.

When Sen. Khaniri talks of “short by one,” it could be short by a Delegate of Tharaka-Nithi, Kericho or Bungoma. So, it is really important that all of us be present and, particularly, those of us in leadership positions. The only office, Senate Majority Leader, you can excuse for being sky bound – whether locally or internationally – is the

Office of the Speaker because I have no vote. My Office is fully represented by my able Deputy who has a vote. Even if he is sitting on this Chair, he can still vote.

Hon. Senators, that rests the matter.

(Applause)

Before we move to responses, let me make a few statements.

(Interruption of Statements)

COMMUNICATION FROM THE CHAIR

PROCEDURE FOR DISPOSAL OF PRESIDENTIAL MEMORANDA ON THE PUBLIC AUDIT BILL AND THE PUBLIC PROCUREMENT AND ASSETS DISPOSAL BILL

The Speaker (Hon. Ethuro): Hon. Senators, I wish to make a communication with respect to His Excellency the President's memoranda on the Public Audit Bill (National Assembly Bill No.38/2014) and the Public Procurement and Asset Disposal Bill (National Assembly Bills No. 40/2014).

This communication is intended to give guidance on the procedure for the disposal of the Presidential Memoranda on the two Bills. As you recall, pursuant to Article 112(1)(b) of the Constitution, the Senate passed both Bills with amendments on 20th May, 2015, and subsequently, forwarded the Bills to the National Assembly for concurrence on 22nd May, 2015.

The National Assembly did not concur with some of the Senate's proposals to the Public Audit Bill (National Assembly Bill No.38 of 2014). Accordingly, the Bill was referred to a Mediation Committee to develop a version of the Bill that would be presented to both Houses for approval. The Mediation Committee on the Public Audit Bill was constituted on 26th May, 2015. Its report was tabled in the Senate on 27th May, 2015. All these culminated in the presentation of both Bills to the President for assent on 27th May, 2015.

In a communication issued on 23rd July, 2015, I informed the Senate that I had received a message from the National Assembly regarding the receipt of a Presidential Memoranda on the Public Procurement and Asset Disposal Bill 2015. The message from the Speaker of the National Assembly stated as follows:

"Pursuant to the provisions of Standing Orders Nos.41 and 142 of the National Assembly Standing Orders, I hereby convey the following message from the National Assembly;

THAT WHEREAS in exercise of powers conferred on him by Article 115 of the Constitution, His Excellency the President refused to assent to the Public Procurement and Asset Disposal Bill 2015 (National Assembly Bill No.40/2014) and referred the Bill to Parliament for reconsideration;

AND WHEREAS the National Assembly on Thursday, June 18, 2015, reconsidered and passed the Bill, fully accommodating the President's reservations and without proposing any amendments to the said reservations;

NOW THEREFORE, in furtherance of the provisions of Article 115(3) and (4), I hereby forward the memoranda of the President containing his reservations to the Bill to the Senate for reconsideration.

In the same communication, I ruled on the procedure for the disposal of the memoranda. In so doing, I specifically observed that the Standing Orders for both Houses provide for the establishment of a Joint Committee to consider the President's reservations on a Bill.

Consequently, I informed the House of the Senate's membership to the Joint Committee and a Message to this effect was forwarded to the National Assembly on 24th June, 2015.

On 14th July, 2015, I reported to this House that I had received a message from the National Assembly informing this House of receipt by the National Assembly of a presidential memorandum on the Public Audit Bill. The message stated as follows:

“PURSUANT to the provisions of Standing Order Nos.41 and 142 of the National Assembly, I hereby convey the following message from the national Assembly:-

THAT WHEREAS in exercise conferred on him by Article 115 of the Constitution, His Excellency the President refused to assent to the Public Audit Bill (National Assembly Bill No.38/2014) and referred the Bill to Parliament for reconsideration;

AND WHEREAS the National Assembly on Tuesday, June 23rd – Thursday 25th, 2015, reconsidered and passed the Bill, fully accommodating the President's reservations and without proposing any amendments to the said reservations;

NOW THEREFORE, in accordance with the provisions under Article 115(3) and (4) of the Constitution, I hereby forward the memorandum of the President containing his reservations to the Bill to the Senate for reconsideration.”

I also reported that I received a Message from the Speaker of the National Assembly regarding the appointment of Members of the Joint Committee on the Presidential Memorandum on the Public Audit Bill (National Assembly Bill No.40 of 2014) and the Public Procurement and Asset Disposal Bill (National Assembly Bill No. 40 of 2014).

The Joint Committee held its first sitting on 6th August, 2015. In accordance to Standing Order 158(2) of the Senate Standing Orders, which is replicated in the National Assembly Standing Orders as Standing Order No.155(2). The Senate and the National Assembly were to receive the report of the Committee within 14 days which lapsed on 20th August, 2015 without the Joint Committee tabling a report as contemplated under Standing Order No.158(2) of the Senate Standing Orders. What then is the fate of the Presidential Memoranda in the absence of a report by the Joint Committee?

Hon. Senators, Standing Order No.158(5) provides that, “where the Joint Committee fails to submit a report under paragraph 2 or the report of the Joint Committee is to the effect that the Committee has failed to agree to the President's reservations or where the Joint Committee fails to agree on a version of proposed amendments to the President's reservations, the President's reservations shall be taken to have been approved by Parliament upon laying of the report on the table of the Senate under paragraph 2.

Hon. Senators, you will recall that in the communication issued on 23rd July, 2015, I observed that Standing Order No.158(5), though it may be aimed at ensuring

expeditious disposal of a Presidential Memorandum, does not accord with the Constitution. This is because Article 115 of the Constitution requires that each House of Parliament specifically pronounces itself on a Presidential Memorandum. I, therefore, rule that to the extent that the Standing Order No.158(5) provides for a “*deeming*” of approval by the Senate of the President’s reservations upon laying of the report on the table of the Senate without considering by the senate, it does not accord with Article 115 of the Constitution and must, therefore, yield to Article 115.

In the circumstances, I invoke Standing Order No.1 to find that where a Joint Committee fails to submit a report under paragraph 2, or if the report of the Joint Committee is to the effect that the committee has failed to agree to the President’s reservations or where the joint committee fails to agree on a version of proposed amendments to the Presidents reservations, the Senate shall consider a motion that, the Senate approves the Bill fully accommodating the President’s reservations. This Motion may be moved by a member of the Joint Committee, the Senate Majority Leader, or a Senator designated by the Senate Majority Leader.

In accordance with the Motion, the Senate may:-

1. Pursuant to Article 115(2) of the Constitution, amend the Bill in light of the President’s reservations or amend the Bill in a manner that fully accommodates the President’s reservations. This will require the vote of a majority of the delegation in the Senate which is 24 delegations.

2. Pursuant to Article 115(4) of the Constitution, pass the Bill a second time without amendments or with amendments that do not fully accommodate the President’s reservations. This would require the vote of two-thirds of the delegations in the Senate which is 31 delegations.

There are, however, two questions that arise from this: First, what would be the fate of the President’s reservations where the Senate does not obtain the 24 delegations required to accept the President’s reservations?

Secondly, what would be the fate of the President’s reservations where the Senate does not obtain the 31 delegations required to reject the President’s reservations?

In either case, is it possible to deem an acceptance or a rejection by the Senate by dint of failing to obtain the requisite numbers? The answer is in the negative.

Article 115 of the Constitution would appear to require that the Senate must pronounce itself on the President’s reservations by either accepting or rejecting the reservations. There is no room for deeming of either an acceptance or a rejection. A specific resolution must be made by the Senate.

Consequently, the only action that would take the agenda forward is either an acceptance or a rejection of the President’s reservations by the requisite numbers. It would appear that any other action that does not result in an outright acceptance or rejection of the President’s reservations, would put the Bill in a constitutional purgatory requiring some new action that will reignite and bring the legislative process to a close. In this regard, the following may occur:-

(1) Since it is evident from the rendition of Article 115 of the Constitution that the legislative process on any Bill only comes to an end when there is an agreement between the legislature and the Executive; having found none, this may provide the occasion for further consultations between the Legislature and the Executive on the President’s

reservations. Such consultations may result in a resubmission of the Motion at an appropriate time in accordance with the Standing Orders.

(2) It is also possible that the situation could mark the end of the life of the Bill as published and instead result in the introduction of a new Bill which could either exclude the contested provisions or include the provisions in a negotiated format.

(3) The failure to accept or reject the President's reservations may be an indicator that Parliament does not intend to enact new legislation on the matters covered in the Bill and that it would rather retain the existing legislative framework. The legislative process would, therefore, come to an end.

The above notwithstanding, it is important that hon. Senators bear in mind that the two Bills in question are subject to the constitutional timelines stipulated in Article 261 of the Constitution as read with the Fifth Schedule to the Constitution. Thus legislation on these matters, whether in the form of the two published Bills or in the form of new Bills requires to be enacted by Parliament on or before 27th August, 2016.

Hon. Senators, having said this, I now direct that the matter of the two Bills be placed on the Order Paper next week for the giving of Notice of Motion in the manner I have explained.

I thank you.

What is it, Sen. Hassan?

Sen. Hassan: On a point of order, Mr. Speaker, Sir, as this Bill comes forth, I want you to make a constitutional interpretation or direction of what is the extent of reservation, which is the practice in the Commonwealth and other Parliaments around the world? Is reservation to the substance of the Bill that has been passed - where you note certain areas that will require amendments - or will reservations in a Presidential Memorandum include introduction of new sections that were not contemplate in the Bill as passed, in the first instance?

Therefore, because it is a weighty constitutional argument, I would even advise that you stay further the introduction of that Motion until the Senate settles the extent of the reservations. This matter has been in our sister Chamber; I know that the extent of the reservations fundamentally introduced new sections of the Bill that were not contemplated in the original Bill.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, thank you, for that far-reaching and fundamental ruling. Further to what the distinguished Senator for Mombasa has said, in a sort of precedence setting for future reference and direction, it will help if Mr. Speaker brought back an expanded ruling that we have given which is a precedence, so to speak, to cover that area and enlighten the House and the future whether in the event the President rejects a passed Bill and sends a memorandum back and purports to introduce new clauses, must those clauses go through the legislative process of First Reading, Second Reading and all the stages because they were never envisaged or contained in the original Bill, in the first place? It is a new proposal by the Executive which they have a right to do, for legislations that must go through the Motion of legislation as envisaged and provided in the Constitution and the law.

Mr. Speaker, Sir, a clear direction from the Chair will help this Senate, the National Assembly, the future of democracy and legislation in this country. This is because we will continue having this kind of return of Bills with a memorandum of

objections and sometimes of improper advice, with new clauses that were never envisaged or contained in the original Bills.

Sen. Orenge: Mr. Speaker, Sir, I was not going to say anything about this, but I would take the advice given by the distinguished Senator for Mombasa and ask you to look at the old Constitution and contra-distinguish those provisions as they relate to power of assent of the President. In the old Constitution, Parliament was defined as consisting of the National Assembly and the President. If you look at the Articles of that old Constitution on the manner in which reservations were required to be made, there is a marked difference with this new Constitution which is based on the fact that the President is not part of the legislature. He is not a law maker. Therefore, we may be turning the President of the Republic of Kenya through his use of the veto power to become Hammurabi, the law giver; where a lot of legislation is coming through the back door, but not through the delegated authority.

The more important point about this issue is that the power that Parliament enjoys is delegated; it is not a power that vests on us. It is delegated to us by the citizens of this country. The Constitution requires of us to exercise that power in accordance with it. Therefore, to what extent is the President exercising his delegated power of the Executive to breach the powers of the legislature through law making by the exercise of the veto power? This is a very important distinction.

Mr. Speaker, Sir, I know your capacity on matters like this; I would invite the Chair to look at the old Constitution because it went a little bit beyond what this Constitution is providing; it defined Parliament as consisting of the National Assembly and the President. The definition of Parliament is that it consists of the National Assembly and the Senate. Therefore, the President may be treading on very dangerous grounds by using the power of veto. But I will abide by your decision on this.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, again, I join my colleagues in requesting that deep thought is put on this matter. May I tell all who care to hear that we are not afraid to consider the reservation of the President, because we are aware that the Executive under this Constitution has every right to initiate legislation. Therefore, I will request you to apply the best legal mind, yours included, on this matter, to confirm to what extent the so-called reservation goes towards exercising veto power *vis-a-vis* an attempt to initiate new legislation. If you find that it goes towards an attempt of hiding through veto to participate in legislation, then I urge you to resist. This is because Parliament will be submitting itself to the Executive. We shall no longer be exercising the principle of separation of powers. We will have become, if everything, a mere appendage or department within the office of the President.

