

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 12th October, 2017

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

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

PRAYER

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM UASIN GISHU COUNTY ASSEMBLY

The Speaker (Hon. Lusaka): Hon. Senators, I would like to make a Communication on a visiting delegation from Uasin Gishu County Assembly.

Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery, this afternoon, of a delegation of the County Assembly Service Board (CASB) from Uasin Gishu County Assembly.

The delegation led by the hon. Speaker of the county assembly is visiting the Senate to familiarize itself on the management and operations of the parliamentary car loan and mortgage scheme funds.

I request each member of the delegation to stand when called out so that they may be acknowledged in the Senate tradition.

They are:-

- | | | |
|----------------------------|---|----------------------------------|
| (1) Hon. David Kiplagat | - | Speaker |
| (2) Hon. Hoseah Lamai | - | Deputy Speaker |
| (3) Hon. Josphat Lowoi | - | Majority Leader |
| (4) Hon. Jenny Chebet Too | - | Deputy Majority Leader |
| (5) Hon. David Sing'oei | - | Chief Whip |
| (6) Hon. Jonathan Ng'etich | - | Chairperson, Budget
Committee |
| (7) Hon. Sarah Malel | - | Member, CASB |
| (8) Hon. Isaac Kemboi | - | Member, CASB |
| (9) Mr. Richard Chepkonga | - | Clerk |
| (10) Mr. David Saina | - | Accountant |
| (11) Mr. Peter Owuyo | - | Head of Budget |

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- (12) Mr. Lazarus Kemboi - Principal Finance Officer
(13) Mr. Michael Saina - Legal Officer
(14) Mr. Gilbert Kibet - Fiscal Analyst

Hon. Senators, it is my hope and, indeed, that of all Senators that the delegation has received useful insights on the management and operations of the parliamentary car loan and mortgage scheme funds for implementation in the county assembly.

On behalf of the Senate, and on my own behalf, I welcome the delegation to the Senate and wish them well for the remainder of their stay.

I thank you.

(Applause)

Sen. (Dr.) Zani: Thank you, Mr. Speaker, Sir. I take this opportunity to join you as well in welcoming this delegation from Uasin Gishu County. In this second round of devolution, we have a lot of experience in terms of what happened last time. I hope that in the county assemblies, we have taken cognizance of some of the factors that were issues within the county assemblies. One of these, specifically, is the issue of the wage bill and aligning human resource capacity in terms of the expectations and the outputs from the specific counties.

I am sure, together with the Uasin Gishu delegation and other delegations, that this is an aspect that we need to streamline, so that the resources in the counties go into outputs that will be directly deliverables, especially in aiding the counties to enhance development.

Mr. Speaker, Sir, during the first term under devolution, a lot of money went into recurrent budget. Many counties indicated that the development component had not been taken into consideration. I hope we can change this human resource aspect and do that specifically.

I also hope that this delegation will have fruitful engagements that will help them grow as a county. When they go back, they should take our regards from us, the Senate of Kenya.

Thank you.

The Speaker (Hon. Lusaka): Next Order.

PAPERS LAID

REPORT OF THE SELECT COMMITTEE ON ELECTION LAWS (AMENDMENT) BILL, 2017

Sen. Dullo: Mr. Speaker, Sir, I beg to lay the following Report on the Table of the House, today, 12th October, 2017:-

Report of the Select Committee on Election Laws (Amendment) Bill on its consideration of the Election Laws (Amendment) Bill (Senate Bill No.3 of 2017).

(Sen. Dullo laid the document on the Table)

BUSINESS FOR THE WEEK COMMENCING TUESDAY,
7TH NOVEMBER, 2017

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, pursuant to the provisions of Standing Order No.46, I beg to lay the following Statement on the Table:-

The Business of the Senate for the week commencing Tuesday, 7th November, 2017.

(Sen. Murkomen laid the document on the Table)

The Speaker (Hon. Lusaka): Next Order.

STATEMENTS

The Speaker (Hon. Lusaka): Please, let us switch to the Supplementary Order Paper. We have a request for a statement by the Senator for Makueni County.

STATUS OF THE OIL SPILLAGE AT THANGE,
MAKUENI COUNTY

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, I rise pursuant to Standing Order No.46 (2) (b) to seek a Statement from the Senate Majority Leader on the oil spillage that occurred at Thange, Kibwezi East Constituency, Makueni County in 2015.

In the Statement, the Senate Majority Leader should:-

- (a) provide a list of all people affected by the oil spillage;
- (b) state the number of people who have been compensated and payments thereof;
- (c) state the number of people below three kilometers from the spillage site who have been considered for compensation;
- (d) indicate when the pending payments to the affected persons will be done;
- (e) explain whether there is any special fund/insurance under the law to cater for compensations during such disasters; and,
- (f) explain the short-term and long-term health measures that have been put in place to deal with the persons affected by the oil spillage.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I request that we issue this Statement the first Thursday upon our return from recess.

(Sen. Mutula Kilonzo Jnr. consulted loudly)

Since he is not listening, you should order as such.

The Speaker (Hon. Lusaka): It is so ordered.

Next is a Statement from Sen. Gertrude Musuruve.

Sen. (Dr.) Musuruve: Thank you, Mr. Speaker, Sir. I have two Statements to seek.

STATUS OF INCLUSION OF PWDs IN THE PUBLIC SERVICE

I rise pursuant to Standing Order No. 46 (2)(b) to seek a Statement from the Senate Majority Leader regarding the non-compliance with Article 100 of the Constitution on the promotion of representation of marginalized groups as well as status of inclusion of Persons with Disabilities (PWDs) in the Public Service.

In the Statement, the Senate Majority Leader should address the following:

(1) What is the status of compliance with Article 100 of the Constitution with regard to representation in Parliament and county assemblies of the women, youth and PWDs, ethnic and other minorities as well as marginalized communities?

(2) How many PWDs are currently employed in the Public Service, including independent officers and commissions?

(3) What measures is the Government taking to achieve compliance with Article 100 and to also ensure representation of PWDs in Public Service?

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I have a problem with that question because it is anchored on Article 100 of the Constitution. It talks about Parliament enacting legislation to promote representation in Parliament, of Persons With Disability (PWDs) and marginalised groups.

I would be comfortable to proceed in the manner in which the Member has asked, if she was asking what Parliament has done in so far as this legislation is concerned? Even listening to her question, a part of it asked what the representation of women and PWDs in Parliament is. The hon. Member can just count how many are here in this House. Except the question in regard to representation of PWDs in public services, the others are rather too obvious for one to subject it to any Cabinet Secretary (CS) to come and answer because the number of women PWDs and youth who were nominate to the National Assembly and the senate, are constitutional provisions and they are so obvious.

In so far as legislation is concerned, I do not think there is an hon. Member who can ask, as a matter of fact in the House, how many legislations have been made to promote this Section.

With your direction, I propose to answer the part of the question that asks how many PWDs are in the public service. We can get that from the relevant ministry to respond. However, the rest of the question is obvious.

The Speaker (Hon. Lusaka): Okay. I rule that you give an answer based on the relevant parts that she has asked. The others, like you have said, are quite clear.

The next question is from Sen. (Dr.) Musuruve.

