

**PARLIAMENT OF KENYA****THE SENATE****THE HANSARD****Thursday, 16<sup>th</sup> February, 2017***The House met at the Senate Chamber,  
Parliament Buildings, at 2.30 p.m.**[The Deputy Speaker (Sen. Kembi-Gitura) in the Chair]***PRAYER****BILL***First Reading***THE DIVISION OF REVENUE BILL  
(NATIONAL ASSEMBLY BILL NO.2 OF 2017)***(Order for First Reading read – Read the First  
Time and ordered to be referred to the relevant  
Senate Committee)*

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Omondi had a notice of Motion to issue. Although we have already passed that Order on the Order Paper, I am indulging her if she is ready.

**Sen. Omondi:** Mr. Deputy Speaker, Sir, kindly give me time.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Omondi, I will go back to Notices of Motion and allow you to issue your Notice of Motion.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. I would like you to clarify because I thought that the Standing Order that has allowed you to accommodate Sen. Omondi, only allows you to vary the Order Paper and not to go back on an order that has already been read.

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. (Dr.) Khalwale! There is nothing to stop me from doing that. The same way I can vary the Order Paper, I indulge a Senator. Your thought was wrong.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, you need to give a ruling on this issue. It is my concern.

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Sen. (Dr.) Khalwale! You are in the House a lot of times and you are aware that I vary the Order Paper. We sometimes drop an order on the Order Paper and sometimes we re-arrange the Order Paper so that it

is convenient to the House. Therefore, I am not going to disallow Sen. Omondi to give the Notice of Motion just because she was a few minutes late.

I have used my discretion in allowing her to proceed. I hope, Sen. (Dr.) Khalwale, we are reading from the same script.

Proceed, Sen. Omondi.

### NOTICE OF MOTION

#### ESTABLISHMENT OF SPECIAL FUND FOR REMITTANCE OF NHIF CONTRIBUTIONS FOR PERSONS LIVING WITH DISABILITIES

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

AWARE that about 15% of the Kenyan population are persons living with disabilities;

APPRECIATING that the Government has taken several measures to avail certain privileges through the National Council for Persons with Disabilities to registered persons living with disabilities;

NOTING that the National Hospital Insurance Fund (NHIF) is a contributory health insurance cover and the remittance of contributions for persons living with disabilities by government for the cover, is not among the privileges extended to persons living with disabilities;

COGNISANT that most persons living with disabilities have difficulties engaging in gainful income generating activities that would enable them pay the contributions to NHIF, hence are without any medical cover;

FURTHER CONCERNED that many persons with disabilities are unable to access medical services leading to high mortality rate;

NOW THEREFORE, the Senate recommends to the National Government to put in place the following measures through the Ministries of Health and East African Community, Labour and Social Protection-

(i) Undertake vetting of all persons living with disabilities in Kenya to ascertain those who are unable to afford payment of contributions to the NHIF; and,

(ii) Set aside a special fund for remittance of contributions to NHIF for those persons who are living with disabilities and cannot afford to pay the contributions.

I thank you.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, I rise under Standing Order No.39(2) to clarify the ruling which you have given in view of the provisions of 39(2) which states that:-

“Business shall be disposed of in the sequence in which it appears in the Order Paper or in such other sequence as the Speaker may, for the convenience of the Senate, direct.”

I would like you to give this clarification because to my reading, the sequence to which you are expected to direct is to allow for flow of business. I would like you to clarify whether this means that once you have disposed of an order, it would be revisited? Would that amount to a sequence or reverting back to business which has already been disposed?

**The Deputy Speaker** (Sen. Kembi-Gitura): Order No. 39(1) gives the sequence of business of the House. However, Standing Order No.39(2) says;

“Business shall be disposed of in the sequence in which it appears in the Order Paper or in such other sequence as the Speaker may, for the convenience of the Senate, direct.”

I have directed that the sequence be such that Sen. Omondi gives a notice of motion. The matter is spent because she has already done. Actually, I am also going to revisit some other orders. There were papers to be laid and Sen. Nabwala was not ready. If she is ready now, I will allow her to lay the papers. Sen. (Dr.) Zani also had a Statement to seek but did not do so as it was awaiting approval in the Clerk’s Office and has since been approved.

I personally feel that these rules are made for the convenience of the house. If it is not convenient for you or for any other Senator, I do not see why we cannot do it in such a way that it is convenient to all of us. It is therefore a question of convenience. It cannot be a stringent rule which inconveniences everybody just because an order has been dealt with. That is why Standing Order No.39(2) talks about the convenience of the House, as the Speaker may deem fit. I am deeming it fit to do it that way for the convenience of the House.

I reckon that if I had disposed of the matter and said it is done away with and cannot be revisited, I cannot recall it. However, I had not disposed of any of those matters if I can recall clearly. I believe that clarifies the issue for you, Sen. (Dr.) Khalwale. Standing Orders are referred as such so that they can make work in the House flow in a manner that is convenient to everybody. Standing Orders cannot be made to inconvenience people.

Sen. Omondi is seated here and she took time to draw a Notice of Motion. Although she is a few minutes, I did not find it inconvenient to ask her to give the notice of Motion. I do not think that you have been inconvenienced.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, I thank you for that clarification. However, the tradition has been as follows; when the Speaker deems it necessary to vary the sequence as it appears on the Order Paper, the Speaker normally directs from that Chair for example “Order No.4 on the Order Paper shall be stayed until some other time.” In traditional practice of this House, you do not allow that Order to start then stop it in the middle to accommodate somebody.

Let me give you an example of a solemn moment like administration of oath. If there are three people to take oath, you cannot administer the oath to two people and then say that the other one will take oath later in the evening. You need to be clear.

**The Deputy Speaker** (Sen. Kembi-Gitura): I can do that but it would be inconvenient to the House if I made such an unreasonable ruling such as stopping an oath in the middle. However, in this case, we had already finished with Order No.8 and that is when I went back to the Order on Notice of Motion.

Traditionally when you do not give a notice of Motion when it is on the Order Paper, it is dropped. However, at my discretion, I can rule that it should not be dropped. It should be given because the person to give the Notice of Motion is in the House.

I would understand, Sen. (Dr.) Khalwale, if you were inconvenienced. However, you do not look to me like you are inconvenienced at all by what I have done. It is convenient to Sen. Omondi and the House. I am going to go back to the Communication

from the Chair because I choose to give it when there are more people in the House. That way, it would make much more sense to give the communication that I have. I hope that you shall not say that I am acting against the Standing Orders.

Let us proceed.

### PAPERS LAID

#### THE SECOND EDITION OF THE HANDBOOK FOR PARLIAMENTARIANS ON INTERNATIONAL HUMANITARIAN LAW

**Sen. Nabwala:** Mr. Deputy Speaker, Sir, I beg to lay the following paper on the table of the Senate today, Thursday 16<sup>th</sup> February, 2017.

The Second Edition of the Handbook for Parliamentarians on International Humanitarian Law co-published by the Inter – Parliamentary Union (IPU) and the International Committee of the Red Cross (ICRC)

### STATEMENTS

#### ONGOING STRIKE BY LECTURERS OF PUBLIC UNIVERSITIES

**Sen. (Dr.) Zani:** Mr. Deputy Speaker, Sir, I rise pursuant to Standing Order No.45 (2)(b) to seek a Statement from the Chairperson of the Standing Committee on Education regarding the ongoing strike of lecturers of public universities. In the Statement, the Chairperson should;

(i) Inform the Senate on the progress made so far on the lectures Collective Bargaining Agreement (CBA) 2013-2017;

(ii) Explain the efforts being made at ending the impasse; and

(iii) State the efforts that have been made by the Cabinet Secretary or Education and the Principal Secretary of the said department of Education in attaining the CBA2013-2017.

I thank you.

**The Deputy Speaker** (Sen. Kembi-Gitura): Chairperson of the Committee, Sen. Karaba.

**Sen. Karaba:** Mr. Deputy Speaker, Sir, we will issue that statement in two weeks time.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Zani, is two weeks okay with you?

**Sen. (Dr.) Zani:** That is fine.

*(Interruption of Statements)*

**COMMUNICATION FROM THE CHAIR****DISPOSAL OF THE CONSTITUTION OF KENYA (AMENDMENT)  
BILL, SENATE BILL NO.16 OF 2015**

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, I have a short communication to give on the disposal of the Constitution of Kenya (Amendment) Bill, Senate Bill No.16 of 2015. I believe that is the Bill by Sen. Sijeny. I hope she is listening because I do not want to come back to it.

Hon. Senators, you will recall that on 28<sup>th</sup> December, 2016, during the Special Sitting of the Senate, this House voted on the Constitution of Kenya (Amendment) Bill, Senate Bill No.16 of 2015 by Sen. Sijeny, popularly known as the two-thirds gender Bill.

Article 256(1)(d) provides that a Bill to amend the Constitution shall be passed by Parliament when each House of Parliament has passed the Bill in both its second and third readings by not less than two-thirds of all Members of that House. This then means that for the Bill by Sen. Sijeny to pass at Second Reading, it must be supported by at least 45 Senators.

As you recall, the result of the division held on 28<sup>th</sup> December, 2016 was as follows: Ayes - 37, Noes - 6 and Abstentions - 3. From the result of the division, it was clear that the Bill did not attain the required threshold for it to pass Second Reading.

Hon. Senators, Standing Order No.63 provides as follows and I quote:-

“(1) In every instance where the Constitution lays down that a fixed number of Senators is necessary to support the moving of, or to decide any question on a Motion, any amendment Motion to such Motion shall not be passed unless supported by the fixed number of Senators required to pass the original Motion.

(2) Notwithstanding paragraph (1), whenever a Bill or a Special Motion that requires a special majority in the Senate fails to obtain the required majority when the question on the Bill or the Motion is put and the vote results in a majority of “Ayes” but the “Noes” have not numbered at least one third of all the Senators, the Speaker may direct that a further vote be taken on the particular question and the further vote shall be taken within five sitting days from the day the first vote was taken.

(3) If the Speaker does not direct a further vote under paragraph (2) or if on such further vote the fixed majority is not obtained, the Speaker shall declare that the Motion is negatived.”

Hon. Senators, you further recall that the Speaker, while communicating the results of the division on the Bill, directed that pursuant to Standing Order No.63, a second opportunity will be afforded to this House to vote again on the Bill.

As indicated in the timelines, we have sitting days to vote again on this matter. For avoidance of doubt, today is the third day. The fifth day shall be on Wednesday, 22<sup>nd</sup> February, 2017. If the Bill will not have been voted on by then, I will declare the Motion on Second Reading of the Bill negatived. I hope that this House is now guided accordingly.

Thank you.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, this is a very important Bill for the women folk and in future the men folk. This means that in future, when a time will

come, as I hope it will, that women will form the majority and the men feel under represented.

What has separated this House between the “Ayes” and the “Noes” is a simple matter. Would it be within your power to allow the Mover, since she is the owner of the Bill, to address that little concern so as to attempt to move it in an amended form?

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, I do not understand where you are coming from. My communication was so clear and to the point. I do not know what else you want me to clarify on it. 22<sup>nd</sup> February, 2017 is the last day on which the matter can be voted upon. If you look at the Order Paper today, at No.10, it is coming for division. Today is the third day. So, there is nothing else to be done on this issue except to go to division and that is it.

**Sen. (Dr.) Khalwale:** Mr. Deputy Speaker, Sir, Sir, I was saying, considering the importance of this Bill---

**The Deputy Speaker** (Sen. Kembi-Gitura): Every Bill that comes to the House is important. It is listed for division. You know well that we have not opened division to mean debate. Division in normal parlance means vote.

Are you quoting a particular Standing Order, Sen. (Dr.) Khalwale?