Sen. (Dr.) Machage: Mr. Speaker, Sir, when we were critiquing the draft that gave birth to the current Constitution some of these anomalies were raised. The President is strictly using the Constitution to do what he is purporting to be doing; there is nothing wrong with that at all. The answer is to amend the Constitution. Those powers have been given to him through the veto and there is nothing we can do about it. We just have to look at it, amend the Constitution and remove those powers from him.

The Speaker (Hon. Ethuro): Hon. Senators, I have heard you. We are all implementing the Constitution. So, we still get new opportunities to look at issues. You have raised some fundamental issues. We will not put the matter on the Order Paper next

week until these other matters that you have canvassed are considered and the ruling made.

I also want to urge Sen. (Dr.) Khalwale and Sen. Orengo that if they had agreed with Sen. Omar and Sen. Wetangula, they would have realized that, that is the kind of language in which you address your Speaker in terms of contributing to the knowledge that would help a great deal, rather than already discussing the matter and giving your own opinion. It should be provided in a manner to suggest what may be required to be looked into. The Chair would really appreciate that.

Sen. Orengo: On a point of order, Mr. Speaker, Sir. I really respect the Chair and do not want to be misunderstood on this matter. I ended by saying that you have the final word and I abide by it. So, I hope that makes it clear.

The Speaker (Hon. Ethuro): That is correct. The only problem is that on your way to that finality, a few other issues had been raised. I agree with you on that. That is a summary.

Order, Members! We are still on Statements.

I will make a short Communication and then allow the Chair of Committee on Agriculture, Livestock and Fisheries.

COMMUNICATION FROM THE CHAIR

RETREAT OF THE SENATE WITH THE COMMISSION ON REVENUE ALLOCATION

Hon. Senators, at a meeting of the Senate Standing Committee on Finance, Commerce and Budget with the Commission on Revenue Allocation on 8th July, 2015, it was resolved that there was need to hold a retreat for all Senators to discuss the second criteria for revenue sharing among County Governments.

Article 96(3) of the Constitution mandates the Senate to determine the allocation of national revenue among counties.

Further, Article 217 requires the Senate to determine once every five years the basis for allocating among the counties the share of the national revenue that is annually allocated to the county level of Government.

To this end, there shall be a retreat between the Senate and Commission on Revenue Allocation from 15th October to 18th October, 2015 at Serena Hotel, Mombasa County, courtesy of Sen. Hassan. Please, mark your calendar. The travel dates will be 15th and return on 18th. All Members are encouraged to attend the retreat and contribute substantially in the discussions on the second criteria of revenue sharing. The Senate must be on the forefront in determining the fate of the counties and the parameters to be used in allocating national revenue to the counties. I hope that will be a fruitful occasion.

Thank you.

Sen. Orengo: On a point of order, Mr. Speaker, Sir. I have heard you say that we are going to Mombasa courtesy of a member of the Senate, but you did not make it clear. If it is the whole Senate then I do not have any problem with it, but if a member of the Senate or any member of the public is seen to be paying for the Senate to do its official business, it has many consequences about integrity and accountability. It is something

which must be totally frowned upon. Unless this matter is made very clear, some of us may not want to be party to that meeting.

When we were on a visit to Russia, we tried to give a gift - the normal gifts that we give - and the Deputy Minister for Interior refused to accept it. He said that it may be construed to be a bribe. We were completely embarrassed when Sen. Haji tried to give him the normal coffee that we usually carry. He said: "I am not going to accept that because it does not look right."

The Speaker (Hon. Ethuro): Sen. Orenge, I do appreciate the seriousness with which you take your responsibility and the responsibility of this House. However, I have every reason to believe that the interest of Sen. Omar is not mutually exclusive to yours. In most of the cases, it should be otherwise. I want to agree with you. As you know very well, no single Senator can afford the Senate. That is a fact. Look at our budget.

Secondly, I raised the matter of Sen. Omar when it came to the location. So, it was actually at Serena Hotel Mombasa. As you know, wherever we hold an event, we allow the Senator for that area to act like our host, including opportunities to give a few remarks. They must welcome us to the counties, it is in that spirit. Therefore, all the other things that you have said are perfectly in order and that is the way it should be.

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

The Speaker (Hon. Ethuro): Order Sen. Hassan, this has nothing to do with Mombasa County.

Proceed, Sen. Murungi.

Sen. Hassan: Mr. Speaker, Sir, as you have said, this diary is on phone. I went to diaries on my phone and found that we had been given a date from the Speaker's Office once again of another retreat by the Ministry of Devolution and Planning for the Committee on Legal Affairs and Human Rights and Committee of Devolved Government. I remember this retreat was postponed on the request of the Senate because we wanted to attend to the Parliament week which was scheduled on the 14th. I am asking the Office of the Clerk and the Office of the Speaker to have a master diary of all these retreats so that it does not appear to---

The Speaker (Hon. Ethuro): Order, Sen. Hassan! You do not have to clarify some of these things. You should not use valuable time of the plenary to deal with scheduling of Senate calendars. Until it has been announced from the Chair, treat the rest as rumours.

COMMUNICATION FROM THE CHAIR

SENATE SPEAKER'S ADDRESS TO PLENARY SITTING OF EALA ON 6TH OCTOBER, 2015

The Speaker (Hon. Ethuro): Hon. Senators, this is to bring to your attention that plenary sittings of the East African Legislative Assembly (EALA) will be held here in Nairobi from the 6th to 14th October, 2015. This will be the second meeting of the Fourth Session of the Third Assembly of EALA.

Hon. Senators, His Excellency the President of the Republic of Kenya, the hon. Uhuru Kenyatta CGH, has graciously requested your Speaker to address a Special Sitting of the Assembly on his behalf on Tuesday, 6th October, 2015 at 11.00 a.m.

This particular sitting will be held in the Senate Chamber. In this respect, I wish to invite all of you to this auspicious occasion.

We now resume to statements. Proceed, Sen. Murungi.

(Resumption of Statements)

COST OF FERTILIZER FOR TEA FARMERS

Sen. Murungi: Mr. Speaker, Sir, I rise to make a response to Sen.(Prof.) Lesan who requested the Chairman of the Senate Standing Committee on Agriculture, Livestock and Fisheries to respond to the following issues:-

(1) Whether the Government can give an assurance of availability of subsidized fertilizer to tea farmers.

The answer to this one is that the Government is not able to give assurance of availability of subsidized fertilizer to tea farmers as a result of budgetary constraints in the current financial year.

(2) The cost of a 50 kilogrammes bag of fertilizer in each of the tea growing zones is contained in an annex which is five pages long. I do not intend to read on the Floor of the Senate, but I will avail the same to my good friend, Sen. (Prof.) Lesan.

(3) The Senator wanted us to indicate the level of subsidy per 50 kilogrammes bag of fertilizer.

As I have indicated, whereas last year the Government was able to give a subsidy amounting to Kshs321.35 per 50 kilogramme bag of fertilizer to the farmers, this year, due to financial constraints, the Government is not able to provide similar or other subsidy. Therefore, the issue raised in number 3 does not arise.

(4) With regard to the role of Chai Trading Limited in importation, transportation and distribution of fertilizers; Chai Trading Company does warehousing of fertilizers when they are imported. It also manages the discharge of fertilizers from its warehouses and distribution to various factories. That is the only role that Chai Trading Company plays in handling of fertilizers.

(5) The levies charged by Chai Trading Company; Chai Trading Company runs a forwarding and clearing agency. The agency fees charged by Chai Trading Company, especially for 2013 was Kshs66 per tonne and Kshs69 per tonne in 2014. I do not have the figures for this financial year.

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

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

(6) Whether the Government is considering waving the cost of handling storage and other charges levied on fertilizers so as to ease the financial burden of farmers.

The response is that even if the levies are waived, it will only amount to 3 per cent because it will be the Railway Levy and IDF charge. This cannot make any significant changes in the cost of fertilizer. However, the Ministry is in discussion with the national Treasury to see whether 16 per cent Value Added Tax (VAT) on fertilizer could be waived because this would substantially reduce the cost of fertilizer to farmers.

I am sorry I was not able to give a copy of this response to Sen. (Prof.) Lesan because I got it yesterday. I will take the liberty to share a copy with him if he needs it.

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, on the onset, I wish to thank the Chair of the Committee on Agriculture, Livestock and Fisheries for the answer he has given. While I thank him, I want to say that I am really disappointed, more so on the fact that last year, as per the request by the farmers, there was a subsidy on the cost of fertilizer for tea irrespective of the economy of the country which had not changed much and the farmers had a subsidy of Kshs321. This subsidy made a significant contribution in the production of tea, in that the farmers were able to utilize and use more fertilizer than usual.

I am disappointed that the Government is not able to see that this is a very important thing despite the fact that there are several levies on tea. Although, occasionally we are told that these levies do not contribute much on the cost that goes to the farmer because there are many, I am aware that these levies which are charged on tea make a significant reduction in the earnings of the farmer.

Mr. Deputy Speaker, Sir, I still want to seek further clarification as to what the reasons, other than the economy, are. The tea itself is a great foreign exchange earner for this country and also contributes significantly to the economy of the country. I cannot see the reason why we cannot reimburse or put back some of these monies to enhance the earnings of tea.

Mr. Deputy Speaker, Sir, tea is the only plant in this country that finances research on the plant unlike all other crops. I know there is a significant amount of money that goes to Tea Research Foundation directly from the farmer. This kind of levies makes it justifiable that they should be a subsidy---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Lesan, you were seeking a clarification.

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, that is one clarification I wanted to make. However, I wanted to also seek a further clarification on the charges by the warehousing subsidiary called Chai Trading. I noticed there are charges indicated for 2013/2014, but there is no indication of the charges of 2015 which I think is also significant enough to impact on the pay for farmers. I still want to have a figure on the charges by the subsidiary company. Being a subsidiary company, I thought it is one of the companies that are financed and maintained by farmers and, therefore, there should not be charges levied by this subsidiary.

Mr. Deputy Speaker, Sir, I notice the Chairman has not read the whole statement which I know has a lot of information.

The Deputy Speaker (Sen. Kembi-Gitura): Have you read it yourself?

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, I have not read it, but I will have an opportunity to read and get back again. This answer is really expected by the farmers as the second payment. Currently, throughout the country, farmers have raised a lot of questions. Some of them touch on the answer which has been given by the Agriculture, Livestock and Fisheries Chairman. I would want to interrogate the statement and seek for more clarification on certain areas which are important to the farmers.

The Deputy Speaker (Sen. Kembi-Gitura): Are you requesting the Chairman to go and come back with a further Statement or you are asking for time to go and read the statement so that you can understand it better?

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, the Chairman has said that he has several copies of the statement which he has not read---

The Deputy Speaker (Sen. Kembi-Gitura): No! No! It is abnormal for us to defer an issue so that you can come back again if you are not satisfied with it. The trouble here is that you do not appear to have read the statement which means I do not know how you are seeking clarifications.

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, I was making a response on this as to what I have heard and read---

The Deputy Speaker (Sen. Kembi-Gitura): I want to assist you. We are dealing with a very sensitive area called tea. So, if you do not feel like you are fully satisfied with this issue or if you want time to go and read the statement, I would have expected you to ask for time to go and read it and come back another day. I do not understand what exactly you would like me to do for you.

Sen. (Prof.) Lesan: Mr. Deputy Speaker, Sir, let me make it clear. I actually have not read the statement and I would really want to go and read it again. I now ask that I come back to the House again and request the Chairman to---

The Deputy Speaker (Sen. Kembi-Gitura): Now that is the problem because already we have spent about 30 minutes on an issue that was going to be deferred anyway. If you had told me or the Speaker that you had not read the statement, maybe I would have looked at it differently and allowed you more time and asked Sen. Murungi to issue it at a different day.