ACCESS TO PROCUREMENT OPPORTUNITIES IN
GOVERNMENT BY PWDs, WOMEN AND YOUTH

Sen. (Dr.) Musuruve: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No.46(2)(b) to seek a Statement from The Senate Majority Leader, regarding access to procurement opportunities in Government by PWDs, women and youth.

In the Statement, he should:-

(1) State how many PWDs have been awarded Government tenders during the 2016/2017 and 2017/2018 Financial Years?

(2) Explain the measures put in place by the Governor to encourage PWDs, women and youth to participate in Government tenders.

Thank you.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, that is a good question and was asked many times in the last Parliament. However, I recognise this is a new Parliament which is the 12th Parliament. I propose, just like the question of Sen. Mutula Kilonzo Jnr., to try and bring a response the first Thursday upon our return from the recess. That is, if it is approved by this House.

The Speaker (Hon. Lusaka): Okay. That is allowed.

Next; we will now deal with Statements to be issued and we start with the Senate Majority Leader.

*(Sen. Murkomen walked to the Dispatch Box
to issue a Statement)*

Sen. Olekina: Thank you, Mr. Speaker, Sir, for giving me this opportunity. I think it is standard practice in this House that before a Statement is issued, I should be given an advance copy so that I can be party to it. I do not think the Senate Majority Leader is in order to issue the Statement without giving me an advance copy. Could he clarify that?

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, it has never happened in the history of this House, that one Member should be given a copy of the Statement of the Senate Majority Leader on the business of the Senate before it can be read. This is the first time.

(Loud consultations)

We have not reached there.

The Speaker (Hon. Lusaka): Proceed.

BUSINESS FOR THE WEEK COMMENCING
TUESDAY, 7TH NOVEMBER, 2017

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I would like to give a Statement on the business of the Senate for the week commencing on Tuesday, 7th November, 2017, pursuant to Standing Order No.46.

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Hon. Senators, pursuant to Standing Order No.46, this is to present to the Senate, business for the coming week. As Senators may recall in yesterday's Supplementary Order Paper, the Election Laws (Amendment) Bill, (National Assembly Bill No.39 of 2017) was scheduled for First and Second Reading, which were concluded. Further consideration of the Bill will continue today with deliberations at Committee of the Whole and the Third Reading stages. Noting the importance of the task ahead, I urge all Senators to be present – and I emphasize, to be present especially those on the side that I am facing – in the House. This is for purposes of undertaking our duty to the Kenyan people. The enthusiasm, energy and focus that was exhibited yesterday and the subsequent passing of the Election Laws (Amendment) Bill (National Assembly Bill No.39 of 2017) at the Second Reading Stage is commendable.

Hon. Senators, pursuant to Standing Orders No.28 and 29, I will, at the appropriate time, and as listed in today's Order Paper, move a motion for the senate to proceed on a recess beginning this Friday 13th October to 6th November, 2017 as per the senate calendar that the House approved. We shall resume sittings on Tuesday, 7th November, 2017.

As we go on recess, let us all engage in peaceful campaigns and even as we enter the final stretch of the campaign. Kenya is a God fearing nation. Let us preach one word; peace. May the best side win in the upcoming elections.

Mr. Speaker and hon. Senators, there is a lot of business that is being processed and by the time we come from the recess, we shall have a basket full. We are also certain that we shall be able to constitute committees soon after recess and I, therefore, urge that we all roll up our sleeves and come back prepared to continue to serve our people.

I now take this opportunity to wish you a peaceful recess and successful campaigns. I thank you, and hereby, lay the Statement on the table of the senate.

(Sen. Murkomen laid the document on the Table)

The Speaker (Hon. Lusaka):The Senate Majority Leader, you have three more Statement to issue.

STATUS OF DISBURSEMENT OF FUNDS TO COUNTY
GOVERNMENTS FOR THE FY 2017/2018

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, Sen. Khaniri requested a Statement on the disbursement of money to the counties but I have not received a Statement from the Treasury. I will do a personal follow up later this afternoon to see how else we can deal with this matter.

Sen. Khaniri: Thank you, Mr. Speaker, Sir. I rise to protest at the response given by the Senate Majority Leader. I do not think he is taking this matter with the seriousness that it deserves. We are talking about disbursement of funds to the counties. We all know the provisions of the law. We all know that the senate is supposed to be the guardian of counties. The central Government has in the last four months failed to disburse funds to county governments. I think the last disbursements were done in July before we went for

elections. This is in total contravention of our own Constitution which we swore to uphold.

Article 219 of the Constitution is very clear on transfer of equitable share. It says:

“A county’s share of revenue raised by the national government shall be transferred to the county without undue delay and without deduction, except when the transfer has been stopped under Article 225”.

The word here is “shall”.

Mr. Speaker, Sir, the Government is in contravention of this provision of the Constitution. I raised this matter and the Senate Deputy Majority Leader promised that she would endeavour to make a Statement today. However, the Senate Majority Leader comes here casually and tells us: “I will make a follow-up”, not telling us what efforts they have done to give this Statement. Is he in order?

The Speaker (Hon. Lusaka): I can see other interventions. Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, this is a very serious issue. I recall that at some point, even Sen. Haji has mentioned about transfers to counties. If there is one reason why we should not go for an adjournment, this is one of them. This is because all that the Senate Majority Leader needed to do, even without any written explanation, is to get confirmation that the money to counties has been transferred as passed by the senate. This matter affects all of us as senators. Our workers have not been paid, counties are grinding to a halt, we are going for an adjournment for three weeks. When we go to counties, we will be telling them that everything is normal yet it is not.

Could you, please, direct, that a Statement be issued promptly this afternoon before we go on recess in whatever form, handwritten or otherwise, confirming that money has been distributed to counties as per the resolution of the senate?

Sen. Olekina: thank you, Mr. Speaker, Sir. I remember very well when we were in Naivasha during the retreat, the Cabinet Secretary (CS), Treasury, stated very clearly that there is no reason as to why we should have pending bills in counties because money is disbursed as per the approval of the senate. So, I think it is high time that the Senate Majority Leader takes the business of this House seriously. What shocks me is that there are certain things that he considered to be very important – which are not – including amending laws which ought not to be amended when people are suffering in counties. So, ---

The Speaker (Hon. Lusaka): Order, Senator! Be relevant to what you want to put across.

Sen. Olekina: Thank you, Mr. Speaker, but this is very relevant because we have problems in counties. If this money is not released, then, what exactly are we doing here? Then, you say that we are going on a recess for three weeks. The Treasury says there is no reason as to why we should have pending Bills. So, we need to understand what is going on. Who is not doing his job?

The Senate Majority Leader (Sen. Murkomen): On a point of order, Mr. Speaker, Sir. We have a problem; double speak and hypocrisy of the highest order. We have been here taking our responsibility seriously. The reason why there is no budget committee is because of the minority. The Minority side wrote a letter to the speaker and

it is within your domain ---

(Several Senators stood on a point of order)

The Speaker (Hon. Lusaka): Order! Let him proceed.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, this hypocrisy must be said for what it is. There is a letter at the office of the Speaker that says that the Minority side will not participate in any single committee in this House. That letter has made it difficult for us because we want to be inclusive; to form the Budget Committee that would have actually summoned the CS. I have no power to summon a CS except through a committee of this House. When I go to the Office of the CS and ask for a Statement --- Say, the Statement was asked on Tuesday, it is being prepared to be issued. It is just on Tuesday that the Statement was made here and yesterday was Wednesday.