**Sen. (Dr.) Khalwale:** Exactly, Mr. Deputy Speaker, Sir.

I was wondering; if you cannot move under Standing Order No.1 so that you allow this. We are under a lot of pressure from our women voters that we fight for them to get the two-thirds gender representation. It is just disturbing me. Could the Speaker go out of his way, use Standing Order No.1 so that you allow, just before that division---

**The Deputy Speaker** (Sen. Kembi-Gitura): Could you quote for me what Standing Order No.1 says?

**Sen. (Dr.) Khalwale:** Standing Order No.1, which is on page one says:-

“In all cases where matters are not expressly provided for by these Standing Orders or by other Orders of the Senate, any procedural question shall be decided by the Speaker.”

**The Deputy Speaker** (Sen. Kembi-Gitura): What is not provided for?

**Sen. (Dr.) Khalwale:** What is not provided for is that for the first time, the Senator for Kakamega County is asking: That a Bill is at the division stage, it is not provided for that you can allow the Mover to make a small amendment.

**The Deputy Speaker** (Sen. Kembi-Gitura): Amendment to what?

**Sen. (Dr.) Khalwale:** To the Bill. You remember our contribution---

**The Deputy Speaker** (Sen. Kembi-Gitura): I am sure you aware that you cannot amend a constitutional Bill in the first instance. That is the simplest thing that one needs to know.

Sen. Mutula Kilonzo Jnr.

**Sen. Mutula Kilonzo Jnr.:** Mr. Deputy Speaker, Sir, owing to the threshold required by the Constitution for passing such a Bill and in view of what appears to be lack of quorum in the Senate, I thought that you would issue a further directive, like was done when we had a special sitting and the seats were full, so that this Bill does not become still born.

Similarly, at that particular time, I had requested the Speaker to list the constitutional amendment Bill on Article 204, the Equalization Fund. For some strange

reason the Senate Business Committee has not prioritized this Bill. Several things are happening in violation of the Constitution as we watch yet we debated that Bill.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Mutula Kilonzo Jnr. could you, please, address us to the communication I gave, not other matters?

**Sen. Mutula Kilonzo Jnr.:** But is an important issue.

**The Deputy Speaker** (Sen. Kembi-Gitura): Since you are standing on a point of order, I want us to deal with specifics.

**Sen. Mutula Kilonzo Jnr.:** Mr. Deputy Speaker, Sir, you could deal with the first proposal that I have made. You have made a Communication from the Chair. The question is whether that Communication is sufficient for purposes of what we want to do on Wednesday, next week.

**The Deputy Speaker** (Sen. Kembi-Gitura): Senator, you mean for people to come?

**Sen. Mutula Kilonzo Jnr.:** Yes, for the Senators to be present.

**The Deputy Speaker** (Sen. Kembi-Gitura): That is the main purpose of the Communication because the time ends on 22<sup>nd</sup> February, 2017. I am sure messages will go out from the Whips to request the Senators to be here because that is the last chance that, that Bill will be getting.

**Sen. (Dr.) Zani:** Mr. Deputy Speaker, Sir, I also wanted to speak along the same lines so that, if possible, we do some whipping.

I also wish to seek for the indulgence of this House that even that clause that is in contention; that we look at it in terms of our understanding because we debated it in a different way. In between, if we can find a way whether we can meet as Senators, at a Kamkunji, so that we have a consensus about this; then we come back here to vote, we do so in a united manner.

Secondly, to avoid a constitutional crisis in the 12<sup>th</sup> Parliament because the law states that for the House to be constitutional, one-third of the representation should be women---. If we do not do this, the arrangement will not have been put in place. This is what this Bill seeks to do. This is critical.

I have just come from another meeting where all eyes are on the Senate. The Senate can save this country from that constitutional crisis.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Nabwala, are you on a point of order?

**Sen. Nabwala:** Mr. Deputy Speaker, Sir, I want to contribute to your communication.

**The Deputy Speaker** (Sen. Kembi-Gitura): There is nothing to contribute. There is no debate.

**Sen. Nabwala:** Mr. Deputy Speaker, Sir, on your communication.

**The Deputy Speaker** (Sen. Kembi-Gitura): Then press the intervention button. Yes, Sen. (Dr.) Khalwale?

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, thank you for accommodating me. I am just disturbed. When you made that important communication, you drew the attention of the whole House. What Sen. Mutula Kilonzo Jnr., is doing is drawing the attention of the Chair that this is not the only constitutional Bill that begs for attention, and is therefore saying that in the course of your decision making, you also remember that the Equalization Bill, equally important is pending.

Mr. Deputy Speaker, Sir, it is very important because Jubilee is busy distributing that money and it is completely against the Constitution.

**The Deputy Speaker** (Sen. Kembi-Gitura): Order Sen. (Dr.) Khalwale. Sometimes I try to understand, but I cannot understand where you are coming from because you understand very well that you will not be able to move me in dealing with an issue that is extraneous with the issue I am dealing with. I am dealing with a very important specific issue. Sen. Sijeny and other Hon. Members are anxious about it. So, let us deal with the Equalization Bill when it comes to the House. At the moment, I am not seized of it.

**Sen. Nabwala:** On a point of order, Mr. Deputy Speaker, Sir. I also want to concur with your communication that this is a very important Bill as it touches on the Constitution. As we speak, Parliament is not properly constituted and the whole country is looking at the Senate to see what we are going to say about the two thirds gender parity.

At the IPU where Sen. Mutula Kilonzo and I sit, we know that the two thirds gender rule is closely followed and our President also attends those meetings in New York. It is high time we looked at this Bill critically so that the affirmative action for the two thirds gender principle is put in place.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Sijeny, do you want to raise a point of order?

**Sen. Sijeny:** Mr. Deputy Speaker, Sir, I want to make a contribution.

**The Deputy Speaker** (Sen. Kembi-Gitura): Like I said, there is no debate before the House.

**Sen. Sijeny:** Mr. Deputy Speaker, Sir, I want to make further information. I beg to be guided. It is the language of the Senate. I am used to the language of the court.

Mr. Deputy Speaker, Sir, I wish to thank you for the communication and wish to further inform my colleagues that as the sponsor of this Bill, I have tried, together with other stakeholders, to engage everybody and consult widely. Consultation is never closed and I thank the Speaker who has given me and the women of this country another chance to pass this Bill and correct the constitutional situation.

I wish to inform Sen. (Dr.) Khalwale and any other person who may have an issue that we will convene a meeting on Tuesday at 12.00 p.m. - the venue will be circulated later - so that we can go and discuss and agree on a way forward so that when we come back in the afternoon, we do not have any further pending issues. I urge all the Senators to attend so that we can move forward so that we stop going round the same issues.

**The Deputy Speaker** (Sen. (Kembi-Gtura): We are aware that Sen. Sijeny understands how far this issue has come from to get to where it is now and that we are strictly following the Standing Orders. I would like Sen. (Dr.) Khalwale to examine that Standing Order properly because we are in the process of amending our Standing Orders before the end of the term. You remember there is a Motion to reduce the time and therefore, this would be the time to help us change the Standing Orders and not from the place you are sitting.

Sen. Okong'o, do you still want to talk on this issue?

**Sen. Okong'o:** Thank you Mr. Deputy Speaker, Sir, for your communication. Mine is to tell the political class in this country that they can cure this anomaly through a



constitutional amendment if they truly believe in democracy. Political parties can comply with what we have not passed which is universally accepted. For example---

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Okong'o, you are debating. You had a chance to debate when the matter came up for debate and now I have made a communication and I am not going to allow debate.

**Sen. Okong'o:** Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Hassan, do you have a point of order?

**Sen. Hassan:** Mr. Deputy Speaker, Sir, the issues of concern that I had were dispensed by you through Sen. (Dr.) Khalwale's intervention. There was no clarity as to whether there could be amendments to the Bill or not because Sen. Orengo on that particular day said that we could amend whereas Sen. Wako said that we could not amend anything. However, you have ruled on the matter. It is not true to say what Sen. Sijeny is saying that you can cure anything that is before Parliament through an informal process as the way forward. It is either you come here and vote "yes" or "no".

The cure would have been found at that point when certain input was being made and certain issues were said. I literally spoke to everybody who voted against this Bill and the whole idea was not the question of gender parity in Parliament but those concerns. Most of those who voted against it told me that they did it as a political consequence or discourse knowing very well that some of the issues we had raised even informally were not taken into consideration.

Most likely, the House is going to pass this Bill but I think in future as you amend the Standing Orders, we must allow some ventilation of constitutional Bills at whatever stage. They need to be cured so as to give us a perfect Constitution.

## COMMUNICATION FROM THE CHAIR

### VISITING DELEGATION FROM NGINDA GIRLS' SECONDARY SCHOOL

**The Deputy Speaker** (Sen. Kembi-Gitura): I have a short communication to make.

Hon. Senators, I would like to appreciate the presence in the Public Gallery this afternoon of visiting students from Nginda Girls' Secondary School, Murang'a County.

In our usual way of receiving our visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate, and on my own behalf as the Senator for Murang'a County, wish them a fruitful visit.

Hon. Senators, this is a school from Murang'a County. It is one of the oldest schools in the county and it is a school that is performing very well. I am proud to welcome them to the Public Gallery of our Senate.

Thank you.

**Sen. Karaba:** Thank you very much Mr. Deputy Speaker, Sir, for allowing me to join you in recognizing Nginda Girls in the presence of this House. Nginda Girls is known for its numerous achievements and more so its contribution to education not only in Murang'a or the former Central Province, but the entire country.

I join you in welcoming them to the Senate and hope that the same sentiments will be taken back to the other girls who are in school. Let them learn from what they will see and take it home.

I wish them good luck.

**The Deputy Speaker** (Sen. Kembi-Gitura): You did not tell the girls that you are the Chairman of the Committee on Education of the Senate.

**Sen. Karaba:** I am the Chairman by virtue of the first preference given by the Speaker. I am the Chairman of the Committee on Education in the Senate.

**Sen. (Dr.) Zani:** Mr. Deputy Speaker, Sir, let me also join you in welcoming the girls from Nginda Girls High School. When I walked in and saw all those girls up there, I felt very happy. I just want to motivate you, even as you go on with your education; education is the key. The future is bright. You will get to where you need to be.

I also urge you to take up political and administrative leadership positions. This is what we are all fighting for so that the women of Kenya can be heard – that they can articulate the issues that the women of Kenya need to hear. You can be true to your world. I would like you to focus on your education. I wish you all the very best in all that you do. In the next few years you will be heading to the universities. Choose wisely what you want to do. Always make the right decisions for yourself and for this country.

**Sen. Omondi:** Mr. Deputy Speaker, Sir, I join you in welcoming the visiting school. I am also proud to see girls whom we trust will be where we are in future and be good leaders. It reminds me of those days when I was in primary school. We used to have debates. I did not know where it would lead me to. I thank God that I now understand that whatever we do in school leads us somewhere. I want to urge girls not to shy away from debates in school. That is a learning process that will help them to be good debaters in future when they join politics.

I congratulate them for visiting us and learning what happens in this House. With those remarks, I welcome them.

**Sen. Nabwala:** Mr. Deputy Speaker, Sir, I also join you in welcoming the school from your county. We are very proud to see girls who are focused. In last year's examination results, girls took top positions. Out of 20 top students, 16 were girls. We are very proud that the equation is being changed. As we talk about the two thirds gender principle, in another five years, it will be the men who will be crying to have that two thirds gender principle in place.

So, I encourage you to work hard, stay focused and know that the sky is the limit. I thank you. You are most welcome.

**Sen. Hassan:** Mr. Deputy Speaker, Sir, first and foremost, I would like to tell them that we have an extraordinary Senator the Murang'a people have brought to this House. So, take that information back home. Tell them that we have a very good Senator; firm but very reasonable when called to be. He has added a lot of flavour to this Senate.

Secondly, I would like to tell you something as young women because as male leaders, we must speak to it. You must fight cultural stereotypes even at the very core of how you are brought up.

Mr. Deputy Speaker, Sir, as we are parenting these days, equality is built even in our homesteads. You do not tell the boy child to go out and play when the girl child is cooking and washing dishes. If they have to wash dishes, they all have to wash them together. Therefore, equality must be promoted. We are not training or giving you an

education to become anybody's cook or to wash anybody's clothes. If a man wants to cook and he is looking for a cook, he should get himself a microwave, not a wife.