Sen. Karaba: Mr. Deputy Speaker, Sir, I want to make some contribution towards the tea industry. I do not know what your ruling has been of late.

The Deputy Speaker (Sen. Kembi-Gitura): You can only seek a clarification. There is no debate. It is a statement that has been issued. Let me propose a way forward for this issue because we might spend a lot of time on an issue that we are not going to finish. I am surprised that Sen. (Prof.) Lesan agreed to stand on his feet and seek clarification on a statement that he had not read and which he says was not even read in full by the Chairman of the Committee. This means that he cannot be clear in his mind. I would suggest that this statement be furnished to Sen. (Prof.) Lesan and any Senator who also wants to have a copy of it like Sen. Karaba. You should get it from the dispatch office so that we can have sufficient ground on which to interrogate. Otherwise, we will be spending time for nothing.

Sen Murungi, may I request that you are not going to issue the statement again. However, if it is on Tuesday or whatever other day next week, I will grant leave for Sen. (Prof.) Lesan to interrogate it. Tuesday does not look convenient, may be Wednesday or Thursday.

Sen. Murungi: Mr. Deputy Speaker, Sir, I will be ready on Tuesday.

The Deputy Speaker (Sen. Kembi-Gitura): Tuesday we have the Joint Sitting, let us do it on Wednesday. Thank you Chairman. I think that satisfies you Sen. Okongo also.

Sen. Okongo: Mr. Deputy Speaker, Sir, I am satisfied.

The Deputy Speaker (Sen. Kembi-Gitura): Good. Is there any other statement being issued? Sen. Khaniri yours is on the Sessional Committee on Devolved Government?

Sen. Khaniri: Yes, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): I thought Sen. Lesuuda was here.

Sen. Khaniri: Indeed, Mr. Deputy Speaker, Sir, she was here.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Okongo, you were also expecting a statement from the Chairman. Sen. Adan, are you ready?

DETENTION OF DON BOSCO OOGA GICHANA
IN ARUSHA, TANZANIA

Sen. Adan: No, Mr. Deputy Speaker, Sir. We are still following up on this statement. I would request Sen. Okongo to give us till Wednesday, next week. We will try and have it in the House.

The Deputy Speaker (Sen. Kembi-Gitura): Had you indicated to him that you might not be able to issue the statement?

Sen. Adan: No, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): That will be the conscious thing to do so that he does not sit here expecting to get it and it is not forthcoming.

Sen. Adan: Mr. Deputy Speaker, Sir, I have mentioned to him that I do not have it. It is only that we wanted to have it on record that we will deliver it next week.

Sen. Ong'era: On a point of order. Mr. Deputy Speaker, Sir. It is unacceptable that we do not have a statement with regard to the question that Sen. Okongo asked on the case of Don Bosco. This is a young man who was incarcerated over two and a half years ago, as I speak now, in Tanzania, without any complainant being raised. It is a serious matter. This young man has a family that has been suffering without having the benefits of having a bread winner. He is a young man who had great businesses in this country which have been disrupted. Therefore, I find it unacceptable because he comes from my Kisii County. Up to now, two and a half years later, no action has been taken and the way in which we are getting the reply, with due respect to my sister, the Deputy Chair of this Committee, I find that that answer extremely unacceptable.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Okongo, are you satisfied with the explanation by Sen. Adan?

Sen. Okongo: Not really, Mr. Deputy Speaker, Sir. As my colleague, Sen. Ong'era has mentioned, at least, they could come with something. Not just to say that it is not ready. It means they have not even communicated with the relevant Ministry. Reluctantly, I would ask the Chair to take this matter seriously and we expect a very substantive and elaborate answer on this. As Sen. Ong'era has mentioned, this is a very serious issue. The family of the businessman is suffering and he is a Kenyan. If the Government of Kenya cannot protect her citizen who is incarcerated in a friendly country, who will then?

I oblige.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. Okongo. I wanted to know that you have accepted that it be deferred to next week. So it will be on Wednesday, you said so Sen. Adan?

Sen. Adan: Yes, Mr. Deputy Speaker, Sir, but let me inform Sen. Mong'are that we discussed this matter even yesterday in our Committee meeting. We really urged the clerk to follow it up with the relevant Ministry. So, by next week, we will have an answer for him.

The Deputy Speaker (Sen. Kembi-Gitura): That is encouraging. We will have the Statement on Wednesday next week.

(Statement deferred)

DETERIORATION OF STANDARDS IN THE
MEDICAL PROFESSION

Sen. Wangari: Mr. Deputy Speaker, Sir, on 17th September, 2015, I requested for a Statement from the Chairperson of the Standing Committee on Health on the deteriorating medical care standards with specific reference to quack doctors, as listed in Appendix (g). I was promised that the Statement will be delivered today.

The Deputy Speaker (Sen. Kembi-Gitura): Is anybody here from the Committee on Health? Sen. (Dr.) Machage?

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, we will consider it in two weeks.

The Deputy Speaker (Sen. Kembi-Gitura): I did not hear you.

Sen. (Dr.) Machage: Maybe I did not hear exactly what she said.

The Deputy Speaker (Sen. Kembi-Gitura): If you look at your Order Paper, we are considering the final item “g,” under Statements. There was a Statement to be given on quack doctors.

Sen. (Dr.) Machage: That is exactly what I answered. We will bring the answer in two weeks time.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Wangari is not seeking a Statement for the first time. It was due today and she is wondering why it has not been delivered. I was asking whether you can shed any light, but, obviously, you cannot.

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, it is not ready today. I require another two weeks.

Sen. Wangari: On a point of order, Mr. Deputy Speaker, Sir. It is quite unfortunate that the Senator is actually answering in a very casual manner. This Statement has been pending for two weeks. I got an SMS today from the Clerk’s Office informing me that this Statement is ready. I still do not know why it was sent to me, because that is not normally the procedure. But most important, that request for the Statement had very urgent issues. It had the issue of the children who had died in Elgeyo-Marakwet out of a measles jab and they have already been buried. It also had the case of the quack doctor, Mugo Wairimu, that is ongoing. We needed to get an update. There are very many issues surrounding the quack doctors. This Statement actually needs to be prioritized by the Committee.

The Deputy Speaker (Sen. Kembi-Gitura): I am directing that the Statement be issued next week on Wednesday because of the Joint Sitting on Tuesday. Sen. Machage, I asked you for an indication and I suspect you had not quite seen the Statement sought. You might not be fully seized of the issue. I, therefore, request that the Statement be given on Wednesday, 7th October, 2015, during Statements time. Is that okay?

Sen. Wangari: On a point of order, Mr. Deputy Speaker, Sir. I was hoping that the Statement would be issued today, but I want to also excuse myself because I will not be in next week. I request that you direct that the Statement be brought to the Floor on Tuesday of the following week.

The Deputy Speaker (Sen. Kembi-Gitura): Then it cannot be as urgent as you made it appear. If it was urgent, you would have let it be given anyway because it is the property of the House.

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, you appreciate that I was standing in for the Chair and Vice-Chair. I may not have been privy to the discussions between Sen. Wangari and the Clerk's Office. Therefore, I am not sure whether the Statement will be ready on Wednesday, as you have ordered, but I will try, knowing that I have no other information. As you may know, the Chairperson is sick and the Vice-Chairperson is out of the country. So, I am being given a herculean task to look for this information. Give me at least two weeks.

The Deputy Speaker (Sen. Kembi-Gitura): It does not appear urgent anymore. In any case, Sen. Wangari will not be here. So, it will be delivered when it is next on the Order Paper.

What is your point of order, Sen. Karaba?

FUNDING FOR SPECIAL NEEDS SCHOOLS

Sen. Karaba: Mr. Deputy Speaker, Sir, I am seeking your direction on the issue which is contained in the Order Paper, that concerns me, as the Chairperson of the Committee on Education. I have just seen it. I had not been asked by anybody to issue the Statement. What do we do in this case?

The Deputy Speaker (Sen. Kembi-Gitura): Which case, Sen. Karaba?

Sen. Karaba: Item (c) under Statements in the Order Paper.

The Deputy Speaker (Sen. Kembi-Gitura): What do you mean when you say that you have just seen it?

Sen. Karaba: It had not been requested by anybody. I have just seen it in the Order Paper?

The Deputy Speaker (Sen. Kembi-Gitura): What do you mean? Sen. Mukiite sought a Statement from your Committee.

Sen. Karaba: When was that?

(Laughter)

The Deputy Speaker (Sen. Kembi-Gitura): How would I know? It is supposed to be given today.

Sen. Karaba: I have been here all the time and would have heard about it.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Karaba. What you need to do, in my considered opinion, is to consult with the Clerk's Office and the HANSARD, because it is unlikely that a Statement would be slotted in the Order Paper if it had not been sought. It would be fairer for you to say that you are not aware of it but you cannot say that it was not sought. I advise you to liaise with the Clerk's Office; you might get some way forward.

(Statement deferred)

Sen. Lesuada, you have a Statement to issue.

CAPACITY BUILDING FOR COUNTY OFFICIALS WHO
PERFORM SECURITY AND ENFORCEMENT SERVICES

Sen. Lesuuda: Mr. Deputy Speaker, Sir, the Committee has today received the response to the Statement that Sen. Khaniri sought, with regard to the operations and terms and conditions of service for county security and enforcement officials and what the national Government and county governments are doing to ensure that there is uniform training platform for them.

After receiving the response from the Cabinet Secretary for the Ministry of Interior and Coordination of National Government, we felt, as a Committee, that he only responded to the first question. He said that so far there are no standards which are operational. We felt that he did not dwell on the other questions that sought what the national Government and county governments are doing. I did communicate to Sen. Khaniri, that as a Committee, we will deliberate on the issue and write back to the Cabinet Secretary, so that we can get a proper response to the questions that he raised.

Sen. Khaniri: Mr. Deputy Speaker, Sir, indeed, I agree with the Chairperson that we have shared the answer and it is totally unsatisfactory. I want to appreciate the decision by the Committee to write back for a proper answer. But I also want to bring to her attention that the Chair has accepted the practice of Members riding on other Members' Statements, to ask further questions. When this issue came, it generated a lot of debate. So many Members rode on the Statement and requested for further clarifications. So, as they consider that, I would encourage the Committee to look at the HANSARD so that they can capture all the issues that were raised by other Senators.

The Deputy Speaker (Sen. Kembi-Gitura): You should actually not encourage the Committee. It is duty-bound to ask for the HANSARD, see exactly what transpired in the House and deal with all the issues that were raised. This is because once the Speaker allows the other Senators to ride on a Statement sought, then that becomes part of the Statement that is sought and those issues must be dealt with. So, that is something that has to be done.

Sen. Ong'era, do you have a point of order?

Sen. Ong'era: Thank you, Mr. Deputy Speaker, Sir, for that wise ruling. I actually rode on this Statement and the questions I had asked have not been exhaustively answered in the shoddy Statement that the Cabinet Secretary---

The Deputy Speaker (Sen. Kembi-Gitura): I will not allow you to use the word "shoddy" because the Statement is not yet on the Floor of the House.

Sen. Ong'era: Mr. Deputy Speaker, Sir, I withdraw that word and state that the answer that has been given does not meet the threshold.

The Deputy Speaker (Sen. Kembi-Gitura): We have agreed on that and that is why Sen. Lesuuda has sought more time, so that she can take it up before the Committee and come up with a more comprehensive answer.

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

Sen. Karaba: On a point of order, Mr. Deputy Speaker, Sir. I wish to draw your attention to a ruling that you made at the beginning of this week; that when we have visitors in the Public Gallery you might not be aware of their presence. We have students seated in the Public Gallery, and I am not sure whether you have been informed about it. Could they be recognized before they leave?

The Deputy Speaker (Sen. Kembi-Gitura): I think you may have been in the House yesterday or watched the proceedings when this issue came up. Sen. Orengo correctly summed up the issue; that when there are visitors in the Public Gallery, unless, there is a special interest and the Speaker is informed about it, it is not a requirement that the Speaker must recognize them. But we do it out of courtesy, particularly when they are students because that they come here to learn. You may need to look at yesterday's HANSARD because the matter was canvassed at great length and concluded, in my opinion, on the point which was made by Sen. Orengo. There is a way that things are done. If I am informed by the Clerk's Office, I will do what is necessary. But from where you are sitting, you do not even have any details at all about who is in the Gallery.