Today, the Cabinet Secretary said that he is preparing the Statement. I would like to inform the Minority side that it is time they disobeyed their so-called principals. In fact, principals are only in high schools. They should come here so that we form the committees, ask questions and make sure that our counties move forward.

The Speaker (Hon. Lusaka): Order, Sen. Murkomen. There is a point of order from Sen. Madzayo.

Sen. Madzayo: On a point of order, Mr. Speaker, Sir. While I have a lot of respect for the Senate Majority Leader, I take exception to unparliamentarily language that he has used. Is he in order to use call other distinguished Senators sitting on this side as “hypocrites” and with “doublespeak”?

Sen. Wamatangi: Mr. Speaker, Sir, I seek your direction on whether Sen. Madzayo and Sen. Olekina are in order to mislead this House. They know that the jostling and infighting in their party for leadership and positions to be occupied in committees has stopped them from agreeing on who is to represent them in any of the committees in this House. That includes the leadership of their own coalition. This has led to a scenario that has paralyzed business not only in the country but also in this House.

Are they in order to continue misleading the country and lie that they are here to prosecute business when they know that there exists gag orders on them? When they come here, they are not to speak or participate other than when it is serving personal interests.

Sen. Outa: On a point of order, Mr. Speaker, Sir. I have heard how the Majority side is trying to derail this important matter. When the matter is raised that our counties are lacking funds in order to bring development to this nation, they come up with points of order.

Is the Senate Majority Leader in order to come before this House with no answers because the National Treasury has already received the money that was approved by us yet because of this impunity, they are not ready to support the county governments? That is why we may need a change of this Government because they are not ready. They want to starve counties so that they come to a halt with no development yet they claim that they want to be in power. Is the Senate Majority Leader in order to come here and tell the

nation that the Minority side is the one in the wrong because we do not have leaders represented in this House? We need an answer.

The Speaker (Hon. Lusaka): Let us have the last intervention from Sen. Cheruiyot.

Sen. Cheruiyot: On a point of Order, Mr. Speaker, Sir. While debating this matter, there is something that we need to confirm. When we passed the County Disbursement Schedule about three weeks ago, you recall that the Members from the Minority side absconded duty on that day. They never showed up to transact business. Is it in order for them to be the first ones to come and make claims? What they are doing is akin to a man who stays away when people are in the farm digging; then when they are told that lunch is ready, they are the first ones to wash their hands. That is completely out of order.

(Applause)

The Speaker (Hon. Lusaka): I call upon the Senate Majority Leader to respond.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I agree that the question raised by my friend, the distinguished Senator of Vihiga County, is important. It is about the funds to the counties. It is a concern of every Senator. It is the reason why we are here. I took that matter seriously to the Cabinet Secretary. However, the question was asked on Tuesday. It was then processed on Wednesday and it is in the office of the Cabinet Secretary today. Therefore, if the Cabinet Secretary says that he is working on it, maybe the answer will be ready by tomorrow. It is important to that extent.

This House works through its committees. The only reason why the Senate Majority Leader had to take this responsibility is because we are still on the issue of forming committees. We still do not have committees because our friends, like Sen. Wamatangi said, cannot even agree who can be the Senate Minority Leader. This is a serious issue. There is no leadership on the other side. Everyone is speaking for themselves. They wrote a letter to say that they will not participate in House affairs. The only Senators who participate here and we must give them credit are the distinguished Sen. (Dr.) Musuruve and the Senator for Narok County. They are the only two active Senators in this House. The Senator for Turkana County also comes to listen here.

Mr. Speaker, Sir, Sen. Nyamunga, the nominated Senator from Kisumu used to be active but somebody must have told her that she needs to go somewhere and she came back limping. That must be as a result of the activities that are happening out there.

(Laughter)

The Speaker (Hon. Ethuro): Order, Sen. Majority Leader.

The Senate Majority Leader (Sen. Murkomen): I am being honest, Mr. Speaker, Sir. When I asked Sen. Nyamunga what had happened to her, she told me that she had to go and earn points out there for *maandamano*.

(Laughter)

We have to be very serious in the House. I would like to conclude by saying that we if took the progress of our counties seriously in the manner in which we are pretending to do in the Chamber, we would not have stopped businesses in Nairobi like it happened yesterday. No businesses would have been looted. We would not have stopped Kisumu from working. Sen. Outa should be serious about this. His governor, Gov. (Prof.) Anyang'-Nyong'o cannot collect taxes in Kisumu City County because of *maandamano*.

Mr. Speaker, Sir, all these things are important but we must show when we will stop hypocrisy in this House.

The Speaker (Hon. Lusaka): Order, Sen. Murkomen. There is a point of order from Sen. Nyamunga.

Sen. Nyamunga: On a point of order, Mr. Speaker, Sir. Is it in order for the Senate Majority Leader to speak on my behalf? First, I do not know where I went to collect "*bonga points*" to come back limping. I have never met this hon. Senator. Therefore, I do not know how he knows that I am limping and for whatever reasons.

(Laughter)

Secondly, the truth should be told. The country is in this situation because of the two leaders of the Jubilee Party. The two leaders did not believe in devolution. Therefore, even as the counties starve, it is because they do not believe in devolution. They will never believe in it and that is why they cannot even ensure there is disbursement of funds.

The Speaker (Hon. Lusaka): What is your point of order, Sen. Nyamunga?

Sen. Nyamunga: Mr. Speaker, Sir, I am still on a point of order. If the elections were held properly; if the Jubilee Government had not interfered with the elections and stolen our victory, we would not have been in the situation we are in today. Let them clean their house and put it in order so that the country can move forward.

The Speaker (Hon. Lusaka): Senate Majority Leader, we must make progress.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I am concluding. I agree that maybe it was wrong to say '*bonga points*'. However, she went to earn her political mileage. When someone is limping, it is seen. I saw my colleague limping and she told me that it is part of the struggle.

(Laughter)

As a House, we take these things seriously. To stop us from moving to the next order, the fate that befalls the question raised by Sen. Khaniri, suffers the same consequences with the one raised by my colleague from Narok County.

The Speaker (Hon. Lusaka): Hon. Senator, we must make progress. This is a serious matter. I ask the Senate Majority Leader to avail an answer the first week once we come from recess. However, in the meantime, make efforts to ensure that counties get money because they must operate.

(Statement deferred)

Let us move to the next Statement.

WITHDRAWAL OF SECURITY OFFICERS ATTACHED TO RT. HON. RAILA
AMOLLO ODINGA AND HON. STEPHEN KALONZO MUSYOKA

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, regarding the Statement on the withdrawal of security officers of senior leaders, the answer is as follows---

Sen. Olekina: On a point of order, Mr. Speaker, Sir. It is important for us to be serious about our work. Earlier on, I raised a point of order at the wrong time. However, I now rise on a point of order on a serious note. The Senate Majority Leader ought to have given me an advance copy of the response. That is standard practice.

The Speaker (Hon. Lusaka): Order Senator! Let us wait for the Senate Majority Leader to speak. Maybe he does not have an answer. Let him speak; then once he has given his response, you will give feedback.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, as I said earlier, I love the enthusiasm of the Senator for Narok County. If only he can moderate to follow the Standing Orders, it will be very nice.