Therefore, as you continue, equality would be best exercised by you fighting cultural stereotypes and societal norms so that you become equal to everybody because you are equal to the task.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you very much Sen. Omar for your kind words.

Sen. (Dr.) Khalwale, what point of order do you have?

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Deputy Speaker, Sir. Is the Senator for Mombasa; 001, in order to misadvise our daughters that when they get married, they are getting married to cook and that they should avoid marriage, if her husband wants somebody to cook for him, he should buy a microwave?

Mr. Deputy Speaker, Sir, in traditional African culture, wives are also referred to as cooks!

**The Deputy Speaker** (Sen. Kembi-Gitura): Order! Sen. (Dr.) Khalwale, that is a matter of argument. You are out of order.

*(Laughter)*

Finally, proceed, Sen. (Prof.) Lesan.

**Sen. (Prof.) Lesan:** Mr. Deputy Speaker, I also wish to join you and my colleagues in congratulating Nginda Girls High School. They have performed very well. I urge that this school which has been doing very well be part of the continuing process of reform in education where we are concerned with matters of integrity, especially handling of examinations in this country. This is a leading school. I encourage that it continues to work hard and within the new reformed way of handling examinations. That is being open, transparent and maintaining the quality of certificates in this country.

So, I encourage them to work as well as they have been doing. I am sure they can excel when they perform and progress within the conditions that are provided, particularly regarding to the examinations in this country.

Otherwise, I wish them well and welcome them to the Senate.

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Mutula Kilonzo Jnr., did you want the Floor? Okay, be the last one.

**Sen. Mutula Kilonzo Jnr.:** Mr. Deputy Speaker, Sir, I requested for the Floor because while we thank the students for coming to the Senate and encourage them to do well, we all forget the teachers who are working very hard. The teachers of this country are not appreciated. I am standing up to appreciate the teachers who are teaching these children on the best way to live and continue to demand that teachers must be treated well just like doctors.

**The Deputy Speaker** (Sen. Kembi-Gitura): Thank you. That brings us to the end of that Communication.

Again, to the girls of Nginda Girls High School and the teachers, welcome to the Senate. Thank you.

Next order!

**BILLS***Second Readings*THE KENYA ROADS BILL  
(NATIONAL ASSEMBLY BILL NO.26 OF 2015)*(Sen. (Prof.) Kindiki on 15.2.2017)**(Resumption of debate interrupted on 15.2.2017)*

**The Deputy Speaker** (Sen. Kembi-Gitura): We do not have the numbers and I cannot see the whips here. So, we have to stand it down.

Next order!

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

I would have thought we have disposed of that issue with the Communication I made. So, this would come on Division on or before 22<sup>nd</sup> February, 2017.

*(Bill deferred)*

Next order!

THE INTERGOVERNMENTAL RELATIONS  
(AMENDMENT) BILL (SENATE BILL NO. 9 OF 2014)

**The Deputy Speaker** (Sen. Kembi-Gitura): Sen. Murkomen who was supposed to move the Bill is not here. So, we will stand it down.

*(Bill deferred)*

Next Order!

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

THAT, pursuant to Section 7 of the Climate Change Act, 2016, Section 8(1) of the Public Appointments (Parliamentary Approval) Act, 2011 and Senate Standing Order 65, the Senate adopts the Report of the Joint Sitting of the Senate Standing Committee on Land and Natural Resources and the National Assembly Departmental Committee on Environment and Natural Resources on the vetting of nominees for appointment to the

National Climate Change Council, laid on the Table of the Senate on Wednesday, December 28, 2016 and approves the recommendations of the Committees as follows:-

(1) Approves the nomination of Messrs. Suresh Patel and John Kioli for appointment to the National Climate Change Council;

(2) Rejects the nomination of Ms. Cynthia Wechabe and Dr. Jane Mutheu for appointment to the National Climate Change Council; and

(3) Recommends that the appointing authority submits nominees of the female gender to represent the marginalized communities and Commission for University Education as prescribed by the Public Appointments (Parliamentary Approval) Act.

**The Deputy Speaker** (Sen. Kembi-Gitura): We will also stand down Order No.12

*(Motion deferred)*

CONSIDERATION OF NATIONAL ASSEMBLY AMENDMENTS  
TO THE COUNTY ASSEMBLY SERVICES BILL  
(SENATE BILL NO.27 OF 2014)

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

THAT, the National Assembly Amendments to the County Assembly Services Bill (Senate Bill No.27 of 2014) be now considered.

Mr. Deputy Speaker, Sir, this Motion seeks to allow this House to consider the proposed amendments to the County Assembly Services Bill (Senate Bill No.27 of 2014). This House considered a Bill by the Committee on Legal Affairs and Human Rights on County Assembly Services.

This House approved that Bill and it was forwarded to the National Assembly which considered the Bill and made one particular proposed amendment. As a House, we have no objection to the amendment by the National Assembly. The intention of the amendment is to preserve the status quo of County Assembly Services Boards (CASB) as they are currently constituted and ensure that the proposed Bill when it comes to law is only operational with the next county assemblies. This is important because we do not want to create a crisis within county assemblies as at now.

Mr. Deputy Speaker, Sir, we know that we have very few months to the end of the terms of the various 47 county assemblies. Therefore, we should ensure that we preserve the status of the CASBs as they are right now and ensure that this new provisions will be applicable to county assemblies in the next term.

Therefore, as a procedural Motion, this Motion seeks to allow the House to go to the Committee of the Whole on this particular County Assembly Services Bill so that we effect and approve those changes that were proposed by the National Assembly.

Mr. Deputy Speaker, Sir, I do not intent to take much more time than that, save to appreciate the National Assembly. It is only that this very cordial working relationship with the National Assembly is coming a bit too late in the day. This is what we should have been doing every other time. This is how a bicameral Parliament should work where when a House agrees with a proposal from the other House, we should look at merit.

We have had several situations where we have had Motions and Bills forwarded to the National Assembly and the only point of rejection of those Bills has been on the

basis that they originated from the Senate. It is important that Members of both Houses appreciate the role of each of the Houses and ensure that each and every deliberation that they engage is based on the merit and the contents of the Bill.

That is why I will urge the Senate to approve this Motion so that we get back to the Committee of the Whole on this particular Bill, so that we approve this amendment by the National Assembly, which makes sense. We should have no objection so that we conclude on this particular Bill and have it assented to by the President, way ahead of the end of the term of the current assemblies, so that when the new county assemblies come into place, already there will be a proper legal framework to constitute the CASBs.

Mr. Deputy Speaker, Sir, with those few remarks, I wish to request Sen. Hassan to second this Motion. I thank you.

**Sen. Hassan:** Mr. Deputy Speaker, Sir, I second.

*(Question proposed)*

Hon. Senators, since there is nobody interested in debate, I will now put the question.

*(Question put and agreed to)*

Next Order!

## COMMITTEE OF THE WHOLE

*(Order for Committee read)*

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

## IN THE COMMITTEE

*[The Temporary Chairperson (Sen. Mositet) took the Chair]*

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

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Temporary Chairman, Sir. Did you notice that when all Members stood up, the Serjeant-at-Arms have failed to train the visitors in the Gallery to stand up. They remained seated when the entire House was standing up. What action by way of sanctions will the House take against the Serjeant-at-Arms for not preparing visitors properly when they are in the Chamber?

**The Temporary Chairperson** (Sen. Mositet): Sen. (Dr.) Khalwale, I did not notice that. If that happened, then the Serjeant-at-Arms need to explain why they did not make the visitors or those in the Gallery be aware that they were meant to stand. That will be looked upon and the necessary action taken.

Hon. Senators, we are considering the County Assembly Services Bill (Senate Bill No.27 of 2014). The amendments are in the Order Paper and we will go straight to Clause 48.

*Clause 48*

**Sen. Sang:** Mr. Temporary Chairman, Sir, I beg to move:-

THAT, Clause 48 is amended in sub – clause (2) by deleting the expression “12(3)(d)” wherever it appears and substituting therefor the expression “12(3)(b), (c) and (d).”

Mr. Temporary Chairman, Sir, the import of this amendment, as I mentioned previously, is to ensure that the commencement of this Bill is deferred to the next county assemblies.

The intention of this Bill is to reconstitute the County Assembly Services Boards, expand them to include other new members and to create a Board that mirrors the Parliamentary Service Commission (PSC). This is meant to ensure that county assemblies are independent, autonomous and are able to have a professional board to ensure they are able to carry out their responsibilities.

Mr. Temporary Chairman, Sir, when we proposed these amendments, we did not provide for the transition. Therefore, this clause provides for a smooth transition by stating clearly that the new provisions will only be applicable to the next county assemblies and not the current ones.

This amendment seeks to preserve the status quo as is currently but provide that the new provisions will apply to the next county assemblies.

*(Question of the amendment proposed)*

Since no Member is willing to contribute, I will proceed and put the question that the National Assembly amendment to Clause 48 of the Bill be approved. Division on this will come later.

**Sen. Sang:** Mr. Temporary Chairman, Sir, pursuant to Standing Order No.139, I beg to move that the Committee reports progress on its consideration of the National Assembly’s amendment to Clause 48 of the County Assembly Services Bill (Senate Bill No.27 of 2014) and seek leave to sit again tomorrow.

**The Temporary Chairperson** (Sen. Mositet): I put the question which is that the Committee reports progress on its consideration of the National Assembly amendment to Clause 48 of the County Assembly Services Bill (Senate Bill No.27 of 2014) and seeks leave to sit again tomorrow.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Temporary Speaker (Sen. Mositet) in the Chair]*

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

**The Temporary Speaker** (Sen. Mositet): Chairperson, proceed and report progress.

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

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, I beg to move that the House do agree with the Committee in the said Report.

**Sen. (Dr.) Khalwale** seconded.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Speaker** (Sen. Mositet): Let us move on to the next Order.

**COMMITTEE OF THE WHOLE**THE PHYSICAL PLANNING BILL  
(NATIONAL ASSEMBLY BILL NO. 46 OF 2015)

The Chairperson and Vice Chairperson of the Committee on Land and National Resources are not here. This Order is deferred.

*(Committee of the Whole deferred)*

**The Temporary Speaker** (Sen. Mositet): Let us move on to the next Order.

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

**The Temporary Speaker** (Sen. Mositet): Sen. Omondi, are you ready?

**Sen. Omondi:** Mr. Temporary Speaker, Sir, I request that you give me time to prepare. I want to move an amendment to an amendment, if I will be allowed.

**The Temporary Speaker** (Sen. Mositet): Okay, this Order is deferred.

*(Committee of the Whole deferred)*



Let us move on to the next Order.

**COMMITTEE OF THE WHOLE**

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

**The Temporary Speaker** (Sen. Mositet): Is Sen. Omar here? This Order is also deferred.

*(Committee of the Whole deferred)*

Next Order!

**COMMITTEE OF THE WHOLE**

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

**The Temporary Speaker** (Sen. Mositet): Is Sen. Kittony here? I defer this Order.

*(Committee of the Whole deferred)*

Next Order!

**COMMITTEE OF THE WHOLE**

*(Order for Committee read)*

*[The Temporary Speaker (Sen. Mositet) left the Chair]*

IN THE COMMITTEE

*[The Temporary Chairperson (Sen. Mositet) took the Chair]*

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

**The Temporary Chairperson** (Sen. Mositet): Sen. Hassan, what is your point of order?

**Sen. Hassan:** Mr. Temporary Speaker, Sir, my Bill; The Preservation of Human Dignity had already gone through the Committee of the Whole and was now at the Division and Third Reading. In fact, all the time it appeared for Division up to this point.

**The Temporary Chairperson** (Sen. Mositet): Sen. Hassan, we are in the Committee of the Whole and you can only raise that when the Speaker will be in the Chair.

