

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 13th February, 2018

Twelfth Parliament - Second Session - First Sitting

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

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

PRAYERS

COMMUNICATION FROM THE CHAIR

WELCOME TO HON. SENATORS TO THE SECOND
SESSION OF THE 12TH PARLIAMENT

The Speaker (Hon. Lusaka): Hon. Senators, it is my pleasure and privilege to welcome you back to the Senate for the Second Session of the Twelfth Parliament.

As you may recall, the First Session of this term was greatly affected by the prolonged electoral process in the country as well as delays in appointing House Leadership and constituting Select Committees of the Senate. This meant that we did not quite take-off as anticipated in the discharge of our functions and mandate.

I am happy to note that the Senate Leadership Offices are now fully constituted. Consequently, I take this opportunity to congratulate the Majority and Minority Leaders and their Deputies as well as the Majority and Minority Whips and their Deputies on their election.

I am also happy to note that the Select Committees of the House are now fully constituted, and extend my congratulations to the Chairpersons and Vice-Chairpersons elected to lead these committees.

Hon. Senators, the Senate is now ready for take-off. We have before us the singular duty and mandate of delivering on the devolution promise to Kenyans. This Session is particularly important as it will lay the foundation for and define what the Senate will be able to do and achieve during this term. I, therefore, call upon each one of us, right from the outset, to re-commit and re-dedicate ourselves to the achievement of our constitutional mandate.

Hon. Senators, as I stated in this House on 31st August last year, following my election as your Speaker, this Senate must be able to distinguish itself from and build on

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the foundation created by the Second Senate, to do even better. We must improve on our output in terms of the number and quality of Bills passed by the Senate, in terms of Motions and resolutions considered by this House, in terms of how we process requests for Statements, in terms of the time we take to process public Petitions, and in how we respond with solutions, from time to time, to the challenges facing the country and especially counties.

We must more than ever be alive to the dictates and aspirations of the ordinary *Mwananchi*. Unlike the Second Senate which faced numerous challenges that affected its operationalisation, we must acknowledge that the foundation has now been laid, and carry on this important task of entrenching, safeguarding and advancing the devolved system of government in Kenya.

Hon. Senators, I am happy to note in this regard that the induction of various Senate Committees is scheduled to commence this weekend and run through to the end of March. I expect that during these sessions, committees will be able to interrogate in depth how their predecessor committees performed, and identify opportunity areas that may be seized on to improve service delivery in the Senate.

Having reviewed periodic and legacy reports from the previous Senate, I hope to see tremendous improvement in how we do our work both in committees and in plenary. In particular, the amount of time taken to process Bills at the Senate from First Reading through to Third Reading is inordinately long. Likewise, the time taken by committees to consider public petitions and report back to the Senate, often goes way beyond that provided for in the standing orders.

When it comes to processing of statements, committee chairpersons have often presented to this House verbatim responses as received from Ministries without the committee having first interrogated the matter and adopted its own determination and response thereon.

We must also re-look at how we undertake review of the Controller of Budget and Auditor-General Reports on the financial operations of county governments to ensure that the backlog of audit reports, going back to the Financial Year 2014/2015, are considered and the Committee Reports thereon tabled before this House for debate.

Hon. Senators, my challenge to you is that we must keep reviewing and re-engineering our processes as we go along, to ensure that we ably discharge our mandate not just to this House, but also to the citizens of this great country, whom we are all here to serve.

Hon. Senators, with regard to business pending before Committees, I note that there are seven Bills which were read a First Time during the previous Session, and are pending before committees for public participation and consideration by the committees. Further, four petitions which were reported during the last Session are pending before the respective committees to which they were committed.

I urge these committees to fast-track consideration of these pending Bills and Petitions, noting that we have already exceeded the timelines provided in the Standing Orders for reporting back to the House.

Hon. Senators, having said that, I wish to bring to your attention the fact that planning for two key events in the Senate Calendar has commenced; that is the

Devolution Conference, which is scheduled to be held in Kakamega County tentatively in April this year and the Legislative Summit scheduled to be held in May, 2018. These two events accord the Senate the opportunity to interact with other key players in the devolution sector, identify and deliberate on the critical aspects of devolution, celebrate the gains and successes accomplished, reflect on the challenges encountered and come up with resolutions and concrete plans of action on the way forward. More details regarding participation by Senators in these events will be communicated in due course.

As I conclude, I wish to assure you of my deep commitment and passion to see this House succeed, and to support each one of you, both individually and in the Committees that you serve, to reach the highest and achieve the best that we can during this Session and beyond.