I promised that I would give a temporary answer by today on the security of the former Vice-President and the former Prime Minister, considering that their everyday security is a concern of every citizen. I have been assured by the Inspector-General that the Statement is on the way. This verbal commitment cannot be relied on because it was just for purpose of the comfort of the people of Kenya because it must be written. In the meantime, he told me that he can assure the country and he has done so publicly that the two leaders have the security that they deserve. However, for purposes of this House, we can only debate when the written document is provided.

The reason I am giving this information to the public is because I said that I will make sure I bring something today. The way the Senator for Narok County had put it forward, it looked like the former Vice-President and the former Prime Minister were in immediate danger. I can report with confidence that both of them are comfortably out of the country. They travelled safely and they are very safe, as we speak.

The Speaker (Hon. Lusaka): Sen. Olekina, are you happy with the interim answer because the Senate Majority Leader says that he will give a comprehensive answer?

Sen. Olekina: Mr. Speaker, Sir, I am not happy with the answer because it is sad that the Senate Majority Leader would lie to the public that he knows that the two leaders are safe. It is important for the public to know that when we request for statements and we are told that we are going to be given responses, they should be delivered. It is important that the Senate Majority Leader agrees that maybe he forgot because he was busy campaigning instead of delivering the Statement. The security of this country is important and we need to understand that. Maybe, if you can be able to---

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

The Speaker (Hon. Lusaka): What is your intervention, Sen. Poghio?

Sen. Poghio: Mr. Speaker, Sir, is it in order for my good friend, the Senator for Narok County to use un-parliamentary language? He used the word “lying”. Would he be directed to use the right language?

The Speaker (Hon. Lusaka): Senator, you are so directed. Use parliamentary language.

Sen. Olekina: Mr. Speaker, Sir, there is a difference between the truth and proper language. When something is the truth, you state it as it is. This is because the question is---

The Speaker (Hon. Lusaka): Order. Let me correct you. This is a House of procedure and order. You cannot “clothe” anything. You must state it the way it is. You do not clothe it in any other language that is un-parliamentary. Can you withdraw and apologise?

Sen. Olekina: Mr. Speaker, Sir, because of the respect of this House, I will withdraw and apologise. However, let us not have double talk. This is because I raised a concern about certain issues yesterday and I remember being told somewhere that the person did not mean it.

Anyway, I stick to the point. It is imperative that the Senate Majority Leader provides the Statement when he is so ordered.

The Speaker (Hon. Lusaka): Could we hear from the Senate Majority Leader.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I take the security of the former Prime Minister and the former Vice-President seriously. That is why I wanted assurance from the Inspector-General of Police that they are safe even before a written Statement is brought here.

We know that they are presidential and deputy presidential candidates. We do not want anything to happen to them yet they are garnering to be President and Deputy President of this country. You never know how far they might go on 26th October, 2017. We must protect them.

That is why I asked the Inspector-General of Police to assure me in a manner that I would tell the nation and the Senate that they are safe even as he prepares his Statement. He told me that they are safe. I asked him of their whereabouts and if they are safe. He told me that they have travelled safely. The only thing that he did not guarantee me is whether the security agencies of the countries where they have gone to will ensure that they are safe. But they were safe when they were here before they travelled.

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

The Speaker (Hon. Lusaka): What is your intervention, Sen. Wamatangi?

Sen. Wamatangi: Mr. Speaker, Sir, I want to seek your indulgence. With your leave, could I also ride on the Statement that is sought?

As the Statement is brought to the House, could I ask the Senate Majority Leader to furnish important details as per the security of the two Kenyans? First, the Senate Majority Leader should also inform us whether the demanded security includes the 50 police officers asked for by the former Prime Minister. Could he also tell us if the same is included for the Hon. Kalonzo Musyoka?

Lastly, could he also tell us if the two are also bound to confirm that, if indeed, those officers and the security are provided, they will not be used to provide security when they are demonstrating on the streets?

The Speaker (Hon. Lusaka): Order, Sen. Wamatangi. Those are fresh demands which should have been made earlier. It is important that the Senate Majority Leader provides a written Statement as requested by Sen. Olekina when we resume after recess.

(Statement deferred)

Next Statement.

CLASHES BETWEEN THE MAASAI AND KIPSIGIS
COMMUNITIES IN NAROK COUNTY

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, the next Statement is extremely serious. It is even more serious than the previous one. The security personnel are working on it. It involves a sensitive matter of two communities who have lived together and are living together. The proper details must be incorporated in the manner in which the Ministry of Interior and Coordination of National Government have assured me. This is not something to be rushed upon but security measures are being taken to deal with the issue. The report to the House is being worked on with the necessary details.

Sen. Olekina: Mr. Speaker, Sir, I appreciate the importance the Senate Majority Leader has given to this matter. I just want him to assure the people of Narok, Esoit and Kimintent Ward that they will not be in danger during the upcoming elections. This is because we lost lives in my county, Narok County, where the two communities reside. That is the Kipsigis and the Maasai. There are people who were killed. We do not know how many were killed but the indication was that almost ten people were killed.

We requested for this Statement before we went on recess because of the sensitive matter that surrounds security in that area. I would have expected the Senate Majority Leader to assure the people of Narok that both communities will be accorded the security they deserve. As we speak, there is only one community there that feels secure. This is because all the police officers in that area appear to be from that community.

It is imperative for the Senate Majority Leader to assure them even as we go on recess. I was expecting to get the full report so as to know what to tell the people of Narok. The people of Kimindet Ward need to get that answer. I will appreciate it if we can be specific on the date when we will be able to get the details.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, this is the kind of Statement that would have not only been issued by the Ministry but would have also been interrogated by the Committee on National Security and Foreign Relations. In fact, once we have the Committee on National Security and Foreign Relations, it would be important that the Committee interrogates the Statement and also goes to the ground to assess what is happening by listening to the people.

The irony of the seriousness of my colleague is the fact that whereas Sen. Cheruiyot, myself and others visited the place, went for the funeral of the ten people who were killed and contributed towards the same, we were unfortunately unable to locate the Senator of that place.

Most importantly, I have heard Sen. Olekina appreciate a certain community in his county to the exclusion of all others. He says this in the media houses when we go there together and even in this House when he debates. That is sensitive. When he stands to say that police have been given to some part of his constituents and not the other, we have to be sensitive to that issue.

I will tell Sen. Olekina that he has the huge mandate of all the people and communities of Narok. He must tread carefully with the desire to bring them together. Let us leave politics aside. All of us were voted by certain people. I did not get to know the tribe that voted for me. There is no need to cherry-pick our constituents. That will perpetuate the same problem that we have. Sen. Haji, who was the Chairman of the Committee on National Security and Foreign Relations last time, did a fantastic job when we had problems in north eastern and Kapedo area, among others.

When the Committee is in place, it will not just be enough for us to have a Statement from the Cabinet Secretary. The Committee will interrogate that Statement and hopefully visit the area as a way of not only promoting the security but knowing the facts to enable us deal with that issue. I went there with Sen. Cheruiyot. It is something that concerns each one of us. We would want those people to live in peace.

The Speaker (Hon. Lusaka): Thank you, the Senate Majority Leader. I think it is well put. Let us give him time. He has reassured the communities there and we are looking forward to receiving the Statement as soon as we come back from recess.