We are now on Order No.19, the County Statutory Instruments Bill (Senate Bill No.10 of 2015)

*Clauses 3 and 4*

*(Question that Clause 3 and 4 be part of the Bill proposed)*

**The Temporary Chairperson** (Sen. Mositet): The Division will be at the end.

*Clause 5*

**Sen. Sang:** Mr. Temporary Chairperson, Sir, I beg to move:

THAT, Clause 5 of the Bill be amended in sub-clause (1) by inserting the words “and shall invite members of the public to give their views on the instrument within a prescribed period and in a manner to be determined by the Committee” immediately after the words “affected by the proposed instrument”.

This is an amendment by the Committee on Legal Affairs and Human Rights and its intention is to provide a standard format. This is the concept of public participation in terms of every regulation or law that is being made. We were just trying to provide the standard format that we have used in all the other regulations and all the other laws; that before a committee concludes its consideration on the statutory instruments, they must be able to invite members of the public and that is in line with the constitutional provisions on public participation.

Thank you.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Mositet): The Division will be at the end.

*Clauses 6, 7, 8,9,10,11,12,13 and 14*

*(Question that Clauses 6, 7, 8, 9, 10, 11, 12, 13  
And 14 be part of the Bill proposed)*

**The Temporary Chairperson** (Sen. Mositet): The Division will be at the end.

*Clause 15*

**Sen. Sang:** Mr. Temporary Chairperson, I beg to move:

THAT, the Bill be amended by deleting Clause 15 and substituting thereof the following new clause-  
Notice to the

Regulation  
Making  
authority

15. In so far as is practically possible, the committee shall in considering a statutory instrument, and before tabling its report in the county assembly, confer with the regulation-making authority which has made the statutory instrument that is before the committee for scrutiny.

This is also an amendment that seeks to give the process of scrutiny of regulations in the county assembly. It is the same formula that we use in Parliament. Once you have regulations before a committee, if you have amendments to the regulations, before you make a report to annul those regulations, you invite the regulation making authority and raise your concerns - I speak this as the Chairperson of Delegated legislation in the Senate – they always accede to them and degazette the regulations and amend them in the fashion that you have proposed.

Therefore, this has always worked very well for the committees in the National Assembly and in the Senate. We are therefore, providing for the same window that the county assembly committees on delegated legislation shall invite the regulation making authority to appear before them and raise their concerns. If they agree with those regulations, then there is no need for the committee to recommend its annulment to the authority that actually proposed those amendments. The regulation making authority shall right or correct those issues.

This is to provide a standard way or procedure so that what is happening in the National Assembly and the Senate is available at the county assemblies so that you are able to fast-track the process of scrutiny of statutory instruments.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Mositet): The Division will be at the end.

*Clauses 16, 17, 18, 19, 20, 21, 22, 23 and 24*

*(Question, that Clauses 16, 17, 18, 19, 20, 21,  
22, 23 and 24 be part of the Bill proposed)*

**The Temporary Chairperson** (Sen. Mositet): The Division will be at the end.

*Schedule*

*(Question that the Schedule be part of the Bill proposed)*

**The Temporary Chairperson** (Sen. Mositet): The Division will be at the end.

*Title and Clause 1*

*(Question that the Title and Clause 1 be part of the Bill proposed)*

**The Temporary Chairperson** (Sen. Mositet): The Division will be at the end. The Mover!

**Sen. Sang:** Mr. Chairperson, Sir, pursuant to Standing Order No.139 I beg to move that the Committee do report to the Senate its consideration of the County Statutory Instruments Bill (Senate Bill No.10 of 2015) and seek leave to sit again tomorrow.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Temporary Speaker (Sen. Mositet) in the Chair]*

### **PROGRESS REPORTED**

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

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, I beg to report progress that the Committee of the Whole has considered the County Statutory Instruments Bill (Senate Bill No.10 of 2015) and seeks leave to sit again tomorrow.

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

I request Sen. Leshore to second.

**Sen. Leshore** seconded

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Speaker** (Sen. Mositet): Next order. What is your point of order, Sen. Sang?

### **POINT OF ORDER**

#### CONCERN OVER PENDING COMMITTEE REPORTS AND MANAGEMENT OF HOUSE BUSINESS

**Sen. Sang:** Mr. Temporary Speaker, Sir, looking at the Order Paper, that seems to have concluded the business that is in today's Order Paper. It is now some minutes to 4.00 p.m. We have serious accountability challenges in our counties.

The various Committees of this House given the responsibility to carrying out oversight are sitting on reports and have never concluded business in their Committees. In the next two or three minutes, this House will adjourn for lack of business. This is a

serious matter because we are heading to the elections. We are losing billions of money in various counties. This House is charged with that responsibility.

Mr. Temporary Speaker, Sir, can we get serious commitment from the County Public Accounts and Investments Committee (CPAIC) and other Committees that have various petitions pending before them? It is immoral that this House concludes business at 4.00 p.m. We have serious issues in the counties and a lot of business pending in various Committees and this House adjourns because of lack of business. This is quite sad and regretful.

Therefore, I request for your guidance and response to this matter. If this Senate does not stand up to its responsibility, the country will blame us for the messes in our counties. We request that the various Committees of this House charged with responsibility pull up their socks, roll up their sleeves and ensure that this House is furnished with those reports.

Mr. Temporary Speaker, Sir, I would be excited to discuss the report on Nandi County - The Committee's decision, with regard, for example, of a gate that was built in my county for Kshs54 million. We cannot have this kind of wanton misuse of public resources in our counties and this House sits pretty, we conclude business at 4.00 p.m. yet we still have the provision for another one and a half hours. This is unacceptable. We need to ask our colleagues in the various Committees to bring these reports to this House so that we can address ourselves to these issues.

Mr. Temporary Speaker, Sir, I seek your guidance.

**The Temporary Speaker** (Sen. Mositet): What is your point of order, Sen. Omondi?

**Sen. Omondi:** On a point of order, Mr. Temporary Speaker, Sir. I join Sen. Sang to register my disappointment. We have a lot to do. The days that are remaining to the end of the 11<sup>th</sup> Parliament make me feel uncomfortable. I request the leadership under your Chair to give us guidance. As Sen. Sang has said, we must take responsibility. This country is not moving in the right direction. The Kenyan people are looking up to us as leaders to give direction and hope. If we will not take the responsibility to give Kenyans hope, then, we are taking the wrong direction. We request you to give us direction on this.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Temporary Speaker, Sir. What the distinguished Senator for Nandi supported by nominated Senator from Kakamega has raised is very critical.

Mr. Temporary Speaker, Sir, allow me on behalf of the Chairman of the CPAIC to report that we have made a lot of progress to the extent that we have concluded receiving evidence for all the counties for the Financial Year 2013/2014, except the Embu and Kakamega counties. As far as this Senate is concerned, there is no governor in Embu County. It is a matter that has required interpretation. That is why we could not receive evidence from Gov. Wambora who had been removed by this Senate.

In the case of Kakamega County, it is because the governor for Kakamega, Gov. Ambetsa Oparanya is still seeking refuge in the High Court with injunction upon injunction. In fact, we are retreating with effect from this evening to adopt the reports which we finished writing two weeks ago. We hope that next week, we will start tabling the reports for debate.

**Sen. (Prof.) Lesan:** Mr. Temporary Speaker, I also rise to support what my colleagues Sen. Sang and Sen. (Dr.) Khalwale have raised regarding the business of the House. I hope the Senate Business Committee (SBC) that directs business of this House is noting what is happening this afternoon in the House. That, at 4.00 p.m. we have no further business on the Order Paper. I am not saying that Senators have no role to play in this business because you can see the numbers in the House as well. It requires all of us, led by the SBC that schedules the business of the House to be serious about the business of the House.

Mr. Temporary Speaker, Sir, whereas I commend the Chair of the County Public Accounts and Investments Committee (CPAIC) for having looked at the accounts of 2013/2014, I must say that is not good enough. These are issues to do with finances in the counties and this is one of the committees that must be ahead of time and should be concluding 2014/2015 accounts, so that we can hold accountable governors who have been exploiting and misusing funds for counties in good time. Currently, they must be all smiling with the loot that they have taken.

They are now financing their campaigns and misleading the public using those funds yet they have not been called to account. The CPAIC needs to speed up reports and present them to this House so that we make our input.

Mr. Temporary Speaker, Sir, I thank you.

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, I rise to support Sen. Sang. Before I do that, I have to raise a violation of the rules of this House. Today is Thursday, the last day of the week. One of the things that are supposed to be done before we adjourn, which we are about to, is a statement to be issued by the Senate Majority Leader on business of the Senate. So, the majority side of this House has abdicated as they have done since 2013. They are not in the House and that means we have no business for next week. I am wondering whether you will adjourn the House before we have business for the following week.

Secondly, last week, Members of the National Assembly retreated to discuss how they will cover the work that is pending before the House. Why has the SBC of this Senate not thought it wise to have a similar session to discuss what is pending and how fast we can dispose it? What is even worse is that it is now apparent from the timelines that the 21 Bills pending in the National Assembly will not come to the Senate.

Mr. Temporary Speaker, Sir, it is a tragedy because we cannot justify why we have been here for four years and the country is watching us. Where is the leadership of the Senate? For how long are we going to violate our own rules? For how long are we going to sabotage ourselves? This is the only institution in this country that does not protect itself, sabotages itself, votes against itself, calls for a special sitting and votes against its own jurisdiction, votes for Bills that will assist it and does not have business for the following week. It is a shame!

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Temporary Speaker, Sir. With your permission, I am rising to reiterate the issue of our Bills lying on the shelves in the National Assembly. There is something wrong with the leadership of this House right from the Speaker up to the least endowed position in the leadership of this House.

Let me give you an example of one annoying Bill. The distinguished for Meru, Sen. Murungi, brought here an amendment Bill to amend the Parliamentary Service Commission Act so that it could give force of law to the Oversight Fund of this Senate.

The Bill went to the National Assembly and it is sitting on the shelves. When the leadership of this House found that that Bill was being sat on, they approached Sen. Murungi who looked for another route through the Rules and Regulations. What was easier was for Speaker Ethuro to sit with the leadership of the National Assembly and demand that that business be dispensed with or accept defeat and have a new process of Rules and Regulations started.

We are literally begging for that fund when we could have amended the Parliamentary Service Commission Act to give it substantive force instead of hiding in some little things called Rules and Regulations.

Mr. Temporary Speaker, Sir, there is something wrong with this House and my regret is that Sen. Sang who has distinguished himself in four short years to be a major legislator will be going to serve as the governor of Nandi. Otherwise, I would have preferred him to be here as Senator when I am serving as governor in Kakamega so that he overlooks me.

**Sen. Sang:** Mr. Temporary Speaker, Sir, the issue about Bills being approved here and lying on the shelves in the National Assembly is very serious. In the Committee on Legal Affairs and Human Rights, Sen. Mutula Kilonzo Jnr. and I worked on a Bill on the County Attorney. Right now, there are messes in the counties. Very serious legal blunders by governors would have been avoided if we had qualified county attorneys to advise them.

Our counties are making serious financial commitments in blatant disregard to the Public Finance Management (PFM) Act. We are witnessing County Executive Committee (CEC) members or governors sponsoring candidates for various positions using county funds. There are very obvious messes in the counties that would have been dealt with if we had some of these institutions established in the counties. That Bill has been lying in the National Assembly for almost one and a half years.

Mr. Temporary Speaker, Sir, we know for a fact and this is provided by the law that once our term comes to an end, all the 21 Bills and the man and woman hours that went into creating them will be wasted because those Bills will be dead. It is really unfortunate that this House took its time to generate, debate, improve and ensure that we approve those Bills and right now they are lying in the National Assembly.

That is a tragedy upon the Senate. Our colleagues who are looking forward to come back to this House should ask themselves where they will get the motivation to generate more Bills if they have all those Bills lying on the shelves of the National Assembly. These are difficult issues.

*(Sen. (Prof.) Kindiki walked into the Chamber)*

As they say, you talk of the angle and he arrives. I am sure the Senate Majority Leader will shed a little more light and encourage us that something is happening, so that we ensure that the 21 or so Bills in the National Assembly will be discussed in the House. If they have amendments, let them deal with them.