Sen. Lesuuda: Mr. Deputy Speaker, Sir, I just wanted to add that Sen. Ong'era, being a Member of the Committee, I hope that she will also input to the riders and other issues, so that we can have a comprehensive Statement. So that we are sure that the Statement will be ready, I request for two weeks.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Khaniri is not here. I will grant you two weeks. That is the end of Statements.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, the Bills under Order Nos.8 and 9 were up for Division yesterday. The Division Bell was rung but we did not make a threshold for voting. Quite obviously, today, we are nowhere near the threshold. So, I will defer Order Nos.8 and 9.

BILLS

Second Reading

THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE)
BILL (SENATE BILL NO.35 OF 2014)

(Sen. Mutula Kilonzo Jnr. on 22.9.2015)

(Resumption of Debate interrupted on 22.9.2015)

(Bill deferred)

Second Reading

THE OFFICE OF THE COUNTY PRINTER BILL
(SENATE BILL NO.42 OF 2014)

(Sen. Sang on 22.9.2015)

(Resumption of Debate interrupted on 23.9.2015)

(Bill deferred)

COMMUNICATION FROM THE CHAIRVISITING DELEGATION OF TEACHERS AND STUDENTS FROM
CHEPKITONY PRIMARY SCHOOL, ELGEYO-MARAKWET COUNTY

The Deputy Speaker (Sen. Kembi-Gitura): I wish to give a short Communication and not because Sen. Karaba intervened. I wish to recognize the presence of pupils and teachers from Chepkitony Primary School in Elgeyo-Marakwet, seated in the Public Gallery, who are visiting the Senate today.

As you all know, the tradition of receiving and welcoming visitors to Parliament is a long time tradition and one which we shall endeavor to continue upholding. On behalf of the Senate and my own behalf, I extend a warm welcome to the teachers and pupils of Chepkitony Primary School and wish them a good learning experience here in the Senate today. I also wish to mention to them that in normal circumstances, their Senators would be here and I would have allowed him to say a word or two. Sen. Murkomen is out of the country on official duty and that is the reason he is not in the House this afternoon.

Once again, I wish to extend to you a very warm welcome to the Senate this afternoon.

(Applause)

Sen. Billow, you had a point of order?

Sen. Billow: On a point of order, Mr. Deputy Speaker, Sir. On behalf of my colleague who is out of the country and our behalf, I want to welcome these students, particularly the primary schools who do not always get the opportunity to visit Parliament. This is their Parliament, this is their institution and it is important they understand that this is the foundation of democracy. These are institutions which hold Government and they are welcome at any time. Hopefully, their arrival and visit to this place is going to be, as you said, a learning experience.

Thank you very much.

Sen. Lesuuda: Mr. Deputy Speaker, Sir, I also want to add my voice in welcoming the students of Chepkitony Primary School. They happen to come from a county where I went for my secondary school education. I want to welcome them and advise them to take this as a learning experience. They should know that this is their institution which is working to serve their interests. We look forward to them working hard so that they can also one day sit in this Chamber.

Sen. Ong'era: Mr. Deputy Speaker, Sir, may I also take this opportunity on behalf of the Opposition to welcome the students---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Ong'era, you know that in this House, we have the Majority and the Minority.

Sen. Ong'era: On behalf of the Minority, I want to welcome the students of Chepkitony Primary School from Elgeyo-Marakwet County. They are most welcome to learn the functions of Parliament particularly the Senate, which as we are all aware under Article 96 of the Constitution, our function is to protect the interests of county governments and the counties themselves. I want to tell the young students that it is unfortunate that their son, who is the Senator for Elgeyo-Marakwet is not here but, nevertheless, he is a distinguished Senator and an illustrious son of Elgeyo-Marakwet; a flamboyant and eloquent speaker in this House. I hope that these students can rise up one day to be like the distinguished Senator of Elgeyo-Marakwet.

The Deputy Speaker (Sen. Kembi-Gitura): Finally, the Chairman of the Committee on Education, Sen. Karaba.

Sen. Karaba: Thank you very much, Mr. Deputy Speaker, Sir, for allowing me to appreciate the presence of students from Elgeyo-Marakwet. I know it is a long distance to Nairobi. They must have had a purpose to come to the Senate. For them to choose to come to this House is a great moment. I wish them the best of luck and moreso, I wish them success in their forthcoming exams.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Melly, you may now move your Motion.

Sen. Melly: Mr. Deputy Speaker, Sir, thank you for giving me an opportunity to move this important Motion.

MOTIONS

OUTSTANDING PERFORMANCE OF KENYAN ATHLETIC TEAMS

Sen. Melly: Mr. Deputy Speaker, Sir, I beg to move:-

THAT, WHEREAS Kenya is traditionally known for its outstanding performance in athletics especially in middle and long distance running;

AND WHEREAS athletics is part of Brand Kenya efforts and has immensely contributed to marketing the country abroad;

APPRECIATING that the Kenyan athletes are good ambassadors and have greatly improved the image of the country;

FURTHER APPRECIATING the performance of the team that participated in the recently concluded 2015 IAAF Championships in Beijing, China and were ranked number one overall out of the 32 countries that participated;

NOTING the sterling performance that yielded winning a total of sixteen medals of which seven were gold, six silver and three bronze;

RECOGNIZING that the country won a gold medal in the elusive 400 metres hurdles which has not been our specialty and a gold medal in the field event of javelin;

ALSO APPRECIATING the Sterling performance of our sportsmen and sports women who participated in the just concluded All African Games in Congo Brazzaville where they won a total of twelve medals of which three were gold,

five silver and four bronze and finished in position nine out of thirty seven countries that participated;

COGNIZANT that such outstanding performances will inspire and spur upcoming athletes and generally boost the Kenyan spirit;

The Senate—

1. records its commendation to the Kenyan teams for the sterling performance at the IAAF World Championships in Beijing, China and the All African Games in Congo Brazzaville;

2. calls upon the National Government to recognize and honour the teams with appropriate awards; and,

3. resolves that this Resolution of the Senate with the HANSARD Report on the deliberations on this Motion be forwarded to our athletes and sportsmen/sportswomen who participated in the respective events.

(By leave of the Senate)

Mr. Deputy Speaker, Sir, all of us are aware of the wonderful performance exhibited by our teams in Beijing and in the all Africa Games in Congo Brazzaville. If there is any culture that has prevailed for decades and marketed the country, it is sports. As a country, we are well respected internationally---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senator. Just one minute. Just for the record and for the benefit of Members, when the Notice of Motion was given earlier in the afternoon, the Speaker emphasized that it was by leave of the Senate and that is what appears on the Order Paper. It is good that all of you are acquainted with the Standing Orders. It was given by leave of Senate and it is assumed under Standing Order No.2(1)(a). For the record, we are proceedings procedurally and there is no breach of the Standing Orders.

Sen. Melly, you may proceed.

Sen. Melly: Thank you for that clarification.

Mr. Deputy Speaker, Sir, I was saying that as a country, we are well respected internationally because of our sportsmen and sportswomen. They are our nation's pride. We owe them because they are selfless and have put our country high in the community of sporting nations. They are indeed our ambassadors. The importance of sports in Kenya cannot be overstated. The sector has created thousands of jobs for many people who would otherwise be jobless today. They are engaged in a more meaningful way of nation building. Apart from that, sports has brought us together as a country and encouraged cohesion in line with our national anthem.

Our various sporting teams have done very well in the recent past. For instance, a women's volleyball team, popularly known as Malkia Strikers are the current continental title holders. I wish also to make it clear to Members that the team that represented Kenya in Congo Brazzaville in All Africa Games in women's volleyball is actually our second team. As we talk today, that team is the holder of the title in volleyball in All Africa Games.

Our rugby Sevens Team is ranked No.7 in the world and second in Africa in the IRB series. Our athletics team which participated in Beijing IAAF championships emerged No.1 winning a total of 16 medals of which seven were gold, six silver and three

bronze. Our athletics team that participated in All Africa Games in Congo Brazzaville, as captured in my Motion, did us proud by winning a total of 12 medals of which three were gold medals, five silver medals and four bronze medals. They finished in position nine out of the 37 countries which participated.

Mr. Deputy Speaker, Sir, such performances by our athletes are indeed commendable and deserve an honour. However, we must be aware of the existing challenges especially poor funding and management of sports associations. These challenges are barring our sports teams from achieving greatness. Such challenges have led to the dwindling Kenyan fortunes as a cricket powerhouse. They have also thrown our boxing sport into almost oblivion and reduced our great Harambee Stars to mere participants in regional and continental tournaments.

Apart from the underfunding of sports activities and wrangling in sports associations, our sports persons are faced with numerous other challenges including:-

1. double taxation from source and by our Government including taxation on sports equipment bought by our athletics for training;

2. inadequate training facilities; most of our stadia have remained in bad conditions apart from the Safaricom International Stadium in Kasarani and Nyayo National Stadium. Even then, these stadia are poorly equipped to meet the needs of our sports persons. This is not acceptable if we want to continue being a sporting nation.

The high altitude training camps in Iten, many of which have been set up by athletes themselves, remain the only notable training facilities that have even attracted elite athletes from all over the world including Moore Flora and Paula Radcliffe. To encourage many of such investments, we, as legislatures, should consider reviewing the tax regime in favour of our athletes.

Mr. Deputy Speaker, Sir, the other challenge is lack of mentorship and guidance in finance. You all must be aware that nowadays sports pay very well. We have seen a number of athletes losing their careers as a result of poor investment decisions or lifestyles resulting from sudden improvement of their financial status due to excellence in their sporting disciplines. A good case in point is the former cricket player, Maurice Odumbe, whose career nose-dived as fast as it had taken off due to lack of guidance and mentorship. Most recently, our marathon great, Samuel Wanjiru, despite doing his best to invest and safeguard his future, his lifestyle and success became a major impediment to his further progress. May God rest his soul in eternal peace.

There are many other examples that could be cited including the fate of Congestina Achieng that you all know very well. We must make amends and set up structures to prevent our athletes from being consumed by their own success.

Sen. Ong'era: On a point of order, Mr. Deputy Speaker, Sir. I do not wish to interrupt the distinguished Senator from Uasin Gishu, but did you notice that the distinguished Sen. Melly is actually reading his speech instead of moving the Motion. Is he in order?

The Deputy Speaker (Sen. Kembi-Gitura): You are referring to Standing Order No.84(1)?

Sen. Ong'era: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Melly, technically, you are not supposed to read a speech. That is what the Standing Orders say. That is Standing Order No.84(1) but 84(2) also gives me the discretion--- The Speaker may allow a Senator to

read a speech in particular cases when he is satisfied that this is necessary for precision in statement of facts. I have that window and I am going to utilize it. Just for precision, it is my discretion under Standing Order No.84(2), but try to be as precise as possible. I am allowing you that only in the parameters of Standing Order No.84(2) – for precision.

The point raised by Sen. Ong'era is important if you read the rules of debate in our Standing Orders.

Sen. Melly: Thank you and I take your point, Senator. The reason why I keep on referring is that there are some details---

The Deputy Speaker (Sen. Kembi-Gitura): I have allowed you.

Sen. Melly: Thank you for allowing me.

I wanted to point out the issue of doping as one of the challenges affecting our athletes. Lately, some of our athletes have been banned from participating in various sports due to doping. It is a sad state of affairs as such cases impact heavily on sports careers. Stringent measures must be put in place to ensure that our sports persons are not misled by their managers. Those found to have compelled them to use banned substances should be banned from managing our athletes.

I also call upon the sports associations and Federations of this country to align their constitutions with the country's new Constitution. That way, sub-county and national levels can be actively involved in competitions and choosing their leaders in accordance with the Sports Act 2013. Sportsmen and women should have the upper hand in leadership and election of their respective Federations.