I thank you.

NOTICE OF MOTION

APPROVAL OF SENATORS TO SERVE IN THE SENATE BUSINESS COMMITTEE

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, thank you very much for that opportunity. I beg to give notice of the following Motion:-

THAT, pursuant to Standing Orders No.178 and 183 (3), the Senate approves the following Senators to be Members of the Senate Business Committee:

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|---------------------------------|---|--|
| 1. Sen. Kenneth M. Lusaka | - | Speaker of the Senate –
Chairperson |
| 2. Sen. Kipchumba Murkomen | - | Senate Majority Leader |
| 3. Sen. Moses Wetangula | - | Senate Minority Leader |
| 4. Sen. Fatuma Dullo | - | Deputy Senate Majority
Leader |
| 5. Sen. James Orengo | - | Deputy Senate Minority
Leader |
| 6. Sen. Susan Kihika | - | Senate Majority Whip |
| 7. Sen. Mutula Kilonzo Jnr. | - | Senate Minority Whip |
| 8. Sen. Petronilla Were | - | Deputy Senate Minority
Whip |
| 9. Sen. Eng. Mohamed M. Mahamud | | |
| 10. Sen. Johnson Sakaja | | |
| 11. Sen. Samuel L. Poghio | | |
| 12. Sen. Ledama Olekina | | |

MOTION

APPROVAL OF SENATORS TO SERVE IN
THE SENATE BUSINESS COMMITTEE

The Senate Majority Leader (Sen. Murkomen): I beg to move the following Motion:-

THAT, ---

Sen. Khaniri: On a point of order, Mr. Speaker, Sir. I think this issue came here before and there was a ruling on it that there are Members of this House who have national awards and titles. In my entire stay in Parliament, this is where those awards are supposed to be recognised. I am sure Sen. Kenneth Lusaka, in the performance of his duties as a Speaker, has been given some award and I think he must be, I think Elder of the Order of the Golden Heart of Kenya (EGH), Chief of the Order of the Golden Heart of Kenya CGH, Member of Parliament MP or something. Sen. Wetangula, I am sure, is EGH and MP, having served as a Cabinet Secretary (CS) and all that. So, some of us have all these titles.

I raised this matter before and there was a ruling that in future, those titles and awards must be reflected when you are referring to Members on official documents like this.

Is the Senate Majority Leader in order not to comply with the orders that were given by the Chair?

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I totally concur with the point of order raised by Sen. Khaniri. I would be more than happy to see my name there reading EGH. I have no problem with that suggestion. I considered in the course of these proceedings that we will bring the necessary amendments before the end of the day to capture the titles such as EGH, including for Senior Counsel, James Orengo. So, if that is permitted, with your permission, I can proceed and then we will bring the amendments?

(The Speaker (Hon. Lusaka) nodded)

Mr. Speaker, Sir, I beg to move the following Motion:-

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| 1. Sen. Kenneth M. Lusaka | - | Speaker of the Senate –
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| 4. Sen. Fatuma Dullo | - | Deputy Senate Majority
Leader |
| 5. Sen. James Orengo | - | Deputy Senate Minority
Leader |

6. Sen. Susan Kihika - Senate Majority Whip
7. Sen. Mutula Kilonzo Jnr. - Senate Minority Whip
8. Sen. Petronilla Were - Deputy Senate Minority Whip
9. Sen. Eng. Mohamed M. Mahamud
10. Sen. Johnson Sakaja
11. Sen. Samuel L. Poghio
12. Sen. Ledama Olekina

Mr. Speaker, Sir, first of all, I would like to welcome all the Senators back from the long recess. This is the Second Session of the 12TH Parliament. The last Session was too brief that we did not even get an opportunity --- Some of the Members who were appointed to various committees and particularly, Sessional Committees, just did elections and went home. Again, some were even asking me why we are again reconstituting the same committees. It was such a short session that was affected by the extended election period. We did not get a chance to basically bond and work together. In fact, the exercise of induction of the various committees has not commenced.

We are very excited to come back to this year and I welcome my colleagues from the long recess. I know some of them have grown through different challenges and I hope the behaviours and mannerisms of last year will be left behind us and we will start working as a Senate and as a team. This Committee that we seek to be approved here will be basically the main engine in terms of prioritizing the business of this House.

While on recess, I listened to many concerns of Kenyans who sent us here. Many of them feel that the legislative framework and their operational framework for county governments is in a sort of a confused state. We have situations where you have various legislation that have been passed by county assemblies. In some counties, it is something to do with Ward Development Fund (WDF) which others do not have a basis in law. In some counties, they need direction on matters related to County Public Service Board and others, it is in so far as approval of appointments is concerned.