Mr. Temporary Speaker, Sir, let us conclude debate and processing of these Bills so that as we wind up our term in this House, we will be proud legislators; that we came to this House and did our job. Even when Sen. (Dr.) Khalwale will be presenting his

scorecard to the people of Kakamega to seek the position of governor, his scorecard will be based on how many laws he made.

Mr. Temporary Speaker, Sir, there are several Bills that are pending in the National Assembly. Somebody might think that he is not a very good legislator. He is such a sharp legislator but he has been let down by the system and the dysfunctional bicameral arrangement that we have.

We would like to ask Sen. Muthama as a leader in the Minority side and Sen. (Prof.) Kindiki as a leader in the Majority side to help us as their foot soldiers or Members to ensure that those Bills that we have generated see the light of day in the National Assembly and we conclude the business so that Kenyans benefit. Now that Sen. Abdirahman, the Deputy Senate Minority Leader, is here, this is the leadership that has let us down. They need to ensure that they work out something to ensure we have business.

**The Temporary Speaker** (Sen. Mositet): Order, Sen. Sang! I allowed the point of order raised by Sen. Sang simply because of lack of business of the House. Out of that, quite a number of you rose on the same but it has now turned into debate. So, for the few I will allow to speak, please restrict yourselves to few words.

Sen. Karaba.

**Sen. Karaba:** Mr. Temporary Speaker, Sir, the clock is ticking. It is stating that it is already past 4.00 p.m. The danger is that we will soon rise yet we had business for today. The concern that has been expressed by various Members of the Senate is true in the sense that if we are to leave before 6.30 p.m. we will have abdicated our responsibilities. Abdication should not be seen to be the order of every other week especially when we have a new session.

Last time, we had the same problem. We were rising at 3.30 p.m. for lack of business. The Rules and Business Committee should have met earlier so that when we come here we continue with the business.

Mr. Temporary Speaker, Sir, what has been said is true; we just have about three months to transact serious business. By 13<sup>th</sup> April, 2017 when most of our major parties will nominate officials in various positions, in this House there might be no one. Very few Senators will be coming here to discuss any issue. If we have 21 Bills, including mine on ECDs, which has been discussed for the last two or three years and it has not been assented to by the President, we are wasting time. Why should we be here, discuss Bills, take them to the National Assembly and they are never brought here? Does that mean all that is wasted time? That is not proper. Let there be a ruling that some time will be taken up by Bills so that they are allowed to take the maximum time that there is for them to be discussed by both Houses.

Secondly, we have governors who are aware that by April or May they might not be nominated by various parties. What do you think they are doing now? They are spending all the money for development purposes such that they entrench themselves and are seen like the prime movers in the counties. In absence of anything else we have done here for us to reprimand or prosecute against the evidence given by the Auditor-General, we will be seen like we are not doing anything. We are just shadow boxing. Why can we not be seen like we have teeth to bite?

**The Temporary Speaker** (Sen. Mositet): Let me direct the chairpersons of the committees and the respective committees to take their work seriously. This is so that



anytime we have business and the chairpersons are not there, the vice chairpersons should be present. If they are not, the committee members can equally execute the business.

It is a big shame, just like many of you have said that we have some business to transact but we do not have the committee members present. In fact, there was a lot of business to transact today. However, Members of the committees were not present.

Having said that let me allow Sen. Muthama to comment.

**Sen. Muthama:** Mr. Temporary Speaker, Sir, let me use my privileges as the Minority Chief Whip to speak from the Dispatch Box.

**Sen. Omondi:** On a point of order, Mr. Temporary Speaker, Sir. Was the leadership of this House in order to cancel all committee meetings? The meetings of committees were closed up to 31<sup>st</sup> January, 2017. No business was being transacted. All this mess is because the committees were limited, their hands were tied. Are we serious with our work?

**The Temporary Speaker** (Sen. Mositet): Hon. Senator, I believe during that time, Senators had time to visit their counties. It was in this spirit that they were allowed to have a break to be with their constituents.

Continue, Sen. Muthama.

**Sen. Muthama:** Mr. Temporary Speaker, Sir, having said that, I take this opportunity to use my privilege as the Minority Whip to speak from the Dispatch Box.

**Sen. Omondi:** On a point of order, Mr. Temporary Speaker, Sir. I am still not comfortable with the answer you have given me. With the health crisis we have been having, the Committee on Health could not meet simply because there was a directive from the leadership that no committee should meet. This caused things to run out of hand. The health crisis was not seen as urgent. Is this in order?

**The Temporary Speaker** (Sen. Mositet): Sen. Godliver, I will give a ruling on Tuesday, next week.

Proceed, Sen. Muthama.

**Sen. Muthama:** Mr. Temporary Speaker, Sir, I sat here pensively and listened to Sen. Sang, Sen.(Prof.) Lesan, Sen. Mutula Kilonzo Jnr. and Sen. (Dr.) Khalwale on the subject matter that was brought up by Sen. Sang.

I just want to share the experience I have from the Tenth Parliament to the Eleventh Parliament. Experience is the best teacher. When I was the Chief Whip in the Tenth Parliament, Sen. (Prof.) Anyang'-Nyong'o was a Minister. Sen. (Dr.) Khalwale was a Member of Parliament and also in charge of one of the most serious committees. The failure of transacting business in this House starts with the leadership, which I am part of. While I admit that I am part of it, it is up to the Government side to make sure that the leadership of this House meets with the top leadership of the country.

Mr. Temporary Speaker, Sir, I cannot count the number of times I sat with former President Kibaki and former Deputy President Kalonzo Musyoko when there were crucial issues in the House. I presented to the leadership what was needed to be done starting with Members of Parliament to the Cabinet Ministers. That was one of the most difficult governments to manage.

Sen. (Prof.) Anyang'-Nyong'o can tell you there were times--- Forget about having the Bills passed or discussed, but we managed the situation. We all know the Executive in this country is fighting the leadership of this House and the Senate. None of

those who are in top leadership want the Senate to continue transacting business to do with this country.

How many Bills have passed here and they have gone nowhere? We have been shortchanged by the National Assembly severally. This being the “Upper House” of this country has been made to be the “Lower House”.

Mr. Temporary Speaker, Sir, the Speaker of the Senate and the leadership of the Majority side should face the President and ask him whether we have business being here or not. We cannot recall the leadership of this House sitting down with the President deliberating on issues to do with this House. Who is supporting the business of this House? It starts with the President, the Deputy President and the Cabinet Secretaries. Those are the people who will capture the need and business of this House.

I confess that, if today either Raila Odinga or Kalonzo Musyoka was the President of this country and Sen. Muthama was seated there, you would see things moving in this House like you have never seen. You people should bring the leadership here and stop complaining about it. We pass Bills yet nothing happens to those Bills. Is it up to the Members of the Senate to assent to those Bills? It is not the work of the Senate to dictate and instruct the leadership of the country that what has been passed and approved here has to be attended to. We should be faithful with our work.

I challenge the leadership of Jubilee, not next month but in the coming week, to hold a meeting with the President and tell him that they carry the people’s vote and that they were elected by the people. They should come here and do Business. They should not bring the Opposition into this. This idea is to undo what you are trying to do. For the sake of this country, we are focused and are committed to make sure that we deliberate issues as a team. However, it is up to you to move it forward. That is the experience of one of the senior Whips in this country.

**The Temporary Speaker** (Sen. Mositet): Sen. Muthama, I gave you a lot of time. However, all said, the Majority Leader has been bringing a lot of business. We have quite a number of Bills from the Government side which we have passed through this House and you have passed them yourself. Therefore, we cannot say we have not been having business. For those that I am going to give the Floor, kindly restrict yourselves to two minutes.

Sen. (Prof.) Anyang’-Nyong’o!

**Sen. (Prof.) Anyang’-Nyong’o:** Mr. Temporary Speaker, Sir, I came in late. However I am a quick learner; I have caught up with what is going on. I plead with you to give me a little more than two minutes because this is my 25<sup>th</sup> year in Parliament and I have a little bit some experience to share with the House on this matter. We should not be too hard on the Senate. The Senate, over the last almost five years has done some appreciable work. The Senate has acquitted itself honorably in terms of its productivity notwithstanding the intransigent and the indifference of the Jubilee Executive to the Senate, even fighting the Senate. However we have fought a noble and good fight. We should congratulate ourselves in that regard.

Secondly, I have in this Senate, colleagues who have served with me in several committees; Sen. Mutula Kilonzo Jnr. and Sen. (Dr.) Khalwale in the famous Kenya Airways Committee which have bore results. The changes you see in the Kenya Airways are actually an implementation of our recommendations. We stand to be congratulated as

hon. Members of this Senate who served decently in this committee for very little gain, except rewarding our country with our services.

However, more than that we must also understand that the voter registration has been going on. Today is the last day. Members of the other side are extremely on tenterhooks because it is either they get the numbers; true numbers, not imaginable like last time or they join us on this side in the coming elections which is becoming a fast reality. I do not blame them being here. They should be up and running trying to ensure that they do not all come to this side. However, most of them are on the way.

Having said that let me say the following; This Session is going to be a difficult one. We better prepare for it. We are going to the elections. Let us not be sentimental about it. The reality is that when people are going to elections, Parliament becomes a difficult place to be in, all the time. We need the leadership of this House to be more committed in Whipping Members to come to the House. When we are in this House, we should undertake business quickly and productively. We should not spend too much time on Statements; we should go to the Business of the House and complete it.

Finally, on my part as the Chairperson of the County Public Accounts and Investments Committee (CPAIC), we have met this morning as a committee. We are going on a retreat from today at the Windsor Golf Hotel to complete our reports. Indeed we have already completed eight reports it is just a question of adopting them. They will be laid in the House next week. I plead with the House Business Committee to accord us the opportunity for these reports to be discussed expeditiously because we must not let county governments get away with murder in terms of misuse of public resources. This is the House, according to Article 96 that takes care or defends and promotes the interests of the counties.

The CPAIC, in which Sen. (Dr.) Khalwale and Sen. Ndiema sit, will present perhaps 14 reports to be tabled and discussed. I therefore, hope time will be accorded by the House to pay particular attention to those reports so that by the time we leave this House we will have done our work productively. I know that the Auditor-General was constrained and we have not even started discussing the 2014/15 audit accounts. That is because we were stopped from doing our work for 10 months and the Auditor-General was starved of resources and staff. However, I hope the next Senate will overcome the obstacles we have gone through.

*(Interruption of debate on point of order)*

## COMMUNICATION FROM THE CHAIR

### VISITING DELEGATION FROM BAITIGITU PRIMARY SCHOOL

**The Temporary Speaker** (Sen. Mositet): Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon, of visiting teachers and students from Baitigitu Primary School, South Imenti Constituency, Meru County. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.

*(Applause)*

What is your point of order Sen. (Dr.) Khalwale?

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, did you say that the visitors are seated in the Speaker's Gallery in your communiqué?

**The Temporary Speaker** (Sen. Mositet): Yes.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, the Speaker's Gallery is empty. The Public Gallery is empty.

**The Temporary Speaker** (Sen. Mositet): Point noted, Sen. (Dr.) Khalwale.

*(Laughter)*

I just read as it was given to me. It is the Public Gallery. Therefore, I would like to acknowledge the presence in the Speaker's Gallery this afternoon, of visiting teachers and students from Baitigitu Primary School.

*(Resumption of debate on point of order)*

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Temporary Speaker, Sir. I have two points of order. The first one is the one I was still prosecuting and then you corrected me. However, what sanctions will you take against the Office of the Clerk for misleading you? The Public Gallery that you are alluding to is empty. There is no one there. These proceedings are live.

Secondly, the Senate Majority Leader is here. We have raised very important issues about business not being pushed by the leadership of this House so that it is transacted upon in the National Assembly for it to come back for us to conclude. I request that you invite the Majority Leader to address us on this very important matter. At this state, some of us who are very passionate about the need of the quality of business are now contemplating on moving a Motion of Censure against the Majority Leader unless he acquits himself sufficiently.