Mr. Deputy Speaker, Sir, we have seen a number of our athletes suffer in their retirement. We are all aware of the difficulties that sports people such as veteran footballers, Joe Kadenge and James Siang'a and many others, are facing financially or otherwise. It would be a great betrayal to our sportsmen and women, if we forget them and let them suffer despite bringing this country overwhelming pride. The Government should consider setting up a fund for our heroes and heroines to benefit from during their retirement.

I think it is evident to all of us on exactly what our athletes have done for this country. Kenyans are happy every time that they see a gold, silver and even bronze medalist. The reason is that these athletes have demonstrated the spirit of patriotism that they are Kenyans and not coming from specific tribes of this country. The unity of our country has been demonstrated very well whenever our athletes win medals in championships within and outside the country.

As I conclude, let me echo these words, "Unless we have leadership in this country, the department of our sportsmen and sportswomen may not prevail in the coming years."

Mr. Deputy Speaker, Sir, unless there is a strategy starting from the leadership of the Ministry, different Federations under sports; football, athletics and ball games, we must see that as realistic. I think as the Senate, we have what it takes to follow up on that and ensure that we regain our lost glory in terms of all the sports.

I beg to move and request my friend, Sen. Okong'o, to second.

Sen. Okong'o: Thank you, Mr. Deputy Speaker, Sir. From the outset, let me take this opportunity to thank the youthful Senator, who also doubles as the Captain for the Senate for bringing this Motion to congratulate our athletes who really did Kenya proud

in the last International Association of Athletics Federations (IAAF) championships, and in the just concluded All Africa Games in Congo Brazzaville.

Since Independence, Kenya has been a powerhouse in all events specifically athletics, which we have been known for from the times of Kipchoge Keino, Nyandika Maiyoro and others. The Mover of the Motion has mentioned challenges bedeviling these sportsmen and women. He has spoken of challenges whereby we glorify these athletes when they have won medals. However, back home, huge taxes are imposed on them on training kits, their investments and winning prices.

Mr. Deputy Speaker, Sir, I have been a consultant and a coach in the athletics field for over ten years; I have nurtured a number of talents. The challenge of the present and past governments is that when an athlete is running abroad, he has an agent who takes taxes on the athlete. When this youngman or woman comes to Kenya, taxes are also imposed by the mother country which has no facilities. What are these taxes for if the Government cannot give incentives to these young talents? Some of these athletes sometimes drop out of school because of either poverty or lack of support from Government. So, the only field and way to sacrifice their lives to make a living is through athletics.

When Kenyans hear an athlete has won a race and received US\$100,000, they think that this is something which was won in a day. If our media could go behind the scenes to see how many hours these athletes put in training and the kind of diet that they feed on, it is terrible. However, these men and women make us proud. When you see the national flag raised in China or wherever else, all Kenyans from all walks of life stand up to cheer these athletes. They bring solidarity and a sense of nationalism which fails and fades as some of these athletes fall into vagaries and challenges of life; like quick money, drugs and beer.

As we recognise other talents, we also need to work on a framework. I am told that The Sports Act 2013 is in place and it has a number of ways of achieving Vision 2030 in terms of infrastructural development to assist these athletes. For instance, in Nairobi County, pupils and students in schools do not have playgrounds. There are now big game parks and all the land has been grabbed. It is important that we stand and fight for the rights of these athletes so that they can know what is beneficial for them and the country as a whole.

Mr. Deputy Speaker, Sir, the budgetary allocation in the Ministry of Sports, Culture and Arts, it is a meagre amount. When we debated the budgetary allocation here, we realised that the National Assembly hid some money for the Committee on the Finance, Planning and Trade. An amount of Kshs10 billion was hidden to be used by Members of those budgetary committees, whereas such kind of money can be put to good use---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senator! I would not like you to go against our Standing Orders. Unless you have very good facts, I cannot allow you to impute what would appear to be an improper motive on our sister House.

Sen. Okong'o: Mr. Deputy Speaker, Sir, as we debate the level of allocation – we are glad that we have the Chairperson of the Committee on Finance Commerce and Budge there – there are some allocations which were not well explained. However, I stand guided and I withdraw that remark.

Let me now delve into the main course of seconding the Motion. Further, in terms of structural development, now that counties have a lot of money, as the Senate whose role is to defend devolution, we need to make sure that governors create facilities. I can see that around counties, most governors have put a lot of resources in building stadia. Let county assemblies also pass Motions, either from the National Assembly or the Senate, so that we can even immortalize some of these athletes who make this country proud, by naming schools and roads after them. I see some roads whose names do not have any meaning. This is the only way that we can honour our athletes.

As the Mover said, it is also important that the national Government works on a framework of honouring these athletes. It should not just be a token of going to State House to have a cup of tea and it ends there. It has to go further than that. We need to have a hall of fame like other countries in the world where our renowned athletes and footballers can be recognized. If we have such an arrangement we can make a difference and the whole world can understand that we recognize our athletes. When you go to Europe, if you are a man or woman with a physique like mine, the first question you will be asked is whether you are from Kenya and whether you are an athlete. That is a very important tourism aspect which the Ministry of East Africa Affairs, Commerce and Tourism, can capture and use as model of attracting tourists to this country.

Mr. Deputy Speaker, Sir, before I conclude, I have to thank the Ministry for the arrangements they made to receive the young men and women who made us proud. I thank the media houses of this country because they televised live the arrival of our athletes. I also thank the Deputy President who took his time to host them at his residence. I hope that can be reflected in terms of making policies to assist the athletes so that even the generations to come will see some of our roads named after athletes.

The Government is bidding to host functions of the world. Therefore, if we say that this is the sports hub of the region, it can give us an opportunity to host world sports events. According to the official Government website, the sports sector has three development projects; the construction of third division sports stadia countrywide, the establishment of sports lottery fund and an international sports academy. They go on further to say that they will improve works of renovation which will include laying running tarmac which is already underway in Kipchoge Keino Stadium in Eldoret, Moi Stadium in Kisumu and many others. There is also reason to be optimistic. The cities of Mombasa, Kisumu and Eldoret are all due to be international sports arenas of international standards. As for the establishment of sports, it is still in the planning stage and we hope that it will be fast tracked.

Mr. Deputy Speaker, Sir, according to the FIFA, World Cup and Olympics plans; they are talking about the probable venues and even considering Kenya, which is a good thing for the country. I hope that most of the young men and women, especially the self-trained ones, will be recognized by the Government. Recently, we saw a self-trained man who trained on *You Tube* winning a gold medal. Therefore, if we have many incentives by the Government, we will go far.

With those few remarks, I beg to second.

(Question proposed)

Sen. Billow: Mr. Deputy Speaker, Sir, I rise to support this Motion because it is significant and worthwhile. It draws our attention to a very important sector of our society that is hardly recognized, except when we see the performance on television. As the Mover said, this country is literally the leader in athletics. It also leads continentally in volleyball and rugby. In the past, Kenya used to be a well known name in the boxing arena in the continent.

All these achievements clearly brand this country more than what the Brand Kenya board does as well as other institutions which get a lot of funds to go out there and market our country. In fact, the little sports that person who runs, gets a medal and appears globally being watched by millions of people brings fame. That is the name that people remember when you go out there. When Kenya is mentioned in the furthest corner of this world, the thing that even a rural person in China or Japan remembers is the people who run.

Mr. Deputy Speaker, Sir, it is very important that in addition to the glory of the name and the branding, sporting is an event that means that ultimately, Kenya can actually have international championships held in this country because of the fact that we are global leaders. That is what happens in soccer and all the other sports. I remember that there was a time when this country was bidding to hold All Africa Games, but I think that we can now bid international because that will bring in resources, investors and many other things that are tied to an international sports event in which countries spend hundreds of millions of dollars to lobby to get the opportunity to host such kind of events.

I also agree with the challenges that the Mover mentioned. We all know that one does not need to go to school. There are serious challenges in the sporting industry in this country. The most significant being the lack of proper leadership and management. The names we heard when we were in school running football and athletic are still the same people that we see today. Actually, if one does not achieve or perform elsewhere, even when one leaves this House, is to go and run for one of the sporting associations; athletics, football, boxing and or any other. That is the reason there are always wrangles in football, cricket, and literally many of the sports association. This is due to lack of leadership and management.

Some of the challenges we have faced include problems with regards to payment of the sports persons. We have witnessed instances when sportsmen and women are detained in hotels due to lack of payment. They cannot fly because whoever was supposed to procure the tickets diverted that money. Corruption is a major problem in our sports industry. This has got a de-motivating effect on not only the existing but also on the potential sportsmen. It is a cancer that we have been reading about it yet sports is such a big industry. Some of the wealthiest football clubs in the United Kingdom like Real Madrid, Manchester United and others, their wealth is equivalent to the entire Gross Domestic Products (GDP) of many of the countries in Africa. Imagine the money those people control. Their budgets run into billions of dollars and this is what sports is. It is not just a philanthropic exercise but a business and it requires professional management.

This is why without professional management and leadership, we will not be able to get it. That is why it is important that the Government is there to inject that professionalism, order, direction and control in sports. Unfortunately, we have not succeeded. In all our successive governments, we have let our sports industry to perform poorly because of poor management and not the lack of talent.

For example, the athletes, we all know that 90 per cent of them come from the Kalenjin Community. If you ask, forget about the rest of the world, most of us in this House to name three sportsmen who won 16 medals that we got in the International Association of Athletics Federations (IAAF), none of the Senators will name even three of those athletes. Many people do not know who Yego, Rudisha and others are. It is amazing yet these are the internationally recognised brand names. They are people who have performed in the glory of their profession. This is the challenge where the Government must come in because it is sleeping on its job in that area. Bring out those people nationally.

When President Obama of the United States of America (USA) came to Kenya, people printed T-shirts and every manner of material in the name of Obama in Mandera, Kisumu *na kila mahali* and sold them. Those are professional items that we should do to promote the identity and the leadership of these athletes and you can do so if the challenges they have can be addressed, for example, on taxation. If the Government deliberately encourages those who manufacture things in the name of those performers, they get a tax waiver; you will see all those things. We have people who won international athletics globally and when they are landing at the Jomo Kenyatta International Airport, there is not a single T-shirt in the name of Yego nor a single poster in the name of Mr. Rudisha or any of those guys who won those medals. It is a shame. We have relegated athletics to a sport for the Kalenjin Community, a sport for Rift Valley community, *hakuna mtu mwingine anashughulika*. Sorry I spoke in Kiswahili.

The Deputy Speaker (Sen. Kembi-Gitura): I must remind you the rules of debate. You either choose to speak in English or Kiswahili and you have chosen English and you proceed in that line.

Sen. Billow: My apologies, Mr. Deputy Speaker, Sir. I apologise and I will continue in English.

It is important that we bring out this sport to the rest of the country so that this nation feels this is athletics for Kenya and those people are Kenyans, they need to be taken to Mandera, they need to be flown by the Government to Mombasa, they need to be paraded in those trucks to Nairobi so that people can know these are the people who are doing us proud in this country and globally. The Government needs to do that, not to lift them from the Jomo Kenyatta International Airport and rush them to Eldoret. I do not think that is good because when you travel out of this country, you will be asked about the athletes and who won the javelin medal and you do not know the name.

It is important that as a nation, we promote them by waiving double taxation that the Mover talked about. Why do you tax a person who has brought glory to this nation? The Government can waive tax for them. It is not something earned every day. He gets some little allowance and he can go and invest that money in his training and family so that he can concentrate in that activity. Even if you want to tax it, reduce it significantly but where this athlete is already taxed in another country, for heaven's sake, do not tax him again. It does not help. It is a disincentive and one of the things that discourages these sportsmen.

Mr. Deputy, Speaker, Sir, the state of the training facilities has been mentioned. If you go to one of our stadia across this country, I watched on television the famous Kipchoge Keino Stadium a few years ago - may be it has been renovated - that stadium was in a dilapidated condition. It is a disaster yet the name of that person is

known nationally and globally but the stadium named after him is in total disrepair yet international sportsmen are coming to train in them. A few months ago, the British sprinter, Mo Farah, was spotted in the midday in Uasin Gishu, Eldoret, training. There are many who come there because of the altitude yet we do not even invest nor have a system of taking advantage of those facilities and encouraging the sports industry the Mover mentioned.