It is time as a Senate, being the Second Senate of the Republic of Kenya under the Constitution of Kenya 2010, that we take advantage of the opportunity that we have at such a time as this, that, this Senate Business Committee (SBC), prioritise Bills and legislation that will create harmonious working environment for us and county governments.

Mr. Speaker, Sir, many Kenyans are concerned about accountability in the counties. Many Kenyans are concerned about the legal framework within which the Senate can use properly, apart from the County Public Accounts and Investment Committee. How else can a citizen of the Republic of Kenya or a Senator like all of us seated here will have an opportunity to permeate into their counties and find out what exactly is going on. One of the key issues is to see the actualization of the Senate Oversight Fund so that the Senators can have the opportunity and ability to visit the counties. I have seen---

(An hon. Senator spoke off record)

Mr. Speaker, Sir, is it in order? Protect me from the heckling from the other side. I have about one hour to be here. It is my discretion to perhaps use five, ten or twenty minutes. In most cases, the Senate Minority Leader is usually not in a hurry. I am first of all very happy that the Senate Minority Leader will use a very short time once I call upon him to second the Motion. I am also very suspicious that it is not the Senate Business Committee. There must be something else. If it is anything to do with the security of the Senate Minority Leader, I am more than willing to assist.

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

Sen. Madzayo: Thank you, Mr. Speaker, Sir. Another point of order was raised and it requested for clarification particularly with regard to whether one is an EGH, OBS or whatever. These are basically political titles. I was wondering whether that would also include professional titles like Doctor, Engineer and Professor.

(An hon. Senator spoke off record)

Mr. Speaker Sir, protect me from the other Senators here.

The Speaker (Hon. Lusaka): Proceed, Senator.

Sen. Madzayo: Mr. Speaker, Sir, I would like to get further clarification as to whether even architects and so forth can be along those lines.

The Senate Majority Leader (Sen. Murkomen): Including Chiefs and Kings. Mr. Speaker Sir, I have no problem with a clarification being sought by Rtd. Justice Sen. Madzayo. However, the problem is that it is totally unprocedural for him to just rise up somewhere from the blues. There was no point of order. He just asked for clarification. There is nothing like clarification.

The Speaker (Hon Lusaka): Proceed, the Senate Majority Leader.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, that subject was dispensed with long time ago. It was not part of the issues that were on the Floor. Being a senior person who has been here serving a second term, he should have known the procedure. That is why in his second term, he should not be making certain mistakes and attempting to confuse the Speaker.

Now that I am being requested to keep it brief, I was at the point where I was saying that as Senate, the Senate Business Committee needs to prioritize certain legislation and certain businesses this time round, for example, businesses that are related to oversight of the counties. I was making this point because there is an outcry out there that members of the public feel like the Senate needs to do more to ensure that the resources that are given to the counties are felt by the common *mwananchi*.

In that regard, I was making this case that the question of the Senate Oversight Fund is something we do not want to debate forever. We must bring it to a closure. We have had so much criticism from the National Assembly, the Executive at the national level, opinion leaders and so forth. When we brought the solution that makes the office of the Senator capable and able to deliver on the mandate of the Senator of oversight of the counties, many people chickened out and started saying that giving Senators money will make them politically strong and so forth, yet the amount of money that is being

requested by Senators is nothing compared to the resources that are available for all the other elective offices to carry out their constitutional mandate.

Kenyans made a decision that they wanted the office of the Senator and the Senate to function. It cannot be difficult for Kenyans themselves to fund that office to deliver on the mandate that was given to this very important office of the Senate.

The most urgent Bills that this House will have to deal with are related to matters of pension of county staff. That law has been pending for a long time. We were unable to complete that law during the last term. There are also others, like the Bill related to roads and the sharing of the Road Levy between the counties and the national Government and the Bills related to matters of Deputy Governors.

I am going to soon introduce in this House a Bill that has already been published with regard to how to replace a vacant office of a Deputy Governor knowing that the Deputy Governor of Nairobi left office a few months ago. The office of the Deputy Governor of Nyeri County is vacant by virtue of the Deputy Governor ascending to the office of the Governor. That law will be brought to this House hopefully - if the Senate Business Committee approves - by tomorrow or the day after, so that we can have functioning county governments in the two counties.