**The Temporary Speaker** (Sen. Mositet): What is your point of order Sen. Sang'?

**Sen. Sang:** On a point of order, Mr. Temporary Speaker, Sir. Is Sen. (Dr.) Khalwale in order to mislead you that the Public Gallery is empty when we have two people? Even in the Speaker's Gallery there is one person.

**Sen. Cheruiyot:** Mr. Temporary Speaker, Sir, I also want to make my contribution as the rest of my colleagues about the issue that we were discussing earlier on. Unfortunately, the person whom my first and foremost comment would have been directed to has decided to take French leave. He did so the minute you gave me the microphone.

Probably he knew what was coming his way. I wanted to address myself to Sen. Sang. In the community that I come from, and by extension you, one of the cardinal rules that we believe is that when you are going to war, the person leading the troop should justly and deeply within believe that we shall win the war.

I earlier on had a chance to listen to Sen. Sang and you could not help but hear the voice of a man who has completely given up on the role and place of the Senate in this country, and therefore, has decided to consider his options elsewhere; or run for probably another seat other than the Senate.

For that reason, I did not want to share in his sentiments but given the nature of his arguments and the fact that they are a true reflection of frustration of many of us in this House who feel that it is a about time that as Senators, we deeply reflect on the enormous amount of work and the huge task that we have been given by the people who elected us to come to this House and consider how we transact business.

I agree with the Senators who have questioned genuinely about the leadership of the House from both divides. It is political cheekiness for somebody to stand up and point an accusing finger on the leadership of the Majority side while everybody knows that for business to be transacted in this House, you need support from the Majority and Minority sides.

One of the reasons why this afternoon we have cleared our tray so quickly is that, while there was business, we did not have the Members to prosecute some of it. Is the person who is raising an accusing finger to the Majority side trying to mislead us to believe that it is only in committees with good representation from the Majority side that did not show up this afternoon? We all know that committees are constituted by Senators from both sides of the House. So, let us be sincere with ourselves.

**The Temporary Speaker (Sen. Mositet):** What is your point of order, Sen. (Prof.) Anyang'-Nyong'o?

**Sen. (Prof.) Anyang'-Nyong'o:** On a point of order, Mr. Temporary Speaker, Sir. Is the distinguished Senator, who is my neighbour, in order to imply that the business transacted in this House is the responsibility of both sides when we know that by parliamentary practice, it is the Government side which bids in generating business in the House?

**Sen. Cheruiyot:** Mr. Temporary Speaker, Sir, probably, my good neighbour, professor, did not get the thrust of my argument. Part of the reasons we finished early this afternoon is that while we had business that was to be transacted, we did not have the numbers. Numbers are drawn from both sides. I think he agrees with me.

*(An hon. Senator spoke off record)*

**The Temporary Speaker (Sen. Mositet):** Sen. Cheruiyot, have you finished?

**Sen. Cheruiyot:** Mr. Temporary Speaker, Sir, I was about to finish but I was interrupted by Sen. Sang and Sen. Mutula Kilonzo Jnr.

**The Temporary Speaker (Sen. Mositet):** Proceed.

**Sen. Cheruiyot:** Mr. Temporary Speaker, Sir, let me conclude my thought. Perhaps this is a good moment for us to deeply reflect and realise that for sure, we need to change tact. I agree with the sentiments raised by Sen. (Prof.) Anyang'-Nyong'o, that, it is good for us to be alive to certain realities, for example, we all know that this is an election year and as we draw closer to the days where major political parties in the country will be doing their nominations, it will be difficult to raise numbers. Perhaps it calls upon the leadership from both sides of the House to devise creative means where we may not just have to operate on all the days of the week but perhaps mobilise for a

particular afternoon and say, there is certain business that is of great importance, let us meet on this particular day and shift things to do with certain Bills that need to be debated on days when people have extreme interest to show up on that day.

**The Temporary Speaker** (Sen. Mositet): What is the point of order, Sen. Sang?

**Sen. Sang:** On a point of order, Mr. Temporary Speaker, Sir. It is important that whereas Sen. Muthama and Sen. (Prof.) Anyang'-Nyong'o have alluded to the previous Parliaments where you largely had the Government and Opposition sides, but in this new dispensation, the real importance of an Executive in parliamentary business is not as important as it was then. If you realised the issues that Sen. Mutula Kilonzo Jnr. and I raised, they have very little to do with the national Executive but everything to do with the relationship between the National Assembly and the Senate. We need to crack the relationship between this House and the other House so that if we get ourselves into blaming the Government side or the Executive – we have Bills - Three of them are private Members Bills. Sen. (Dr.) Khalwale has sponsored Bills. We are talking about Private Members Bills that have not been processed in the National Assembly.

The problem of the Executive is at a different tier. The major problem that we have in terms of transacting business in this House is the relationship between the National Assembly and the Senate. If we decide to convolute the problem and bring in the national Executive, we will lose sight of the real problem.

**The Temporary Speaker** (Sen. Mositet): What is your point of order, Sen. (Prof.) Anyang'-Nyong'o?

**Sen. (Prof.) Anyang'-Nyong'o:** On a point of order, Mr. Temporary Speaker, Sir. The junior Senator from Nandi ---

**The Temporary Speaker** (Sen. Mositet): Sen. (Prof.) Anyang'-Nyong'o, you are completely out of order. Order, Senators! We do not have junior Senators here; we have Senators in the House.

**Sen. (Prof.) Anyang'-Nyong'o:** My apologies, Mr. Temporary Speaker, Sir. I beg to withdraw that statement. My colleague and neighbour from Nandi must be conscious. Is he in order not to be conscious of the fact that the Executive is the one which is pushing the National Assembly to frustrate the Senate? His Majority is on the HANSARD having said so before we broke our session.

**The Temporary Speaker** (Sen. Mositet): Sen. (Prof.) Anyang'-Nyong'o, you are completely out of order. You do not have any reference to show that the Executive has influenced the National Assembly into not making sure that those Bills are acted on.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Temporary Speaker, Sir, if you read the newspapers today, and I dare I would bring them here, the Majority Leader is quoted verbatim. I think it was in the *Daily Nation*. The Majority Leader should check that.

**The Temporary Speaker** (Sen. Mositet): Sen. (Prof.) Anyang'-Nyong'o, from a distance, you can see the Majority Leader shaking his head. So, do not take those newspapers as the truth.

Proceed, Sen. Mutula Kilonzo Jnr.

**Sen. Mutula Kilonzo Jnr.:** On a point of order, Mr. Temporary Speaker, Sir. I appreciate the initial intervention by Sen. Sang but to baptize it in a different way is, in my view, to what we call in law to approbate and reprobate. In simple terms, it means to blow hot and cold.

Mr. Temporary Speaker, Sir, we were here over Christmas holiday on a Bill generated from the National Assembly, accepted by the Majority Leader here, we voted here, and then, for some strange reason, we are giving an excuse. The fact is; the leadership of this House has failed. You cannot baptize it in any other way. The same person, who gave out the Bill from the National Assembly to the leadership here, fast-tracked it, the Majority Leader got 15 Senators, brought us here over Christmas holiday and messed up our new year. It is the same person. Has this person changed?

*(Several Senators stood up on points of order)*

**The Temporary Speaker** (Sen. Mositet): I will not allow the many points of order you people are raising.

Hon. Senators, because we have the Senate Majority Leader in the House, we will allow him some time before he reads the statement of business for next week. Before he does that, maybe he can explain to us whether there is something which has not been adding up.

Sen. Muthama.

**Sen. Muthama:** Mr. Temporary Speaker, Sir, it is obvious that when you look at the business of the National Assembly you will find that it is not the Executive. The Executive does not support this Senate. Despite the fact that we have one of the most gifted minds, there is nowhere Sen. (Prof.) Kindiki can be quoted to have stood next to the President to assent any Bill from this House. There is a big distinction and I must defend him. We have only seen one Speaker standing next to the President while assenting to Bills and that is the Speaker of the National Assembly. Where do we venture in the leadership of this country?

Therefore, to state that the Executive is involved in downplaying the business of this House is a joke. It is obvious and we do not need to mince a word on this. We should not baptize anything.

**The Temporary Speaker** (Sen. Mositet): Let me clarify on the issue of the pupils and teachers from Meru County who were in the Gallery. By the time a Communication was brought they were there and you Senators were very busy ventilating on a very important issue. Because of that, I think they walked out before I read the Communication. So, I may not necessary say that I was misled by the Clerk.

Having said that, let me allow the Senate Majority Leader to tell us more on business of the House and read his statement.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, first and foremost, I apologise to the House through you with a lot of humility and remorse because I was late in coming to the Chamber. I got constrained and I truly apologise.

Mr. Temporary Speaker, Sir, I want to address myself quickly to some of the issues that have been raised by hon. Senators with regard to the business of this House. First and foremost, let me start by admitting that we have had challenges with regard to our legislative work since 2013 until now.

It is not true that this Senate has not done its work. I want to applaud Sen. (Prof.) Anyang'-Nyong'o and I am glad he comes from the Minority side. He has demonstrated that we have done quite a bit of work in this House. We have had numerous Government-

sponsored Bills and numerous Private Members Bills. The challenge could arise from the fact that some of the Bills have been stuck in the National Assembly. That is a challenge we must accept and continue to engage to see how to improve that relationship.

Secondly, the relationships between Houses or Chambers of a bicameral Parliament are difficult everywhere in the world. Last year I spoke to a colleague Senator from Australia. He told me that the challenges that this Senate is facing around fighting for more money to the devolved units and the relationship with the “Lower House” are the same challenges the Senate of the Republic of Australia is facing nearly 175 years after the creation of that Parliament. So, you cannot expect that the relationship of a bicameral system in the context of Kenya which has been a highly centralized nation will be easy because there are centralists at all corners.

**Sen. Mutula Kilonzo Jnr.:** On a point of information, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Mositet): Sen. (Prof.) Kindiki, do you wish to be informed by Sen. Mutula Kilonzo Jnr.?

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): I rarely get informed by Sen. Mutula Kilonzo Jnr. but for today, I will allow him to do so.

**Sen. Mutula Kilonzo Jnr.:** Mr. Temporary Speaker, Sir, maybe he knows but I want to tell him this: The Australian Constitution provides for a formula when both Houses do not agree. It provides a default clause which was invoked last year that in the event of both Houses not agreeing, the Parliament is prorogued. For that reason alone, they have gone out of their way to ensure that Bills coming from either House are passed. Therefore, we are not the same in that respect.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I thank Sen. Mutula Kilonzo Jnr. for that valuable information. However, in his usual enthusiasm, he has completely failed to appreciate what my point was. My point was simple, that in Australia with many decades of bicameral Parliament, they still have the push and pull. How that push and pull between the two Houses is resolved is a different topic but the push and pull exists until today. However, I appreciate that information but I do not know where Sen. Mutula Kilonzo Jnr. gets time to read all these things because he appears to be a fairly relaxed human being.

Mr. Temporary Speaker, Sir, for the record, it is not true to argue that the national Executive has not generated Bills which have been considered by this House. I want to link that point with the point that was raised by Sen. Muthama, the Senate Minority Whip. He said something about who has been besides the President signing Bills and that kind of thing. Of course his observation is not true but be that as it may, we are always there whether standing, seated or around the compound.

I need to explain something very important for us to appreciate. The Constitution says that when a Bill originates from one House and is considered by the second House, it is returned to the originating House for concurrence. The Constitution also says that when such a Bill which originated from House “A” is returned to that House, it is the Speaker of the originating House to forward that Bill to the President. By the nature of the design of the Constitution, an overwhelming majority of the Bills, perhaps except the County Allocation of Revenue Bill, originates in the “Lower House”. So, the problem has nothing to do with the Executive or the Senate Majority Leader.



The Constitution says that when a Bill goes to the second House, it is returned to the originating House whose Speaker shall forward it to the President for assent. So, the problem is constitutional. For once, I am beginning to believe that maybe we need a referendum to correct some of the constitutional challenges.