In any industry, you maximize on your competitive and distinctive advantage. In this country, it is known we do not perform very well in soccer, for example, but we perform well in athletics. Why do we not put in more resources, time, effort and investments into athletics so that we become the global leader in that? You do not go into ten different activities but your maximum competitive advantage is actually in one area. In this country, we have clearly shown we have distinctive advantage in volley ball. In athletics and rugby, we are leaders. If this country invests in those three, and we leave out our soccer or cricket and others which we do not go out of this region, we will be leading in this world. As a Government, there has to be deliberate strategies and focus and there is no nation which can do everything at once when you do not have the capacity.

Lastly, I want the Government to incentivize people who are talented in athletics and other sporting professions. We have mentioned the tax relief, it is very important. The money that you are rewarded when you go to Berlin, Tokyo or Boston or wherever, the Government must clearly, and I think the relevant Ministry must push with the Kenya Revenue Authority (KRA) to give them a tax relief from the little money that they get.

On the honours and awards that are given nationally, this Government give awards to chiefs, Deputy County Commissioners - forget about Members of Parliament, they do not even get it - what about the people who run? The people who have given this country the name are the ones who should get the Elder of the Burning Spear (EBS), Chief of the Order of the Burning Spear (CBS), Elder of Golden Heart (EGH) and others but when you appoint Sen. Hassan today as the Cabinet Secretary, tomorrow morning, the first thing they give him is CBS, EGH or any other just because he has been appointed the Principal Secretary (PS), Cabinet Secretary (CS) or a Government officer or to any position but when you are performing and you have set an international record, you do not even get the commendation some times.

It is important that we have a very effective award system of honours so that the legend of these people can live even after they have gone. Names after roads, streets and other buildings are some things that should be considered. Why do we not see Kipchoge Keino Road but you see roads of other people? It is important that the point should be considered.

We need to also support these people in their retirement. If any of you has watched that special feature of Conjestina, the lady who was leading in boxing in East and Central Africa Region, it is a shame. The situation that lady was in is a disaster yet when she was performing, this country took the glory. The Ministers accompanied her, travelled everywhere, the whole Government was on the top of the world but the day she was down, nobody was with her. We have seen others in Nakuru and many others who have been shown in that programme. It has been featured in international televisions like Aljazeera. It is a disaster. We must appreciate our athletes.

If you leave here as a Senator after having served the public, you get some pension after the end of the service but I think we must remember those who have served this country with dedication.

We must create a national sports day – a day that everybody in this country knows that it is not a holiday but a sports day, an athletes' day or something like that – to remember people who have performed well in various sports. We should also build talent centres across this country.

With those few remarks, I beg to support.

Sen. Ong'era: Thank you, Mr. Deputy Speaker, Sir, for the opportunity so that I also support this Motion. I congratulate the distinguished Senator for Uasin Gishu for moving this very important Motion that seeks to honour our athletes and look for a resolution by this Senate to develop an award scheme for them. I also congratulate the Seconder of the Motion, the distinguished Senator for Nyamira.

Mr. Deputy Speaker, Sir, I also take this opportunity to congratulate all our athletes who performed extremely well in the just concluded World Athletics Championships in Beijing and the All Africa Games in Congo Brazzaville. If you will permit me, I would like to read some of the names of the athletes to illustrate how well they performed and the feelings of immense joy that we, Kenyans, felt when they ran and won gold medals.

I will start by mentioning those who won gold medals in various events. These include: Vivian Chepkemoi Cheruiyot, (10,000m), Ezekiel Kemboi, (3,000m Steeplechase), Nicholas Bett (400m Hurdles), David Lekuta Rudisha (800m), Julius Yego (Javelin), Hyvin Kiyeng Jepkemoi (3,000m Steeplechase), Asbel Kiprop (1,500m).

There were others who did not win gold medals but did exemplary well. These were: Geoffrey Kipsang Kamworor (10,000m), Conseslus Kipruto (3,000m Steeplechase), Faith Chepng'etich Kipyegon (1,500m), Caleb Mwangangi Ndiku (5,000m), Helen Kiprop (Marathon), Elijah Manangoi (1,500m), Paul Kipng'etich Tanui (10,000m) Brimin Kiprop Kipruto (3,000m Steeplechase) and Eunice Chepkoech Sum (800m). These are just amongst the many athletes of Kenya who ran and brought glory to this country. Therefore, they really deserve to be recognised.

Mr. Deputy Speaker, Sir, Julius Yego won gold in javelin. He learnt how to throw the javelin through the You Tube, as he puts his story. That illustrates how Kenyans have gone out of their way to become professionals in various fields of sports, yet the Government has given little or no attention to sports in this country.

In the past, we have had many athletes who have won accolades internationally, yet this country has never recognised or given them the recognition they deserve. As my brother, Sen. Okong'o, said, we have athletes like Nyandika Maiyoro who ran barefoot during the 1954 Commonwealth Games and brought us gold. We have Kipchoge Keino who, in 1979 during the Commonwealth Games, also won gold yet nothing has been done for him. It is a shame that it is the International Community that brought accolades by helping him to develop one of the leading athletics school in Uasin Gishu. It is important that we give our athletes the necessary accolades, awards and recognition. Just as we feel immeasurably happy, excited and jump up and down when we see them on our televisions winning, we deserve to give them the same kind of honour and recognition in this country.

We know that for many years, the performance of our athletes has been good. However, the Government has never given them anything. We have a lot of challenges which many Senators who have spoken before me have mentioned. There is the problem of poor infrastructure. We know that stadia in this country are not the ones that we can sing about, except one or two which all happen to be here in Nairobi. We know that there is lack of effective coordination and proper management of the athletics. That is why many of our athletes prefer to take “flags of convenience”. We know that many of them have gone to countries such as Dubai and Bahrain simply because we do not pay, honour or recognise them well.

Mr. Deputy Speaker, Sir, there is also another problem our athletes face, just like Sen. Billow said; this is mismanagement of sports infrastructure and corruption. I cannot understand how somebody could be the Chairman of the Athletics Kenya for over 25 years. Does it mean that there are no young people in this country who can run the organisation effectively? We have many young people in this country who have come of age and can run organisations and bring great value.

Sen. (Dr.) Machage: On a point of order, Mr. Deputy Speaker, Sir. Is the hon Senator in order to impute improper motives on the older generation in this country by suggesting that when you get a little old, you cannot perform despite your experience?

The Deputy Speaker (Sen. Kembi-Gitura): I do not think that is what Sen. Ong’era said. I think she is questioning the longevity of some people in certain positions. However, what I am wondering about is whether these are elective positions or whether those people have imposed themselves in the organisations. That will also be an important point to consider.

You may proceed.

Sen. Ong’era: Mr. Deputy Speaker, Sir, what I meant is: Why should such people stay in office for so long when we can inject new blood so that we have more progress and enhance sports in this country?

Mr. Deputy Speaker, Sir, the Government should use the upcoming Mashujaa Day to award our athletes – we will talk about some of the awards in this Senate – and recognise them for the good work they did in Beijing. I know that there are many private schools. However, I will be happy to see the establishment of a training school funded by the Government for our upcoming young athletes so that we not only have athletes from one region but also from other regions being trained and learn sports, so that they also bring glory to this country.

Mr. Deputy Speaker, Sir, I would like to conclude by supporting the person who said that Kenya is a hotbed of champions. Indeed, it is so. I have a quote here by the Rt. Hon. Raila Amolo Odinga that was in the social media which I thought was very interesting. I would like to read it.

“I offer my congratulations to Team Kenya for the remarkable run that has seen our nation open a new chapter in athletics history books by emerging on top of the world. There is no prouder moment to be a Kenyan.”

I thank you, Mr. Deputy Speaker, Sir, and beg to support.

Sen. Karaba: Mr. Deputy Speaker, Sir, I support this wonderful Motion tabled by Sen. Melly who is also the chairman of the sports club in the Senate. He is the right person to have moved this Motion which was seconded by Sen. Okong’o. He is fit to be

an athlete but I do not know whether he has ever been one. I have personally participated in athletics.

The Deputy Speaker (Sen. Kembi-Gitura): Tell us; that must have been a very long time ago.

(Laughter)

Sen. Karaba: Mr. Deputy Speaker, Sir, In 1969, I was a provincial champion in 800 metres. I know how it feels to win for a province and a country. I have benefited a lot from sports. When I was the headmaster of Kianyaga High School, I trained a boy called 'Barcelona', a name he got from Spain when he emerged first in World Junior Championships.

When I went to the Teachers' Service Commission (TSC), one of the commissioners asked me who 'Barcelona' was and I said he was one of my students that I trained from school. So, they were impressed and they promoted me to the next job group. So, that is what it means to be a sportsman.

If there is anything which we need not to think about is destroying sports. This is a God-given talent, that develops in people unknowingly and they run and win gold, silver and bronze medals. When they compete and win, they do it on behalf of Kenya. I was trying to find out from Sen. Melly what the gold medal means. Whether it is just a plate, money, or it can be converted to gold itself and sold but he is yet to answer me. When these athletes win, it is Kenya's name. Our flag is hoisted high and our National Anthem played in the stadium.

World games are the most reputed games worldwide even more than Olympics. So, when somebody wins a gold medal in world games, he or she is deemed unbeatable in that particular event. We have Kenyans who won more gold medals than silver and bronze in the recently concluded World Championships. Each time they won a gold medal, the National Anthem was played. We, Kenyans, would be very happy to hear it because it was being played in China.

The population of China is about 1.3 billion. Mathematics could not favour them to get a random sample of getting a single athlete to run any event and win a gold medal. It is only Kenya with a population of 40 million which can produce that number of medals. So, this is a wonderful team we are talking about. We should think about how to harness their prowess. Without it, our name in world sports is not there. They promote our name too much to a point where people forget the negative things in this country. When we have sports and we travel out there, we feel very proud.

When the Kenyan team to the World Championship won, I was called by the Eritrean Ambassador to Kenya to congratulate me and the national team for having emerged top. I asked him why he was congratulating me and not himself. He replied that Eritrea had only one athlete who won gold. The day the athlete got to the country, it was declared a national holiday to celebrate his victory. That tells you that there are some countries which value what their sportsmen and women do there. On the contrary, for us, when our sportsmen and women come home, they are given some lunch. That is all. As some people say, we might not know the names of who won what.

It is important for us to learn that when Kenyans win medals in various sports out there, we feel a sense of belonging which is a binding factor of nationalism. Whether it is

a Kikuyu like David Ngugi, who won the marathon five times or Samuel Wanjiru, who after years of success died tragically, and many others who have been victorious over the years, we need to associate them with the Republic of Kenya because that is how we can talk of patriotism.

When the volleyball team was in South America, coincidentally, I was in Chile. More puzzling is that fans cheered on their various national teams, even when it came third. When I told them I am Kenyan, and we were number one, they could not comprehend why we were not supporting our team. There is a feeling that Kenyans should attach themselves more to such teams that bring us glory that most countries do not get.

During various championships, the Government should attach a lot of significance to these teams' performances out there. When they come back home, they should be recognized as patriots for putting our name on the map. They make us earn more foreign exchange than the crops we sell because when other people know that we have great athletes, they will want to see what this country is like. Every Saturday in Iten, you will see people from all over the world in the high altitude areas because they think it will make them win gold medals out there. However, Kenyans have other styles of winning and will beat them even if they train together.

What puzzles me is that once an athlete earns whatever they get, particularly the golden jackpot, which is about Kshs90 million, the manager gets 20 per cent of the total earnings while the Government will also tax the athlete about 20 per cent of the total earnings. So, in the end, the athlete takes home 50 to 60 per cent. This person will have done a lot of work, earned us a name, and we are asking the Government to control the role of managers and desist from taxing such athletes when they come back with pomp and glory. They take us very far in terms of standings in world champions and other games.

We are happy with this Motion. It is our pleasure that the forgotten champions, for example, Mr. Wangila, a boxer who won a gold medal sometimes back can be recognised. I hear that he has lost his eyesight and nobody seems to be aware about it. We also have Mr. David Ngugi, who is an old man now; nobody seems to know where he is. We are requesting the Government to take care of our athletes, their families and the areas where they come from. We need to name some of the streets here after them, for example, Kipchoge Keino Street or Stadium. We also need to develop a system of rewarding athletes.