We are also going to deal with matters related to approval of Members of this House and of the “Lower House” who are going to serve in the Parliamentary Service Commission quickly in the course of the week so that they can facilitate the issues I have been raising about strengthening the office of the Senate. That business should also take place in the course of the week.

When the business is before us, we should debate and agree on the Members that are going to represent this House and the National Assembly in making Parliament and particularly the Senate perform its responsibilities. I do not want to spend so much time to say so much. We will have a lot of opportunities to also discuss Private Members’ Bills.

The business of this House stalled last time because there were so many Bills introduced by Members which we had done in this House and send to the National Assembly; they sat on them. Now I am told some of the Bills which were generated by Committees of this House are being published by the National Assembly in this Parliament. I am glad though that the National Assembly Majority Leader is going to introduce the Cyber Crime Bill, maybe this time round as a Government Bill. But he must give due credit to the Senate because it was the Committee of the Senate that worked on the Bill. I can see Sen. Sen. Mutula Kilonzo Jnr. is really emotionally attached. Sen. Mutula Kilonzo Jnr. and Sen. Cheruiyot consulted me on this matter.

In some of those Bills, due recognition must be given to the drafters and the people who worked on them. But be it as it may, it is a very important Bill that this House will also be seized of at some point this year; so that we can have a more organized cyber working environment in this country. There are too many cases being reported of children who are being bullied on social media and committing suicide. There are a lot of hate messages that are being shared on social media. We are misusing that platform. Just like other progressive countries in the world, our Committee on Information Technology had come up with a very beautiful Bill that I have seen is

published by the Majority Leader in the National Assembly and we will be seized of it at an appropriate time.

With this many remarks, I want to move and ask the Senate Minority Leader to second.

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

I begin by welcoming all Members back to the House after a deserved rest and recess which I hope you meaningfully used to fraternise and engage your constituents, where you have them. Those of you who can complement others, I hope you did so.

Mr. Speaker, Sir, this is a Committee that is going to determine the business that we transact in this House. The membership is the same as it was in the last Session; so continuity is guaranteed. As we pass this Motion, I want to urge this House in this Session to pay attention to a few things that are going on in the counties that we represent.

Number one, the government is selectively disbursing funds to counties. Those counties that do not enjoy government favour are only receiving recurrent expenditure disbursements; they have not received a single shilling for development. We pride ourselves that this is the House that is the equalizer of all counties. This is the House where Lamu, with two constituencies and a population of 100,000, is equal to Nairobi with 17 constituencies and a population of over 5 million. This is the great equalizer. We must rise and speak with one voice; that one county denied and starved of funds is all counties denied and starved of funds. This is because we want this country to grow equitably and for all the people of this country to benefit from devolution.

Secondly, I hope that in this Session, now that we have set up the only watchdog Committee we have in this House, they are going to engage meaningfully and in a detailed manner in looking at the accounts of counties. We have a huge backlog of accounts of counties, probably three years in arrears. So, I hope that the Committee - Sen. M. Kajwang and those of us in it – are going to burn your midnight oil to make sure you look at the accounts of counties, bring reports on time to this House so that we can be able to debate and dispose of them in the appropriate manner possible.

Thirdly, I hope that this Senate will stand as one. There is already a very mischievous Bill being tabled in the National Assembly to distort the sharing of proceeds from natural resources. We already passed a law stipulating that if Turkana has been protecting our oil, the people of that county must have ten per cent of the proceeds thereof. If Taita Taveta has been protecting our minerals, including uranium, they must have a minimum of ten per cent of all the proceeds thereof. If the Pokot County has been the custodian of our gold, they must have a fair share. But there is a distorted Bill coming to the National Assembly slicing the share of proceeds from resources to counties to a paltry five per cent.

I want to urge that when that Bill lands in this House, especially my colleagues across the floor, for heaven's sake do not turn up and vote on partisan lines. Vote in the interest of your counties because you never know what lies underneath the soils of your counties. When these resources are discovered, you will come running here and you will

be shown, just like Zulfiqar Ali Bhutto, that you passed the law that you are complaining about.

Fourthly, as we get into this Session, this Senate must stand up to be counted in terms of protection of civil liberties and freedoms of the people of this country. I will want to hear, as we go along, what we have to say about the arbitrary, unreasonable and unilateral closure of television stations. I want us to hear a single voice on how, contrary to Article 16 of the Constitution, the country can wake up and strip its citizens of their citizenship. The Constitution is very clear that a Kenyan by birth cannot lose his right to citizenship simply by way of acquiring a citizenship of another country. How can we wake up and deport our citizens? It is not just Miguna Miguna; we deported Akasha's sons to the US and we have now deported Miguna Miguna. If you look at the German Constitution, it is very clear that no German national can be deported to another country for whatever reason possible. I think our constitutional article is borrowed from the German Constitution and should be broadly read in the same manner.