Could we hear from Sen. Cherargei?

BRUTAL MURDERS OF MICAH KIPLIMO AND STANLEY
KIPCHIRCHIR AT KILIBWONI WARD IN NANDI COUNTY

Sen. Cherargei: Thank you Mr. Speaker, Sir. I have two requests. First, I rise under Standing Order No. 46 (2)(b) to seek a Statement from the Senate Majority Leader concerning the brutal murders of Micah Kiplimo and Stanley Kipchirchir at Chesuwe Trading Centre, Kilibwoni Ward in Nandi County.

In the Statement, the Senate Majority Leader should address the following:

- a) The state of security in Nandi County including the number and nature of crimes reported since the beginning of this year.
- b) The steps the police have taken to investigate the murders and track down the perpetrators of the aforementioned murders and similar crimes in Nandi county.
- c) State whether there is investigation into the police and provincial administration over laxity on this murder case.
- d) The measures that the National Government and in particular the Inspector General of Police is taking to curb such crimes and compensate the families of Mika Kiplimo and Stanley Kipchirchir as well as other families who have lost their loved ones under similar circumstances.

STATUS OF KEREBE GOLDMINE COMPANY LTD
IN NANDI COUNTY

Mr. Speaker, Sir, secondly, I rise pursuant to Standing Order 46 2(b) to seek a statement from the Senate Majority Leader on the status of the Kerebe Gold mine company limited in Nandi County. In the statement, the Senate Majority Leader should:-

(1) State whether the goldmine has a prescribed manner for dealing with discovery, exploration, mining, processing and export of the gold.

(2) State whether the goldmine has the required technical capacity, expertise, experience and financial resources.

(3) State whether the mining is done in consideration of protecting the environment and the safety of the miners.

(4) State the benefits that have been achieved for the community development.

(5) State whether the mining operations are carried out in accordance with mining best practice.

(6) State whether there are labour related issues and land exploitation in leasing of the land.

(7) State whether the goldmine has been granted the mineral rights as stipulated in the Mining Act number 12 of 2016.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, the two statements are very important. Is it possible for you to order that the minority and majority sides when we come back from the recess - should agree and form the Committees so that these issues can be dealt with?

With regard to the issue of mining, for example, I do not think it is enough I just issue a statement. However, it would be of much help if the Energy Committee or the Committee responsible would visit the area. I have seen Sen. Cherargei visiting that place and listening to his constituents.

Can we say that when we come back from the recess; two weeks from the time we come back from the recess the relevant Committee to give the answers? Otherwise, the Senate Majority Leader will be bogged down with all these issues.

The Speaker (Hon. Lusaka): It is so ordered. I direct that when we come from recess, Committees be established because it is true that the Senate Majority Leader is getting overwhelmed by these statements.

Hon Senators, pursuant to Standing Order No. 40, I want to ask the Deputy Senate Majority Leader to table the interim report of the Joint Committee.

PAPER LAID

REPORT OF THE *AD-HOC* COMMITTEE ON THE
ELECTION LAWS (AMENDMENT) BILL, 2017

Sen. Dullo: Mr. Speaker, Sir I beg to lay the following report on the table of the House today 12th October, 2017.

Report of the *ad-hoc* Committee on Election Laws (Amendment) Bill on its consideration of The Election laws (Amendment) Bill (National Assembly Bill 39 of 2017).

The Speaker (Hon. Lusaka): Next Order.

COMMITTEE OF THEWHOLE

(Order for Committee read)

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

IN THE COMMITTEE

[The Temporary Chairperson (Sen. Kang'ata) in the Chair]

THE ELECTION LAWS (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO 39 OF 2017)

The Temporary Chairperson (Sen. Kang'ata): Hon. Senators, we are now in the Committee of the Whole to consider The Election Laws (Amendment) Bill (National Assembly Bill No.39 of 2017).

Clause 2

The Temporary Chairperson (Sen. Kang'ata): Is the Mover of the amendment present? He is absent. In the absence of the Mover, the amendment is dropped.

(Proposed amendment by Sen. Mutula Kilonzo Jnr. dropped)

(Question, that Clause 2 be part of the Bill proposed)

I now put the question, that the Clause be part of the Bill as proposed. Division on this will come at the end.

Clause 3

(Question, that Clause 3 be part of the Bill proposed)

Hon. Senators, Division on this will come at the end.

Clause 4

The Temporary Chairperson (Sen. Kang'ata): Where is the Mover to this amendment; Sen. Mutula Kilonzo Jnr.? Since he is absent, I rule that the amendment be dropped.

(Proposed amendment by Sen. Mutula Kilonzo Jnr. dropped)

(Question, that Clause 4 be part of the Bill proposed)

Hon. Senators, Division will come at the end.

Clause 5

The Temporary Chairperson (Sen. Kang'ata): The Mover of this amendment is Sen. Mutula Kilonzo Jnr; he is absent. I hereby rule that his proposed amendment be dropped.

(Proposed amendment by Sen. Mutula Kilonzo Jnr. dropped)

(Question, that Clause 5 is part of the Bill proposed)

Hon. Senators, Division will come at the end.

Clause 6

The Temporary Chairperson (Sen. Kang'ata): I now call upon Sen. Mutula Kilonzo Jnr. to move his amendment to this Clause.

Sen. Sakaja: On a point of order, Mr. Temporary Chairperson, Sir. I can see that all the amendments that are proposed in this Bill on Clauses 6, 7, 8, 9, and 10 plus new clauses have been proposed by one Member, Sen. Mutula Kilonzo Jnr. Seeing that he is absent are we not able to drop all his amendments at ago, using the procedures applicable? Otherwise, we will be wasting the time of the Senate. Clearly, he is not here to pursue his amendments. He also has not written that any other Member pursue these amendments on his behalf.

Mr. Temporary Chairperson, Sir, could you kindly rule that, in a wholesale manner, we drop all his amendments? This is just an attempt to waste the time of the House. If he wanted to pursue them, he would have been in the House this afternoon. He was in the House and left.

The Temporary Chairperson (Sen. Kang'ata): Thank you, Sen. Sakaja. However, he is entitled to come at any other time. He may as well pop in. Lets us say, for instance, when we are at Clause 7 or even any other clause. For now, we cannot make a determination based on some speculation that he has abandoned these amendments. I rule that we proceed as per the expected procedure.

Sen. Sakaja: Mr. Temporary Chairperson, this is a House of precedence. In the past, it has been provided that one can read out Clauses 7, 8, 9, 10, 11 and 12 and ask for their amendments at a go. At that point, once you have read out the clauses, if the Mover is not there, then you can drop them at the same time. That has been done before in the Senate and the National Assembly. That can be done procedurally.

The Temporary Chairperson (Sen. Kang'ata): Where there are certain proposed amendments, we have to go through them clause by clause. Where we do not have any proposed amendment, you may as well make the said proposal in a consolidated manner. Therefore, Senator for Nairobi City County, I rule that we have to go through this clause by clause, now that there are proposed amendments.

Clause 6

The Temporary Chairperson (Sen. Kang'ata): I call the Mover, Sen. Mutula Kilonzo Jnr. to move the amendments. The Mover is absent. So, the proposed amendment to Clause 6 by Sen. Mutula Kilonzo Jnr. is hereby dropped.