The moment we do that, then even other fellows who emulate those athletes will compete with them. That is why we are likely to win more medals. That is why we have athletes like Mr. Bett. We never used to participate in 400m hurdles. I could not believe it that somebody from Kenya could win a gold medal in 400m hurdles; it has never happened. When something like that happens, we need to parade these people during national days so that people can see, for instance, the one who won 400m and the relay.

We need to encourage people to participate in more of these sports so that we can get a better reputation out there. That can only be done if we can create a sporting nation through a sports department which is very aggressive and can support young talented persons to participate in such competitions.

Mr. Deputy Speaker, Sir, with those remarks, I beg to support.

Sen. (Dr.) Machage: Asante Bw. Naibu Spika. Sen. Melly amefanya jambo la ajabu na la maana. Labda kwa sababu ya ujana, aliona wenzake wamesahaulika. Amewasilisha Hoja akiwa na maombi matatu tu.

Kwanza, anasema kwamba sio kuwatambua tu wanariadha wa Kenya lakini iaandikwe kwa stakabadhi za Kenya ili kutambuliwa na kuthibitishwa kwa maandishi.

Pili, amesema kwamba Serikali Kuu isiwatambue wanariadha tu lakini iwatuze kwa zawadi wanazostahili.

La tatu anasema kwamba mazungumzo haya kwa Seneti, yote yatakayosemwa siku ya leo yanakiliwe na nakala hizo zipewe wanariadha hao. Kila moja wao apate nakala moja ya mazungumzo ya leo ambayo tunafanya katika Seneti kuwatukuza. Asante sana, Sen. Melly, kwa kuona kwamba hili lastahili.

Sisi tumekuwa wachoyo hata wa kutukuza, kusema asante na kuwatia motisha vijana wetu wanariadha ambao kwa juhudi zao tunapata sifa kote ulimwenguni. Sen. Melly ametaja juhudi zao kwa mashindano mawili tu; kwa mashindano ambayo ametambua. Ametaja michezo ya Beijing hivi majuzi ambapo Kenya kwa sababu ya hao vijana ilipata nishani 16; saba za dhahabu, sita za lulu na tatu za manemane. Nasema hivi---

The Deputy Speaker (Sen. Kembi-Gitura): Are you sure those are the correct names for those medals?

Sen. (Dr.) Machage: Bw. Naibu Spika, Kiswahili changu ni cha bara labda chako cha pwani kina majina mengine. Sijui. Labda unaweza kunirekebisha; nitafurahi. Nitashukuru ukifanya hivyo.

The Deputy Speaker (Sen. Kembi-Gitura): You can proceed.

Sen. (Dr.) Machage: Bw. Naibu Spika, wakati mwengine, ufasaha kwa Lugha ya Kiswahili sio rahisi.

Sen. Melly pia akasema tuwatambue wanamichezo walioenda Congo Brazzaville hivi majuzi. Walipata nishani 12 na daraja la tisa kati ya nchi 37 zilizoshiriki. Ninawapongeza ambao wengi wao, karibu wote, wametoka kwa eneo ambalo zamani liliitwa Mkoa wa Bonde la Ufa. Wananchi wa eneo hili wameona kwamba wana vipawa kwa hivyo watumie pesa zao kujenga shule na viwanja vya kuwafunza vijana wao.

Ninafikiri sio kwamba kipawa hiki kinapatikana katika eneo la Bonde la Ufa tu kwa sababu hata Kisii tumepata wanariadha kwa mfano Bw. Maiyoro na kadhalika. Kuria tumepata akina Bw. Marwa ambao wamehitimu kukimbia na kupata shahada na nishani. Lakini kwa sababu ya kupuuzwa na Wizara husika; tuna Wizara ya Michezo, Tamaduni na Sanaa ambayo imepewa jukumu la kuhakikisha kwamba mambo haya yametekelezwa kwa uangalifu na Kenya ikafaulu. Swali ni, je, katika pesa ambazo wamepewa wakfu kwa kuendelea Wizara hii, wanatumia kiasi gani kuandaa vijana wa Kenya kutoka sehemu zingine, kwa mfano, Ukambani kuna wakimbiaji? Wakikuyu pia ni wakimbiaji. Pia, tunajua kwamba mmoja ambaye ni mshindi ulimwenguni kwa mbio za kilomita 10 ni Msomali.

Kwa hivyo, talanta hizi zipo popote hapa Kenya.

The Deputy Speaker (Sen. Kembi-Gitura): What is your point of order, Sen. Karaba?

Sen. Karaba: Mr. Deputy Speaker, Sir, I want to inform my friend, Senator---

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

Sen. Karaba: Yes, Mr. Deputy Speaker, Sir. Initially, he had said that all those champions come from the Rift Valley region, it is not true but he has corrected himself by saying that even Somalis, Kikuyus and Kambas participate.

Sen. (Dr.) Machage: Bw. Naibu Spika, sitaki kusema kwamba uzee umemuingia mwenzangu. Nilisema kuhusu hata Wakuria, Wakisii na makabila mengine yote 42. Hata Mmasaai anaweza kufanya vizuri katika mbio za nyika.

Kuna michezo mingi ambayo inastahili kuungwa mkono. Kuna Mkenya mmoja ambaye amefanya vizuri katika mchezo wa kurusha mkuki licha ya kuwa alijifunza mchezo huo mwenyewe kupitia mtandao. Hivi sasa tunampigia makofi na vigelegele. Kuna mchezo mwingine wa kurusha mishale kupitia upinde. Mmeru au Mkuria akipewa nafasi hiyo anaweza kufanya vizuri. Hata hivyo, wengi wao hawajui kwamba kuna mchezo kama huo.

Pia, kuna mchezo wa kutupa sahani na jiwe kuu. Hii ni michezo ambayo Wakenya wengi wanaweza kufanya vizuri. Nina uhakika kwamba Sen. Karaba akipata nafasi hiyo anaweza kuitupa mbali sana. Lakini wengi wetu tunafikiri kwamba michezo inahusu tu riadha.

Baada ya wanariadha wetu kufanya vizuri kule ng'ambo, wanaporudi nchini wanapokelewa na Waziri siku zingine. Lakini wakati mwingi wanarudi na kupokelewa na jamii zao tu. Hata magazeti huripoti habari hizo katika kurasa zao za mwisho. Hii ni licha ya kwamba wanariadha wetu wanatuletea rasilmali kubwa hasa pesa za kigeni wakati utalii na kilimo cha kahawa na chai kimeathirika. Shukurani yetu ni mateke ya punda. Nawasifu na kuwashukuru wengi wa wanariadha wanaorudi nchini na kueleza pesa zao vizuri. Wengi wamejenga nyumba, hoteli nzuri na maduka makubwa. Je, kama sisi ni wazalendo, tumewafanyia nini?

Tukiwatambua, kuwatua medali wanazostahili vile Sen. Melly alisema, huenda tukawatia moyo wengine ambao wana vipawa ili wafanye vizuri. Wengi wao wanapatikana katika shule, lakini pia kuna wale hawakuenda shule na wanaweza kukimbia. Mtu hahitaji kuwa na elimu ya kemia au kufika Darasa la Nane au Kidato cha Nne ili atambulike kwamba anaweza kukimbia. Kwa hivyo, tunafaa kuunda sera na desturi mashinani za kuwatambua hata wale wanariadha ambao hawakuenda shule. Kuna wanariadha wengi kama hao kule vijijini. Hawana namna ya kutambulika kwa sababu hawakupata nafasi ya kwenda shule. Viwanja vinafaa kujengwa katika vijiji ili watu wote wenye vipaji wapate nafasi. Hatua hii itawapa nafasi wanariadha wote hata wale hawakuenda shule na wale wanaojificha kule mashinani.

Namshukuru Sen. Melly kwa kuwakumbuka vijana hawa wetu ambao wameleta sifa tele kwa nchi yetu ya Kenya.

Asante, Bw. Naibu Spika.

Sen Lesuada: Thank you, Mr. Deputy Speaker, Sir, for giving me an opportunity to also add my voice on this very important Motion that has been brought before this House by Sen. Melly. He comes from an area which has continued to produce people who have made this country very proud. I also congratulate him for being the Chairman of the Senate Sports Team.

It is never too late to pass our congratulations, but it is also a time for us to reflect on what needs to be done better. We need to add address some of the issues that have been raised by my colleagues that surround sports in general and also athletics since it is the matter that we are discussing this afternoon.

I think Sen. Ong'era read my mind, because I also wanted to name them. It is a nice feeling to hear your name being called out for doing exemplary work. The same way they carry our flag very high when they are out there, they should also be remembered and celebrated even at an individual level once they are back home.

Many of us may not really know the work that these athletes do behind the scenes. We only see them when they finally run and win in their respective races. We must acknowledge that they put in a lot of effort, sacrifice and resilience. They do not win everytime. Sometimes they run and lose, but their resilience and sacrifice to continue trying until they win is something that we must celebrate. We must acknowledge the efforts that these athletes put into the work they do.

As my colleagues have said, for most of them athletics is their career. Most of us are trained in different professions, but there is always something that we can fall back to. But we should remember that most of our athletes and sportsmen and women, because of the dedication and sacrifice they put into sports, might not be able to advance their education. Therefore, they may not have a fall back plan. Therefore, I agree with my colleagues who have said that as a country, we should cushion and allow them to enjoy the benefits of their career. We know that one's career in sports and athletics can be quite short, because of the energy levels.

Therefore, when they are at their peak, it is important for us as a country to think how we can waive the taxes on the money they get when they run out of the country. We should also remember that sometimes they participate in sports events which do not have monetary appreciation or value. They only run because they want to represent our country and fly our flag high. Therefore, I agree with my colleagues that we have to think of how to cushion our sportsmen and women out there.

I agree with the Senator for Migori County on the issue of remembering young people out there who may not have the privilege of going through formal schooling. The places where we can nurture these talents are in our learning institutions. I know this because I was a student in Iten, 'the home of champions'. I went to Sing'ore Girls Secondary School which produced so many athletes. Those athletes have continued to make this country proud; for example, Janeth Chepkosgei and many others, who I studied with.

Our neighbouring school, St. Patrick Iten, where Sen. Murkomen studied, also nurtured a number of athletes. There was always the aspect of schools nurturing and giving students an opportunity to train. Sometimes students would miss classes because they were participating in sports. We must encourage our learning institutions to create time for extracurricular activities. They should support students who show interest in sports and excel in other disciplines.

Mr. Deputy Speaker, Sir, it is also important for us to do it like we have seen in the National Basketball Association (NBA) of the United States of America (USA). They tap talents at a very young age. They pick them out and put them in facilities where they can continue with education, but also give them room to excel in their talents. During the schools competition, we should identify and tap the talent of young people who come from areas that have continued to produce the great men and women.

It is an opportunity for our county governments to make sure young men and women excel in sports because sports are devolved. When they are making their budgets, the MCAs should see to it that enough resources are put into sports to support the young

people. Currently, the meager resources allocated to sports activities are not enough. The same should also be applied at the national level.

It is at the counties level, where they can start to nurture these talents and support them all the way to the national level and, finally, introduce them to the international sphere. The Constituencies Development Fund (CDF) has a component of sports and talent development at the constituency level. We can always try to see to it that even as the students are out on holidays, these funds should be utilized for a particular purpose. It would be a good idea to channel these funds to training and putting up sports facilities at the county level.

Mr. Deputy Speaker, Sir, I would also like to add my voice to what many of my colleagues have said; that it is unfortunate that we, as a country, we are not putting a lot of emphasis on national facilities for training. One of the best places for training that we have in the country right now is the High Altitude Training Centre in Iten. It is sad for us that one of our greatest athletes, Ms. Lorna Kiplagat, decided to put up a state of the art facility for us.

We have witnessed even international athletes train there. The other day, Mr. Mo Farah, came to train there as well as other athletes from other parts of the world. How nice would it be for us as a country if we had such a facility owned and run by the Government? There is always the notion that the facilities put up by the Government do not have high standards. We have seen what Ms. Lorna Kiplagat has put up in Iten and I congratulate her. It is a challenge for us to have these facilities in place.