I know the “Okoa Kenya” brigade is here and they are very annoyed with the differences we had sometimes back. Going forward, we should agree on how to amend some of the offensive Clauses in our Constitution after the general election.

I am discouraged by my brothers and sisters in the Minority side. I have owned up to the challenges from the Majority side. However, it is not right for our colleagues to pontificate here. My understanding of the Minority side, sometimes in other jurisdictions it is called the Official Opposition, whose role is to generate alternative legislative and policy agenda. Whether that agenda passes or not is a different thing. This is so that Kenyans can interact, compare and contrast. I have not seen a single Bill in this House during the four years sponsored by the CORD Coalition. Let us be honest with ourselves. Instead of using their brilliant minds to generate Bills, they have used those brains to cause demonstrations in the streets, disruptions of public order and mayhem in our country.

**Sen. M. Kajwang’:** On a point of order, Mr. Temporary Speaker, Sir. I do not like interrupting the Majority Leader when he is speaking. However, when he talks of the Minority side, is it in order for him to point to the side we sit, where there are ten Senators whereas the side he sits there is zero Senator behind him? Which is the Minority side?

**Sen. (Prof.) Anyang’-Nyong’o:** On a point of order, Mr. Temporary Speaker, Sir. Is it in order for the Majority Leader, who has the data before him, to underplay the contribution of this side in terms of Bills? He knows well that in terms of Private Members’ Bills this side has contributed qualitatively much better Bills than the other side. This is notwithstanding the enormous resources they have which they waste in all kinds of deals which they specialized in ruining this country including the latest, the NYS, the Euro Bond and so on. The Ministry of Health has been ruined by deals from that side. Can the Majority Leader apologise to this nation and withdraw all those horrible remarks?

**The Temporary Speaker** (Sen. Mositet): Sen. (Dr.) Khalwale, I see you are on your feet. You have a minute or two.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, one might take lightly what the Leader of the Majority has said. However, if aspersions must be cast, where should we point the finger? It is only on his side where the only Senator who is on record as having stolen Kshs40 million from NYS comes from. His company is known. Where he went and invested the money is also known. Since the “gods” of Kenya were unhappy the petrol station has since been uprooted. Is he in order?

**An hon. Member:** I tell you!

*(Laughter)*

**The Temporary Speaker** (Sen. Mositet): Sen. (Dr.) Khalwale, I will not allow that. By saying a Senator stole Kshs40 million, you have no proof. The police officers

have not really followed that Senator. That is not in good faith. It is either you withdraw the remarks or you own them.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, I did not name anybody. I just said a Senator on that side. If the Majority Leader is here and is aware of that Senator--- All we saw in public domain is a company---

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): On a point of order, Mr. Temporary Speaker. I have a lot of respect for Sen.(Dr.) Khalwale, but he has a tendency of getting away with nearly criminal behaviour. Is he in order to impute improper motives on a Senator whom he says stole Kshs40 million? He is saying the Majority Leader maybe knows who that Senator is. The basic principle of the law of evidence is that whoever alleges must prove. The burden is on Sen. (Dr.) Khalwale to do either of two things; tell us which Senator stole Kshs40 million and substantiate or withdraw and apologise to the Majority side where the so-called Senator comes from. He should also apologise to the people of the Republic of Kenya. Is he in order?

**Sen. (Prof.) Anyang'-Nyong'o:** On a point of order, Mr. Temporary Speaker, Sir. Is the Majority Leader in order to point to his side when he knows that his last point of resort, the Senator he could have summoned to this House, at a pay, is one Senator on his side who never appears in this House unless he is paid. Today, is the Majority Leader in order not to have paid that Senator to come and help him?

*(Laughter)*

**The Temporary Speaker** (Sen. Mositet): Sen. (Prof.) Kindiki, what do you have to say?

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, this is a House of records. In fact, my brother, whom I respect, Sen. (Prof.) Anyang'-Nyong'o has complicated matters. If I heard him correctly, he is saying there is a Senator who normally comes here on being paid by the Majority Leader. Am I in order to ask, as you give directions on the unnecessary frolic that Sen. (Dr.) Khalwale has put this put this House on, can you also direct Sen. (Prof.) Anyang'-Nyong'o to either name the Senator who is normally paid to come and attend the Senate and substantiate or otherwise withdraw, apologise and maybe be thrown out of the House for the rest of the day?

**Sen. (Prof.) Anyang'-Nyong'o:** On a point of order, Mr. Temporary Speaker, Sir. We are a House of records. You will remember, just before we went on recess, Sen. Onchwangi – I think that is his name – came from nowhere and suddenly appeared in this House panting with a letter in his hands. When he was asked why he was brining the letter he said he had been sent and that on accomplishment of his duties he will be handsomely paid. Can the Majority Leader deny the fact that Sen. Onchwangi came here panting and sat there? After he had done the deed he disappeared again, never to be seen in this House. He has a price on his head. The responsibility is with Sen. Onchwangi to come and acquit himself, not me.

**The Temporary Speaker** (Sen. Mositet): What is your point of order, Sen. Sang?

**Sen. Sang:** On a point of order, Mr. Temporary Speaker, Sir. Is Sen. (Prof.) Anyang'-Nyong'o in order to disparage a colleague? Sen. Onchwangi was in this House yesterday, he contributed to the business and we had consultations with him on various issues. I am a Chairperson of a Committee in which Sen. Onchwangi is a Member. He is

a regular there and gives valuable contributions to that Committee. More importantly, is the other side of the House in order to try and paint Senators from this side--- They mentioned the issue of the NYS, we know that scandals of serious magnitude have been perpetrated by Members on the other side, including the one on Mumias Company, where we were told of Kshs12 million was banked in somebody's account. Even on the mess in the Ministry of Health, when Sen. (Prof.) Anyang'-Nyong'o was there, there were several scandals.

It is only in the history of this country that---

**Sen. (Prof.) Anyang'-Nyong'o:** On a point of order, Mr. Temporary Speaker, Sir. I will tell the young Senator that he is absolutely out of order to imply or even imagine that there was a scandal in the Ministry of Health for which the hon. Sen. (Prof.) Anyang'-Nyong'o of Kisumu County was held responsible. If, indeed, he has any facts whatsoever, I challenge him to put them on the Table or be thrown out of this House.

**The Temporary Speaker** (Sen. Mositet): Order, Senators! Hon. Senators, I need to remind you of our Standing Orders.

Standing Orders No. 90(3):

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

Maybe whatever has been going on, you wanted to generate a good debate. However, it is now completely out of order. All of you should stop that and go back to the subject.

Senate Majority Leader continue, and kindly read your Statement.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, just one last point with your indulgence. Before I read my Statement, I request colleagues to cooperate for the remaining few months. We have done a good job. We are the first House under this dispensation. We need to lay a good foundation. We have done our best. The time left is short. However I think we can still improve on what has been happening.

Having said that, it is now my pleasure to issue the Statement on the Business of the next week which starts on 21<sup>st</sup> February, 2017.

## STATEMENT

### BUSINESS FOR THE WEEK COMMENCING

TUESDAY, 21<sup>ST</sup> FEBRUARY, 2017

Mr. Temporary Speaker, Sir, this being the first weekly Statement during this year, kindly allow me to wish you all a belated Happy New Year. I hope you had restful and enjoyable holidays. We have come back at a sad moment having lost one of our friends and colleague, the late Sen. Boy Juma Boy, the Senator for Kwale County who we laid to rest on Monday, 13<sup>th</sup> February, 2017. We shall miss our departed Senator, brother, Sen. Boy Juma Boy.

I welcome all of us back from the recess. During this last Session of our term, we will spend a very short period of time here. Subject to the House calendar which the House will approve possibly next week, it is expected that we might have to adjourn

sometimes in early June, *Sine Die*. It will be impractical to run normally. We have to proceed on recess *Sine Die* until the elections.

Under the new Constitution, unlike in the past, the current Constitution does not envisage the dissolution of Parliament. Therefore, we will remain in office until 8<sup>th</sup> August, 2017. However, for practical purposes, it will be suggested, subject to the approval by the House, that around early June, we give Senators an opportunity to interact with citizens as we also enter the homestretch of campaigns for the next general elections. That is a matter that the House has to deal with next week when the proposed calendar will be presented to us.

We also anticipate there will be small breaks even before early June to accommodate certain activities including---

**The Temporary Speaker** (Sen. Mositet): What is your, Point of Order, Sen. (Dr.) Khalwale?

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, apologies to Professor but I have a point of order. Under the old Constitution, the date of adjourning *Sine Die* used to be the President's secret weapon. The Senate Majority Leader said sometime in early June.

Could the Majority Leader clarify that this is not yet another attempt to make secret the fact that the Constitution contemplates that this Houses will be adjourned *Sine Die*, 60 days to the date of the general elections which will be 8<sup>th</sup> June, 2017? Why is he refusing to tell this House and the public or does he wish to create another secret weapon for the Jubilee Administration?

**The Temporary Speaker** (Sen. Mositet): Sen. (Dr.) Khalwale, it was very clear from the Majority side. He said the leadership of the House will sit and deliberate.

Senate Majority Leader, go ahead and clarify.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, thank you for bailing me out. The Senator for Kakamega is a good legislator who knows how to perpetuate debate. I even wonder why all of a sudden he has lost interest in this House to go and do other things. However, that is within his democratic rights. For his information, in Law School, they taught us that one pronounces Latin as it is written and writes it as it is pronounced. Therefore, the adjournment will be *Sine Die*, not the way he pronounced it. He tried to "*Englishnize*" it.

The adjournment will be determined by the proposals that the Business Committee will forward. We will table these before this House, most likely on Tuesday, for ratification. Days when the Executive kept secret cards over Parliamentary calendar are gone forever. Even as we amend the Constitution in the next Parliamentary term, we will not touch that bit on the independence of the Legislature.

Mr. Temporary Speaker, Sir, Hon. Senators, we expect some interruptions even before early June depending on the date that we agree to adjourn. This is to accommodate a number of important events that fall in between. Just to exemplify, we have the oncoming Annual Devolution Conference. A decision has to be made on our participation. If it is our decision that we participate, we will need to adjourn for one or two days to be able to attend the final Devolution Conference for this term. We also have the Annual Legislative Summit which is likely to take a day or two.

However, most importantly, we have the political party primaries. The Independent Electoral and Boundaries Commission (IEBC) has already released the

electoral calendar. Between 13<sup>th</sup> to 25<sup>th</sup> April, 2017 political parties are supposed to conduct party primaries. Those of us who live in this country and understand the politics of this country know that party primaries are mini general elections.

If one comes from some corner which I will not mention and is not a candidate of party 'X', they can as well kiss Parliament or the County Assembly goodbye. Therefore, it is very critical. One cannot expect us to be here speaking a lot of English when our seats are at stake. We cannot be here moving procedural Motions and we are being hammered left, right and center back in the village. We anticipate party primaries and such events will interrupt us.

I am explaining all this because we really need to work extremely hard. The discussion we had earlier, although punctuated with light moments, must inform our resolve to work harder, perhaps smarter than the preceding years to ensure we maximize the time we have in our hands.

Mr. Temporary Speaker, Sir, contrary to some of the contributions which were made here, we have a lot of pending business; some of it is Government business, for example, the Division of Revenue Bill has been read the first time today. We must dispense with that Bill in the soonest time possible in the next few days. We have the sister Bill which is the County Allocation of Revenue Bill. Again, that is a very critical Bill that must be dispensed with in the shortest time possible.

So, we have no alternative. We have to raise the numbers, work hard, devise new ways of getting quorum and perhaps, shortening debate without altering its quality. We have those kinds of Bills. Even with regard to Bills that give effect to devolution, I can highlight, for example, The Kenya Roads Bill (National Assembly Bill No.26 of 2015) which went through the Second Reading yesterday. That Bill will be committed to a Committee. It is an important Bill which will help us deal with the issue of the sharing of functions between the national and county governments in road construction. Some counties went to court last year and got judgement against the Kenya Rural Roads Authority (KeRRA). Some roads are not being maintained or constructed in those counties simply because of that court order. It is a High Court order of last year involving not less than 29 out of the 47 counties. So, this Bill is important.