(Proposed amendment by Sen. Mutula Kilonzo Jnr. dropped)

(Question that, Clause 6 be part of the Bill, proposed)

Division will be at the end.

Clause 7

The Temporary Chairperson (Sen. Kang'ata): Sen. Mutula Kilonzo Jnr. being absent, I hereby drop the proposed amendment.

(Proposed amendment by Sen. Mutula Kilonzo Jnr. dropped)

(Question that, Clause 7 be part of the Bill, proposed)

Clause 8

The Temporary Chairperson (Sen. Kang'ata): I call upon the Mover of the amendment, Sen. Mutula Kilonzo Jnr. Now that Sen. Mutula Kilonzo Jnr. is absent; I hereby drop the proposed amendment.

(Proposed amendment by Sen. Mutula Kilonzo Jnr. dropped)

(Question that, Clause 8 be part of the Bill, proposed)

Division will be at the end.

Clause 9

The Temporary Chairperson (Sen. Kang'ata): I call upon the Mover of the amendment, Sen. Mutula Kilonzo Jnr. to move his amendment. I hereby make a determination that Sen. Mutula Kilonzo Jnr. is absent.

(Proposed amendment by Sen. Mutula Kilonzo Jnr. dropped)

(Question that, Clause 9 be part of the Bill, proposed)

Division will be at the end.

Clause 10

The Temporary Chairperson (Sen. Kang'ata): I call upon the Mover of the amendment, Sen. Mutula Kilonzo Jnr. to move his amendment. I hereby make a determination that Sen. Mutula Kilonzo Jnr. is absent. Therefore, his amendment is hereby dropped.

(Proposed amendment by Sen. Mutula Kilonzo Jnr. dropped)

(Question that, Clause 10 be part of the Bill, proposed)

Division will be at the end.

Clauses 11 and 12

(Question that, Clause 11 and 12 be part of the Bill, proposed)

New Clauses 2A

The Temporary Chairperson (Sen. Kang'ata): I call upon the Mover to move a Motion for Second Reading. I make a determination that the Mover, Sen. Mutula Kilonzo Jnr. is absent. Therefore, his Motion is hereby dropped.

(Proposed amendment by Sen. Mutula Kilonzo Jnr. dropped)

New Clause 3B

The Temporary Chairperson (Sen. Kang'ata): I call upon the Mover, Sen. Mutula Kilonzo Jnr. to move the Motion for Second Reading. I hereby make a determination that Sen. Mutula Kilonzo Jnr. is absent. Therefore, his Motion is hereby dropped.

(Proposed amendment by Sen. Mutula Kilonzo Jnr. dropped)

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New Clause 3C

The Temporary Chairperson (Sen. Kang'ata): I hereby call upon the Mover, Sen. Mutula Kilonzo Jnr. to move a Motion for Second Reading. I hereby make a determination that Sen. Mutula Kilonzo Jnr. is absent. Therefore, his proposal is hereby dropped.

(Proposed amendment by Sen. Mutula Kilonzo Jnr. dropped)

New Clause 3D

The Temporary Chairperson (Sen. Kang'ata): I hereby call Sen. Mutula Kilonzo Jnr. to move his Motion for Second Reading. I hereby make a determination that Sen. Mutula Kilonzo Jnr. is absent. Therefore, his Motion is hereby dropped.

(Proposed amendment by Sen. Mutula Kilonzo Jnr. dropped)

New Clause 10A

The Temporary Chairperson (Sen. Kang'ata): I hereby call the Mover to move a Motion for Second Reading, Sen. Mutula Kilonzo Jnr. I hereby make a determination that Sen. Mutula Kilonzo Jnr. is absent. Therefore, his Motion is hereby dropped.

(Proposed amendment by Sen. Mutula Kilonzo Jnr. dropped)

New Clause 10B

The Temporary Chairperson (Sen. Kang'ata): I hereby call the Mover, Sen. Mutula Kilonzo Jnr. to move the Motion for Second Reading. I hereby make a determination that Sen. Mutula Kilonzo Jnr. is absent. Therefore, his Motion is hereby dropped.

(Proposed amendment by Sen. Mutula Kilonzo Jnr. dropped)

The Title and Clause 1

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

The Temporary Chairperson (Sen. Kang'ata): Division will be at the end.

The Temporary Chairperson (Sen. Kang'ata): Hon. Senators, we are now about to vote. We will go to Divisions. At this juncture, I call upon each and every Senator to vote.

I hereby direct the Serjeant-at-Arms to ring the Division Bell for five minutes.

(The Division Bell was rung)

The Temporary Chairperson (Sen. Kang'ata): Hon. Senators, the Division Bell has been rung for five minutes. Please ensure that you are logged in to enable you vote. At this moment, the door should be closed.

(The door was closed)

I will now put the question that clauses two to 12, the Title and Clause one be part of the Bill.

Start voting from now. You have 60 seconds to do so.

(Hon. Senators proceeded to vote)

Hon. Senators: The system is not on.

The Temporary Chairperson (Sen. Kang'ata): It seems that only one Member has voted. We will repeat the process. Log out so that we repeat the vote in a short while. The system is on now.

Please proceed.

(Hon. Senators proceeded to vote)

If there is any Member who would like to vote manually, please approach the Chair.

(Several Senators approached the Chair)

DIVISION

ELECTRONIC VOTING

(Question, that Clauses 3-12, the Title and Clause 1 be part of the Bill put and the Senate proceeded to vote by county delegations)

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. (Eng.) Hargura, Marsabit County; Sen. Iman, Garissa County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. Lelegwe, Samburu County; Sen. Loiptip, Lamu County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. Poghio, West Pokot County; Sen. Sakaja, Nairobi City County; Sen. Seneta, Kajiado County; Sen. Wamatangi, Kiambu County, and Sen. Wario, Tana River County.

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NOES: Nil.

The Temporary Chairperson (Sen. Kang'ata): Hon. Senators, the results of the Division are as follows:

AYES: 24

NOES: 0

ABSTENTIONS: 0

The "Ayes" have it.

(Question carried by 24 votes to 0)

Sen. Dullo: Mr. Temporary Chairman, Sir, I beg to move that the Committee do report to the House its consideration of the Election Laws (Amendment) Bill (National Assembly Bill No. 39 of 2017) and its approval thereof without amendment.

(Question proposed)

(Question put and agreed to)

(The House resumed)

[The Temporary Speaker (Sen. Kang'ata) in the Chair]

REPORT AND THIRD READING

THE ELECTION LAWS (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO. 39 OF 2017)

The Senate Leader of Majority (Sen. Murkomen): Mr. Temporary Speaker, Sir, I beg to report that the Committee of the Whole has considered the Election Laws (Amendment) Bill (National Assembly Bill No. 39 of 2017) and its approval thereof without amendments.

[The Temporary Speaker (Sen. Kang'ata) left the Chair]

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

The Speaker (Hon. Lusaka): I now call upon the Mover.

Sen. Dullo: Mr. Speaker, Sir, I beg to move that the House do agree with Committee of the Whole in the said report.

The Senate Leader of Majority (Sen. Murkomen) seconded.

(Question proposed)

(Question put and agreed to)

The Speaker (Hon. Lusaka): I now call upon the Mover.