Mr. Deputy Speaker, Sir, our first lady chose to run for a good course. This is because it is something we are all proud of. She has gone out of her way to run, not just because she has nothing else to do, or get financial benefit but to save the children and mothers of this country. This is what has brought fame to this country internationally. As Sen. Billow mentioned, one of the things that Kenya is known for is her athletes. We even heard the President of the USA congratulating our First Lady. We also hope to see our President run one of these fine days.

Having said that, we have also seen the efforts of our President, and I know that he can do much more. We have seen him supporting our athletes especially when they are going for international competitions and even when they are having their trials at Kasarani. We, as a Government, there is much more we can do. If there is a time that we are always so proud is when we see our athletes being given our flag to go and represent us outside this country. It is always a great time, especially when they return to the country with so much pride and honour.

Mr. Deputy Speaker, Sir, if there is any one time we feel united as a country, it is when we see our athletes running and representing our nation. At that time, we forget where they come from and their communities. What we remember at that particular time is that we are all Kenyans and the Kenya National Anthem is played. While they are there, they make us so proud. We have seen other athletes promoting peace and unity among Kenyans.

For example, we have like Tegla Lorupe through her foundation; Tegla Lorupe Peace Foundation; which has continued to do a lot of work in the northern parts of Kenya to support peace among the communities that are living there and among the Karamoja who border Kenya and Uganda. It bore fruits and she has continued to use sports to bring together the young people of these areas.

It is something that we continue to celebrate. Our diversity should continue to bring us together. Diversity should not divide us as a people. It is also very important to appreciate the efforts that they make beyond making us so proud but for the efforts that they are putting in serving in different other areas.

Mr. Deputy Speaker, Sir, I would also like to add to what my colleagues have said with regard to leadership of the sports associations. Quoting what Isaiah Kiplagat said the other day, "New broom sweeps clean". I wish he had realized that a little bit earlier. However, it is never too late. Holding onto leadership for too long - you might have done very well in mentoring those below you with potential so that they take over when what you have done is still being remembered. You also leave such institution when there are people who can take over once you leave that organization. Once again, I congratulate all our athletes for continuing to make us proud. We should always take care of their welfare. We should not only celebrate them when they are strong and making us proud.

Mr. Deputy Speaker, Sir, what happened to Congestina was unfortunate, but how proud of the First Lady we were when she tried to raise funds for her treatment! However, it was left to just well-wishers on social media to raise funds for the initiative. I think it is important that we continue to celebrate our people while they are still alive and continue with our nature as Kenyans and Africans, to take care of those who are eventually unable to continue serving our country.

With those many remarks, I thank Sen. Melly and congratulate our sports men and women who continue to make us proud.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. Lesuuda. Sen. Melly, you may now reply.

Sen. Melly: Thank you, Mr. Deputy Speaker, Sir. I take this opportunity to thank all the Members who have made their contribution to this very important Motion. There are other things that we may have left out, but I know that we still have time to walk as a family in ensuring that we recognise and reward our athletes.

Let me point out a few issues. The first one is the depreciating standards of our volleyball team. For the first time, our men's volleyball team did not participate in the All Africa Games. You cannot imagine that a young team like Rwanda played up to the semi-finals, led by the one who was a coach of this country for some time, my neighbour, Mr. Paul Bitok. He is now the national coach for Rwanda. I think he went to Rwanda because of some few frustrations here and there.

Having said that, I think the history of this country has it that Kenya does not do well in track events especially the short races. The time when we used to say that Kenya cannot compete in these short races is gone. From what we experienced in Beijing, China – again my neighbor, the young man who won 400 metres hurdles – is the best example that this country has come to a level where it can produce the best athletes for 100 and 200 metres and the relays.

Again, I congratulate our team that participated in the All Africa Games in Congo Brazzaville. Kenya won the 4 by 400 metres men's relays. I think it happened again for the first time. This is a testimony that at this time, we have no fear that in the near future, in terms of the short races and track events, we have no challenge. I think by having good strategies ahead of time, we will make it and ensure that we have a team.

The other issue is that of our athletes relocating to other countries for greener pastures. You are aware of Stephen Cheronu who hails from Elgeyo-Marakwet County

who won the 3000 metres steeplechase in 2003. His record has never been broken by anybody. He has offered the shoes that he used to run the same race and even his Mercedes Benz which he bought using the money that he won from that race to anybody who will break the record that he set in Helsinki in 2003. So, Kenya remains an outstanding country in terms of sports.

Mr. Deputy Speaker, Sir, as I conclude, during the All Africa Games in Congo Brazzaville, every other time there was a commercial break, they would show some athletes on the giant screens. We were surprised because all the athletes were from Kenya and the words that were written at the bottom of the screen were, "Africa is going higher and higher in terms of sports." There were just around five athletes and you could see David Rudisha, a gold medalist in 800 metres; Ezekiel Kemboi, 3000 metres steeplechase; Asbel Kiprop, 1,500 metres; and Julius Yego, the javelin gold medalist. We really appreciated that. Every other time our flag was raised, we could really feel that Kenya, indeed, is one family. That is what we need to do.

Lastly, Mr. Deputy Speaker, Sir, is the issue of ball games. If Kenya has to go forward, we should be serious and establish football and volleyball academies. If we do that, I am sure that this country would produce the best footballers and volleyballers. We have people such as Wanyama and Origi. However, we can produce more and more because such people were nurtured a little bit late when they were either in primary or high school. For us to move forward, we should have academies to nurture young talents from primary schools at the level of Standard One of Two. If that is the case, then, we would have teams that could not only beat other teams from East Africa but the entire Africa and the entire world will recognise Kenya.

As a country, we have what it takes in terms of human resources. The only things we need are facilities. The Government should do its job to ensure that facilities such as stadia and equipment are available in the stadia. The Government should ensure that time is created in learning institutions, both primary and secondary schools, for students to be trained in sports apart from being taught in class. This is because football, volleyball, athletics and other sports are a major source of income and earn this country good returns. Therefore, we cannot let go.

Mr. Deputy Speaker, Sir, I, once again, thank all Members for their wonderful contributions. As we move forward, we will witness the fruits of what we did today.

We those few remarks, I beg to reply.

(Applause)

The Deputy Speaker (Sen. Kembi-Gitura): Thank you very much, Sen. Melly. I dare say that this is a very important Motion although I do not have a chance to contribute. The Motion does not involve or affect counties. Therefore, those of us that are here will vote by acclamation. I will put the question.

(Question put and agreed to)

(Applause)

Next Order!

I propose to alter the Order Paper a little. We have just finished Order No.10; I will defer Order Nos.11, 12, 13 and 14.

ESTABLISHMENT OF SELECT COMMITTEE TO INQUIRE
INTO POLICY AND LEGISLATION ON THE TREATMENT
OF DETAINED PERSONS IN CORRECTIONAL FACILITIES

WHEREAS Article 51 of the Constitution of Kenya protects the rights of detained persons, persons held in custody and other imprisoned persons under the law, and requires Parliament to enact legislation to provide for the humane treatment of such persons with due regard to the relevant international human rights instruments;

OBSERVING that international instruments, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the United Nations Basic Principles for the Treatment of Prisoners set standards on the treatment of persons, including the right to be treated with respect; protection from discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;

AWARE of the deplorable state of correctional services throughout the country including poor living conditions in the institutions of both officers and prisoners, the poor state of sanitation and nutrition, overcrowding, lack of proper medical attention, frequent outbreak of communicable diseases and frequent reports of deaths of inmates leading to a high rate of recidivism and the inability of former inmates to reintegrate into society;

APPRECIATING the urgent need to align the Prisons Act and Borstal Institutions Act with the Constitution of Kenya and the international instruments on the rights of detained persons;

NOW THEREFORE, the Senate resolves to establish a Select Committee to undertake an inquiry into the policy and legislation pertaining to the treatment of detained persons as well as the state of correctional institutions in Kenya, including prisons and Borstal institutions, and to submit a Report to the Senate within three months, with recommendations on such policy and legislative interventions as may be necessary to align the existing legislation on correctional services with the Constitution of Kenya and in compliance with international standards on the rights of detained persons and such other recommendations as may be necessary;

AND FURTHER that the Members of the Select Committee are-

1. Sen. Fatuma Dullo
2. Sen. (Dr.) Zipporah Kittony

3. Sen. (Dr.) Boni Khalwale
4. Sen. (Prof.) John Lonyangapuo
5. Sen. Stewart Madzayo
6. Sen. Liza Chelule
7. Sen. Judith Sijeny
8. Sen. Mutula Kilonzo Jr.
9. Sen. Stephen Sang'
10. Sen. Joy Gwendu
11. Sen. Moses Kajwang'

(Motion Deferred)

ADOPTION OF REPORT OF THE TRANSPORT COMMITTEE ON
VISITS TO LAMU AND NAKURU COUNTIES

THAT this House adopts the Report of the Standing Committee on Roads and Transportation on visits to Lamu and Nakuru Counties, laid on the table of the House on Wednesday 29th July, 2015

(Motion Deferred)

ADOPTION OF REPORT OF THE IMPLEMENTATION COMMITTEE
ON ITS VISIT TO MOMBASA, KILIFI AND KWALE COUNTIES

THAT this House adopts the Report of the Sessional Committee on Implementation on its visit to Mombasa, Kilifi and Kwale counties to follow up on the resolution of the House to support the coconut industry, undertaken between 25th and 28th April, 2015 laid on the Table of the House on Wednesday, 29th July, 2015.

(Motion Deferred)

BILLS

Second Reading

THE SENIOR CITIZENS CARE AND PROTECTION BILL
(SENATE BILL NO. 43 OF 2014)

(Sen. (Prof.) Lesan on 29.9.2015)

(Resumption of Debate interrupted on 30.9.2015)

(Bill Deferred)

*Second Reading*THE HIV AND AIDS PREVENTION AND CONTROL
(AMENDMENT) BILL (SENATE BILL NO. 4 OF 2015)

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, I beg to move that the HIV and AIDS Prevention and Control (Amendment) Bill (Senate Bill No.4 of 2015) be read the Second Time. Although, there is no much time but I think I will do justice to start the discussion on this Bill so that we can have good time in the next allocation.

The Human Immunodeficiency Virus otherwise referred to as HIV which is the main cause of the auto-immune deficiency disease syndrome, was first diagnosed in Kenya in 1981. When I was a third year medical student in 1978, in medical school, I remember having seen cases that I could very well have categorised as cases of this syndrome. However, scientific diagnosis was done in 1981. It has been a scourge, trauma, killer and destroyer of mankind.

Mr. Deputy Speaker, Sir, the virus does not cause the disease. It just infects the white blood cells in the human body that protects it from infection, especially the T helper cell line of the white cells in the human blood and therefore, rendering the person whose white cells have been destroyed, vulnerable to any kind of infection; even the slightest cold that should take one or two days to clear by itself becomes detrimental, lethal and fatal.

However, there are good signs. In Canada, the treatment of patients with this syndrome is so thorough such that studies are beginning to indicate that actually patients with HIV/AIDS now live longer than the normal populations because of the effectiveness of treatment and prevention of certain infections that afflict these individuals. This is because they have made efficient follow-up, diagnosis and treatment of patients with HIV/AIDS. They have made it efficient to diagnose that one has the virus and therefore, one can live longer with early treatment.

It is for that concern that I have come up with an amendment of the Bill that governs the management of this syndrome by the Government, hence, the HIV and AIDS Prevention and Control (Amendment) Bill (Senate Bill No.4 of 2015).

It is a short amendment.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Members. Sen. (Dr.) Machage, when we resume or when this Bill resumes for Second Reading, you have a balance of 55 minutes.

ADJOURNMENT

The Deputy Speaker (Sen. Kembi-Gitura): Order, Members! Hon. Senators, it is time now to adjourn the Senate. The Senate stands adjourned until Tuesday, 6th October, 2015 at 2.30 p.m. As you were informed earlier, we will have a Joint Sitting in the National Assembly Chamber.

The Senate rose at 6.30 p.m.