Mr. Temporary Speaker, Sir, we also have The Physical Planning Bill (National Assembly Bill No. 46 of 2015) which, again is important for devolution. Allow me also to mention the following other Bills that I think are critical for the information and attention of the honourable colleagues:-

(a) The Cash Disbursement Schedule for counties which normally is a legislative product we must deal with;

(b) The vetting report on nominees to the Climate Change Council which is already before us;

(c) The Presidential Memoranda on the Petroleum Exploration Development and Production Bill and on the Energy Bill

(d) The County Assembly Services Bill (Senate Bill No.27 of 2014)

(e) The Assumption of Office of Governor Bill (Senate Bill No. 10 of 2016)

(f) Review of the Senate Standing Orders

(g) The Impeachment Procedure Bill (Senate Bill No. 8 of 2016)

(i) The Parliamentary Powers and Privileges Bill (National Assembly No.35 of 2014).

- (j) The Intergovernmental Relations (Amendment) Bill.  
(k) The Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bill No. 8 of 2015)  
(l) The County Statutory Instruments Bill (Senate Bill No. 10 of 2015)  
(m) The County Governments (Amendment) Bill No.2 on the Suspension of a County Government.

You may remember we had an issue of possible suspension of a county government, Makueni County, two years ago.

So, regarding those Bills, including Sen. Judith Sijeny's Bill, the Constitution of Kenya (Amendment) Bill, Senate Bill No.16 of 2015, time has come for us one way or the other to say emphatically we support the agenda of the women of Kenya. As the Leader of Majority, I express my total support for this Bill that is aimed at empowering our mothers, sisters and daughters. As a man and leader in this country, we support it. The Jubilee establishment is in total support of this Bill.

Mr. Temporary Speaker, Sir, having said that, there is also the Public Participation Bill and the Land Value Index Laws Bill which is also urgent. So, we have a lot of Bills. I have already read out not less than 21 Bills which are urgent yet we have said our time is short.

So, I urge all of us to try our best. Let us not waste a lot of time trying to apportion blame. Let us do what we must.

*(Sen. (Dr.) Khalwale stood up in his place)*

Mr. Temporary Speaker, Sir, Sen. (Dr.) Khalwale should wait for me to finish the statement because it is composite ---

**The Temporary Speaker** (Sen. Mositet): What is it, Sen. (Dr.) Khalwale? If it is something which can wait for him to finish, please give him time.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Temporary Speaker, Sir. It cannot wait. He has made a very lengthy statement. We have to interrogate it issue by issue. Is the Leader of the Majority in order to play to the gallery in the usual Jubilee public relations style by telling members of the public, especially the women folk of this country that the entire Jubilee leadership is committed to the two-thirds gender rule when in spite of the tyranny of numbers in the National Assembly, they fail to bring enough Jubilee Members to support that law?

More importantly, when it came to this House, the women Members of the Senate from the Jubilee side were not in this House when their numbers were required.

Could he use this opportunity to apologise to the public for how Jubilee failed this country in achieving the two-thirds gender rule?

**The Temporary Speaker** (Sen. Mositet): Sen. (Dr.) Khalwale, the Bill is still in the House. There was a communication by the Speaker concerning it this afternoon. The Majority Leader having said he supports it, I do not know why you doubt it. The Majority Leader is from the Government side. So, that is the voice of the Government.

Proceed, Senate Majority Leader.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, for the record, when this Bill came last time it did not succeed through the Second Reading; I voted for it. It was a voice vote. The majority of the Senators from Jubilee side

voted for it. We are still lobbying our colleagues who do not want the women of Kenya to be empowered to come on board. The leader of dissent against this Bill is none other than the Leader of the Minority who voted no; the party leader of FORD Kenya where Sen. (Dr.) Khalwale is the deputy party leader.

*[The Temporary Speaker (Sen. Mositet) left the Chair]*

*[The Temporary Speaker (Sen. Sang) took the Chair]*

So, I am surprised, he is here pontificating in his usual gymnastics trying to belittle an important issue like the women agenda in this country. He must support the women agenda from the front.

*(Sen. (Prof.) Anyang'-Nyong'o spoke off record)*

*(Laughter)*

**The Temporary Speaker** (Sen. Sang): Order, Senator!

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, that coming from Sen. (Prof.) Anyang'-Nyong'o is loaded with a lot of ---

**The Temporary Speaker** (Sen. Sang): Order, Sen. (Prof.) Kindiki! What is it that came from Sen. (Prof.) Anyang'-Nyong'o? He was not on record.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Sorry, Mr. Temporary Speaker, Sir. I was challenging our colleague from the Minority side to support one of the Bills that is coming soon, the Judith Sijeny Bill, and I said the opposition against that Bill to empower women is being led by the Minority Leader and his deputy in FORD Kenya, Sen. (Dr.) Khalwale. I challenged Sen. (Dr.) Khalwale to lead from the front on the issue of the agenda for women, and then, it is at that point that Sen. (Prof.) Anyang'-Nyong'o, carefully and scientifically said, he always does that.

*(Laughter)*

Mr. Temporary Speaker, that coming from Sen. (Prof.) Anyang'-Nyong'o means a lot of things that I cannot say from the Dispatch Box.

**The Temporary Speaker** (Sen. Sang): Sen. (Dr.) Khalwale, what is your point of order?

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Temporary Speaker, Sir. Is the Leader of the Majority in order to mislead the Republic that the Leader of the Minority and national party leader of FORD Kenya, who I deputize, voted against the two-thirds gender when it is on record of the HANSARD that both Sen. Wetangula and I, not only spoke on the Bill but we also voted for it and went further by guiding the young Senator who is still discovering her waters on how to swim in the world of making Bills.

It was wrong to attempt to pass a law that was being used to legislate for ourselves rather than legislating for members of the public where---

**The Temporary Speaker** (Sen. Sang): Order, Sen. (Dr.) Khalwale. Have you ever sponsored a constitutional amendment Bill?

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, I have in the National Assembly but we are now in the Senate where I am in the company of a new legislators. If only Sen. (Prof.) Anyang'-Nyong'o was given an opportunity, he would attested to how we have suffered in this country because of the newness of all of you.

**The Temporary Speaker** (Sen. Sang): Order Sen. (Dr.) Khalwale! You must appreciate that on issues regarding a constitutional amendment Bill, Sen. Sijeny leads you on that. She has sponsored one but you have not sponsored any in this Senate. So, you must appreciate that.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Temporary Speaker, Sir, I am rising to commend the Senate Majority Leader's statement in this House.

**The Temporary Speaker** (Sen. Sang): Sen. (Prof.) Anyang'-Nyong'o, Sen. (Prof.) Kindiki has not concluded and there is no contribution to the statement.

**Sen. (Prof.) Anyang'-Nyong'o:** I urge Sen. (Prof.) Kindiki to allow me to give some information because I think it is important to the statement he was making.

**The Temporary Speaker** (Sen. Sang): Sen. (Prof.) Kindiki, do you want to be informed?

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Yes.

**Sen. (Prof.) Anyang'-Nyong'o:** Mr. Temporary Speaker, Sir, the only provision in the Constitution regarding the end of the term of the Senate is in Article 102. Article 102(1) states that the term of each House of Parliament expires on the date of the next general election. That is the only definitive statement.

The other statements have to do with when Parliament can adjourn because of war and so on but the only definitive statement is in Article 102(1). There is no mention anywhere of any other way. So, I presume that if we adjourn, that will be subject to when our term officially ends and there is no other provision in the Constitution.

Secondly, I would like to appeal to the Senate Majority Leader. In certain jurisdictions, when a House like the Senate adjourns at the end of its term, in this case the 11<sup>th</sup> Parliament, the House accords Members who will not be coming back the opportunity to make their *sine die* statements so that it can go on record. That will help in establishing a good tradition in the Senate that once the SBC knows that we will adjourn *sine die*, Members should be accorded 10 minutes each for one hour in the last three days or so to make their *sine die* statements. Their last statements should be in the HANSARD so that when our epitaphs are finally written, it will be said that this was the appreciation of Boni Khalwale, Senator for Kakamega, to the House as a gallant citizen of this nation and an accomplished and distinguished legislator.

**The Temporary Speaker** (Sen. Sang): Sen. (Prof.) Kindiki you may conclude.

**The Senate Majority Leader** (Sen. (Prof.) Kindiki): Mr. Temporary Speaker, Sir, I thank Sen. (Prof.) Anyang'-Nyong'o for his intervention and clarification. It is actually because of the Article he has read to us that we are talking about a *sine die* adjournment. That means we will be on recess until 8<sup>th</sup> August, 2017 which is the date of the next general election. So, the fact that we will break in June will not affect our term in office according to our Constitution.

Secondly, I thank Sen. (Prof.) Anyang'-Nyong'o for that very informative input. I promise him and the rest of the House that I will introduce Sen. (Prof.) Anyang'-Nyong'o's proposal to the SBC so that as we do our weekly business, towards the end, that allowance is accommodated for those of us who do not intend to return to this House



to be given an opportunity to make their benedictory remarks although the way he presented it was a bit somber. It made him look like they are going to die thereabout.

Mr. Temporary Speaker, Sir, I understand. If somebody is not running for a seat in the Senate, it is unlikely that, that would be their last statement. However, I foresee a situation where going forward we are going to have retired governors coming back to the Senate because there is nowhere else that retired governors can go. Unless you become president, which is one seat, you cannot become a county assembler or go to the National Assembly. Most likely, the retired governors like the future governor of Kakamega who is looking at me is likely to return to this House. So, be careful with the kind of benediction you will give. Otherwise, you might spoil your own chances of coming back in future after your duty.

Mr. Temporary Speaker, Sir, now allow me to conclude. On Tuesday, 21<sup>st</sup> February, 2017, we will have the SBC as usual at 12.30 p.m. to schedule the business of the week.

The business for Wednesday will be determined by the Tuesday meeting. On Thursday, our concentration will be on the Bills, Motions and other business that the SBC will schedule.

Hon. Senators, once more, welcome back from the long recess. I wish you all the best and God's blessings to you and your families as we approach the oncoming general election.

Thank you. God bless the Senate, God bless Kenya.

*(The Senate Majority Leader (Sen. (Prof.) Kindiki)  
laid the document on the Table)*

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, allow me to thank the Senate Majority Leader for that very elaborate statement of the business for the coming week. However, with your permission, allow me to make three comments. The first one is that the Senate Majority Leader has misled the country that the CORD Coalition has not made an effort to produce a Bill or Bills. This is not true.

**The Temporary Speaker** (Sen. Sang): Order, Sen. (Dr.) Khalwale. There is no debate on a statement presented by the Senate Majority Leader.

**Sen. (Dr.) Khalwale:** May I thank him.

**The Temporary Speaker** (Sen. Sang): There is even no provision to thank him. The Statement has been presented and tabled and that is it. You are a believer in parliamentary practice and precedent. Therefore, I hope you have no intentions of creating one in your sunset days in this House.

**Sen. (Dr.) Khalwale:** Mr. Temporary Speaker, Sir, just to request you to allow me on a point of order. As it is required by rules of debate, when a statement is made, we have a right to challenge it on a point of order. The only challenge I wanted to make is that it is true that we made a constitutional amendment Bill called Okoa Kenya as the CORD Coalition which was killed by Jubilee defunct IEBC commissioners.

**The Temporary Speaker** (Sen. Sang): Sen. (Dr.) Khalwale, you are completely out of order!

**ADJOURNMENT**

**The Temporary Speaker** (Sen. Sang): Hon. Senators, we have come to the end of our business today. There being no other business, the Senate stands adjourned until Tuesday, 21<sup>st</sup> February, 2017, at 2.30 p.m.

The Senate rose at 5.30 p.m.