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Sen. Dullo: Mr. Speaker, Sir, I beg to move that the Election Laws (Amendment) Bill (National Assembly Bill No.39 of 2017) be now read a Third Time.

The Senate Leader of Majority (Sen. Murkomen) seconded.

(Question proposed)

The Senate Majority Leader (Sen. Murkomen): Thank you, Mr. Speaker, Sir. I know we are about to complete this important process. I would like to thank the Hon. Senators, particularly from the majority side, who have sat through this process to pass a very important law. I want to assure the nation that this is a great opportunity for each one of us to now prepare for the elections without any fear. The lacuna or loopholes that have been in the law have now been sealed. Also, I believe that there is an extent that the law cannot take care of; that is, common sense.

I really pity the people of this public, particularly non-lawyers, who have suffered with so many analysts saying the law is clear. I believe the less trusted human beings in this town are lawyers. I belong to that profession. On behalf of that profession, I want the public to bear with us because law is about different perspectives. However, common sense must prevail. Justice Mativo said yesterday that “public interest must prevail.”

I appreciate the fact that the majority side here led by the President who is the Head of State have been obedient to the law even when it never favoured them. The Supreme Court ordered that we must go back to elections. We said that although we did not agree with that decision, we must obey the orders and we cannot be in contempt. Unfortunately, the side that got the order are now attempting to violate the same order.

Mr. Speaker, Sir, many Kenyans do not know that yesterday Justice Mativo sitting in the High Court gave a judgment which was in pursuance of the arguments of ODM. It is a minority party here. It is interesting that the Jubilee party joined IEBC in opposing the application of Dr. Ekuru Aukot. However, once the court made the decision, it is interesting that it is only the Jubilee party and IEBC who said they will obey it. However, the people who went to court are unhappy with the decision to include other Kenyans to participate in the elections.

Therefore, we must always be obedient to the law even when we do not agree with some decisions. It is incumbent upon all of us to go out there and obey the law. We have passed the law and Justice Mativo has given us the guideline and the guidance that we needed. Most the things the Supreme Court said in the 2013 ruling in answer to fresh elections were orbiter and now we have a law that fills all the gaps.

I beg to support and say this Bill be now read a Third Time and it becomes law. I hope His Excellency in his wisdom, unless otherwise advised, can append his signature to this law so that as a country we can move forward.

Sen. Sakaja: Thank you, Mr. Speaker, Sir. Allow me to take this opportunity, first of all, on behalf of the Chair, Sen. Dullo and Members who had sat on the *ad hoc* Committee on The Election Laws (Amendment) Bill (National Assembly Bill No.39 of 2017, and the previous Select Committee on this same matter, to first thank the many Kenyans who came before us with thoughts and memoranda on issues around the elections.

We had sections of the political divide asking their supporters not to come to engage in public participation which is one of the principles and values under Article 10 of the Constitution. I am glad that they did not heed those calls. Many members of the public even those who opposed the Bill came before us and gave us ideas and even some who went to the extent of designing their own version of what Form 34A would look like. The high level of participation was just credence to the fact that this is a matter that is close to the hearts of Kenyans. We want to thank them and we are glad that we were able to incorporate a lot of the views.

The Bill as it has been passed today is significantly different from how it had been published initially; the National Assembly Bill as well the Senate Bill. That is because we were able to take into cognizance the views of Kenyans of all different shades of political belief and persuasion.

Mr. Speaker, Sir, I do not think one can say enough times that the Members of NASA have done a great disservice to this country. This is because it is at times like this that leadership is required. Even opposing and disagreeing is leadership. They had all the opportunities to present themselves before the Committee or to be part of the Committee to begin with and to bring amendments. You can see the level of what the Senate Leader of Majority called hypocrisy, in that some of the Members proposed amendments, but did not show up to prosecute them.

History will judge them in the manner that it should because at this time when this country needed clarity in terms of our election laws; direction in terms of how to implement and especially after the Supreme Court ruling, there was one side which was absent. I would like to urge all those commentators out there, especially the international community, who kept saying that this process required a bipartisan approach, to take note of who left the scene when bipartisan discussions were required. We were available and waiting for them. However, they denied this country a chance to have bipartisan engagements on this very important law.

I would also like to reiterate to Kenyans that the election is on the 26th October 2017. We have heard that certain candidates said that they have withdrawn, but they have not filled in the requisite form to withdraw. That smacks of complete mischief on their part. The elections will be on. The elections do not make it mandatory for any particular individual to be on the ballot. This country must move on. I am glad that today, pursuant to even what we discussed yesterday, the Cabinet Secretary in charge of the Ministry of Interior and National Coordination, Dr. Fred Matiang'i, has brought a very clear distinction of what the law provides for when it comes to freedom of expression and picketing; and what is just criminal mobilization.

Mr. Speaker, Sir, in this city of Nairobi, Kisumu and Mombasa, I will not speak on behalf of the other Senators or other counties, we will not allow criminal elements masquerading as Kenyans exercising their right to rob people and destroy property in the name of demonstrations. We will not allow it in Nairobi County. I hope they are listening. I would like to tell them to try us. In this city, we have said enough is enough. We will not allow another young person to be harassed, another woman to be harassed or another businessman to have to close his business because of demonstrations. Everyone, no matter what their shade of particular persuasion, wants the same thing out of their

lives. People want to go about their lives peacefully and earn their livelihoods so as to guarantee their children a future.

As a Senator of this city, who has sworn by the Constitution and I have taken oath, I will protect that right in this city. So, I am glad and we are asking the police and the Inspector General to make sure he has prosecuted each of those young men and criminals whom we saw looting, acting violently towards others in the shortest time possible.

Finally, I would like to urge the Head of State that, as soon as it is practically possible, to sign this Bill into law so that there is clarity across all the players in the election. This will enable them to know what law they must follow as we go into elections.

Thank you.

Sen. Kang'ata: Thank you, Mr. Speaker Sir. I take this opportunity to congratulate every Senator who has supported this process and the Committee that was mandated to deal with these proposals. We have been able to get all the good ideas from Members of Parliament. One thing that people should know is that, the original amendments as they were originally published in the National Assembly, have been changed. We now have new clauses pursuant to what we call public participation.

Yesterday I was watching *Al Jazeera* news where there is one lady who was hosted by the station. She said she was an analyst and gave some funny opinions. She said two things; one, that the President does not have powers to assent to this Bill into law. That is a lie. I draw the attention of Kenyans to the powers of the President as provided for by the Constitution. None of those powers has been vitiated by any process as we speak. In any event, taking into account the latest judgment of Justice Mativo, we are now in a fresh process where everyone can vie. Therefore, the idea that the President does not have some powers and he cannot sign a Bill into law is neither here nor there. It is a lie that I saw yesterday being perpetuated by a person who was masquerading as a political commentator on *Al Jazeera* Media Network.

Two, the lady said that the Senate and the National Assembly are unconstitutional by the fact that they do not have the requisite gender representation. Again, that is not true. I refer to Article 27 of the Constitution which talks about Equality and freedom from discrimination. That Article is drafted in a progressive manner. This is an issue that will be realised continuously. I can see that Kenyans are doing a very good job. We now have three women elected as Senators. Therefore, we should be very clear that what we have done is legal.

Mr. Speaker, Sir, if I may draw the attention of Kenyans to the powers of Parliament. It is the only institution that has the legal mandate to make laws and not the Executive or the Judiciary. Therefore, what we were doing here was making laws. Senators from NASA, in their own wisdom, refused to come and participate in this process. Today we saw several amendments that came from their side, but they refused to come and prosecute them. Therefore, one cannot blame the Jubilee side for pushing through these amendments because we are doing what we were employed to do by the taxpayers.

Kenya is using a lot of resources to conduct elections. This has everything to do with the actions of our competitors. They have made this election to become so expensive. This is an issue that I draw to the attention of Kenyans.

With those few remarks, I urge members to support the Bill.

The Speaker (Hon. Lusaka): Hon. Senators, because we are in the Third Reading, we are not going to reopen debate on this. I can see on the console three requests. I will give each one three minutes. Let us start with Sen. Wamatangi.

Sen. Wamatangi: Thank you, Mr. Speaker Sir. I take this opportunity to thank my colleague for being magnanimous enough to appoint me as one of the Members of the Joint Parliamentary Select Committee on Election Laws that heard the opinions of members of the public on this Bill. I congratulate my colleagues on having passed this Bill up to the stage that we are debating. A few weeks ago, the Supreme Court of Kenya passed a judgment that annulled the general elections. In doing so, it pronounced that there were irregularities and illegalities. Moreover, Justice Maraga in one of his pronouncement when he rendered the judgment said:

“On the question of adequacy of time that the Judiciary has to deal with Presidential elections, it is the Legislature that has got to find time and do its work and provide a legal framework on how the Judiciary will proceed on it.”

By inference, this applies to many other issues. The Legislature has now pronounced itself. The country can now move forward. We can be able to say that there is a reference point to which elections can be conducted on 26th October, 2017.

We have said many times that our colleagues on the Minority side are absent to take part in this procedure. Other than participating here, they have been in every media house saying that they are waiting for this House to pass this Bill and when it will be assented to, they will go to court for it to be annulled. I want to tell them that we are clear we have done our work. Kenyans now know who is for the country and who is not for it; who is ready to do the right thing and who is not ready to do the right thing.

I urge the Judiciary because they called upon the Legislature to do its work by providing a legal framework for elections to be done in this country, they should not allow the judiciary to be used by the Minority side to curtail progress in this country.

The Speaker (Hon. Lusaka): Hon. Members, we are going to vote by delegations. I therefore, direct that the division Bell be rung for five minutes.

(The Division Bell was rung)

The Speaker (Hon. Lusaka): I now order that the doors be closed and the Bars drawn.

(The doors were closed and the Bars drawn)

DIVISION

ELECTRONIC VOTING

*(Question, that the Election Laws (Amendment) Bill
(National Assembly Bill No. 39 of 2017) be now read a Third Time,
put and the Senate proceeded to vote by County Delegations)*

AYES: Sen. (Dr.) Ali, Wajir County; Sen. Cherargei, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Dullo, Isiolo County; Sen. (Eng.) Hargura, Marsabit County; Sen. Iman, Garissa County; Sen. Kang'ata, Murang'a County; Sen. Kibiru, Kirinyaga County; Sen. Kihika, Nakuru County; Sen. (Prof.) Kindiki, Tharaka-Nithi County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Langat, Bomet County; Sen. Lelegwe, Samburu County; Sen. Loitiptip, Lamu County; Sen. (Eng.) Mahamud, Mandera County; Sen. (Eng.) Maina, Nyeri County; Sen. (Dr.) Mbito, Trans Nzoia County; Sen. Mpaayei, Kajiado County; Sen. Murkomen, Elgeyo-Marakwet County; Sen. Mwangi, Nyandarua County; Sen. Ndwiga, Embu County; Sen. Poghisio, West Pokot County; Sen. Sakaja, Nairobi City County; Sen. Wamatangi, Kiambu County; and, Sen. Wario, Tana River County.

NOES: Nil

The Speaker (Hon. Lusaka): Hon. Senators, the results of the Division are as follows:-

AYES: 25

NOES: 0

ABSTENTIONS: 0

The "Ayes" have it.

(Question carried by 25 votes to 0)

(The Bill was accordingly read the Third Time and passed)

The Speaker (Hon. Lusaka): I now direct that the doors be opened and the Bars drawn.

(The doors were opened and the Bars drawn)

The Speaker (Hon. Lusaka): Next Order!

MOTION**DEVELOPMENT OF EFFECTIVE WASTE
MANAGEMENT AND DISPOSAL REGULATIONS**

THAT, aware that cities, towns and urban areas in Kenya are increasingly getting overpopulated leading to overstretching of services and amenities;

CONCERNED that improper management of waste has become a major cause of pollution of neighborhoods, water sources and other natural resources leading to rise of environment-related diseases which cause many deaths;

FURTHER CONCERNED that in most urban areas, waste is dumped in an uncontrolled manner posing a great challenge to the wellbeing of urban dwellers, particularly those living near dumpsites;

ACKNOWLEDGING that the problem continues to rise despite the efforts made to mitigate the problem through various statutory bodies, private entities and communities; the Senate calls upon the National Government to take immediate steps to develop effective waste management regulations and put in place proper disposal facilities, including for harmful waste and that this be done in consultation with all key stakeholders.

(Motion deferred)

The Speaker (Hon. Lusaka): Next Order!

MOTION FOR ADJOURNMENT**ADJOURNMENT OF THE SENATE PURSUANT TO THE
APPROVED CALENDAR FOR THE 2017 SESSION**

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I beg to move the following Motion:

THAT, pursuant to Standing Order Nos. 28 and 29, the Senate do adjourn until Tuesday, 7th November, 2017.

Mr. Speaker, Sir, I want to start by thanking all the Senators who have come and participated in the Senate for the whole of this week. I also thank them for their contributions to nation building. We now have a time for the next two or three weeks to go and engage in, one, the political activity that is ahead of us which is the fresh presidential election. Secondly, we also have time to consult our constituents and perform our responsibilities other than the ones that are performed on the Floor of this House.

Consulting our residents and constituents is a very important part of our constitutional responsibility. These Senators now have time to go back to their various

counties and engage. I do not want to say much. I had spoken earlier in the previous Bill and I want to reiterate that we now have the law in place. This will ensure that this election which is going to be repeated can be done in a free and fair environment; an environment that can guarantee protection of the rights of every Kenyan.

With those many remarks, I beg to move the Motion. I will ask the Majority Whip, Sen. Kihika, to second.

Sen. Kihika: Mr. Speaker, Sir, I stand to second that Motion. It is a very important Motion. It is a period that Senators have worked extremely hard. It is the right time that we take a small recess and be back to carry on with very important nation building issues.

I second the Motion.

(Question proposed)

The Speaker (Hon. Lusaka): Hon. Senators, looking at my screen, I do not see any Senator who wants to make any contribution. I want to thank you sincerely.

Before I adjourn, I want to ask the House that according to Standing Order No. 20, the Minority are supposed to give us leadership. If they do not do that by 7th November, 2017, we should be able to make a decision so that this House is able to move and, therefore, we do not overload the Majority Leader and the leadership on the Majority side.

ADJOURNMENT

The Speaker (Hon. Lusaka): With those remarks, hon. Senators, the Senate now stands adjourned until Tuesday, 7th November, 2017. I wish you well.

The Senate rose at 4.40 p.m.