Mr. Speaker, Sir, I do not want to belabour the points; things will come as we move on. I want to urge you on the point we raised as we were closing the last session; on the inability or the slow pace at which this House processes petitions by members of the public is also appalling. The Standing Orders require that a petition brought to this House must be concluded within 60 days. We have never concluded a single petition in 60 days. Some lasted a full term and *wananchi* out there come here because they have nowhere else to go. I hope that under your leadership and collective leadership of the House, we will hold each and every Committee that has a petition referred to them to account, to make sure that they bring back the outcome to the floor of within the required 60 days.

Lastly, Mr. Speaker, Sir, this is a moment where this country must start a conversation to relook at our Constitution 2010. This House has already done some work on it and I will be watching to see the conduct and behaviour of my distinguished colleague, Sen. Murkomen, because he is the one who chaired the Committee that did substantial work on reforming the Constitution. In a bipartisan manner, this House can take leadership and give guidance to the country on reforming and adjusting the Constitution to give this country a better deal in terms of many issues. These include strengthening the judiciary, strengthening this very House, looking at the structure of the Executive and the manner in which our police force is run. Policemen have now become like messengers and youth wingers of the Executive, instead of being an independent constitutional body and so on, and so forth.

I beg to second.

(Question proposed)

Sen. Orengo: Thank you very much, Mr. Speaker, Sir. Let me join the leadership of the House in welcoming everybody back after the last Session. It gives me great pleasure to support this Motion. It is an important Motion because it relates to a very important Committee of the House that has to determine not only the way the business of the House will be managed, but also what business comes to the House.

I fully support the membership. There are some new members in the Committee. They are not new in Parliament, but were not in the previous Committee. Some were in the previous Senate Business Committee. For the reasons already stated, there will be institutional memory. It is also important to welcome our Speaker to the chairmanship of this very important Committee of the House.

Mr. Speaker, Sir, having said that, I want to use this moment for reflection. There is so much heat in the country that if we behave as if we are unaware of what is happening, we will be doing a great disservice to the nation. Parliaments are meant to deal with historical moments whenever there is a challenge to the nation.

There was a time when Parliament was part of the Office of the President. The budget and administration of Parliament was linked squarely in the Ministry of Interior and Coordination of National Government. The Speaker more or less had to report to Harambee House and the Clerk was part of the furniture of Harambee House. It was hon. Aringo who fought very hard to bring independence to Parliament. In fact, there was a great struggle for hon. Aringo, with the Committee that he worked with, to make sure that Parliament was an independent institution.

We have political parties and communities, but there comes a time when Parliament should be speaking for the nation. I should be able to cross the Floor and talk to Sen. Beth Mugo, with whom we have fought many battles. But once we begin to look at each other as Kikuyus, Luos, Kambas, and the nation is moving like the River Nile to the Mediterranean, we are doing a great disservice to the nation.

Mr. Speaker, Sir, I was watching a programme the other day where the Chief Justice of South Africa was congratulating the Parliament of South Africa. In fact, he was saying that although both Parliament and the Executive did not understand the authority of the Judiciary, largely Parliament was doing a good job. There is a great initiative that was started and chaired by Sen. Murkomen and Sen. Mutula Kilonzo Jnr. about how we can redesign this Senate. Truth be told; whether we call the other House 'the Lower House,' it is largely the Senate which does not have substantial authority in the architecture of the Constitution. If we approach the issues, flaws and things that we can correct in our own Constitution in a bipartisan manner, then we can make the Senate the House that it should be.

In the last Parliament, my friend, Sen. Haji, and I were on a trip to Russia, the Philippines and France. The Senate is a House of men and women that guide the nation, and that is why we are fewer. In the United States (US) there are lesser Senators than there are people in the House of Representatives because there is a moment in the nation that we should sit together. Whether the Executive goes a different direction from the Judiciary, we should be able to sit together in a bipartisan way. When we are out there, what we talk sometimes is not reflective of this institution.

Secondly, just to ride on what my leader, Sen. Wetangula, was saying I had an experience when I was boarding a British Airways plane. I had sat on my seat and was going to a conference in the United Kingdom. I was taken out of the plane and my passport taken away. I did not have a passport for two years. However, I want to thank the Moi regime that he finally came to live with the fact that it was wrong to have taken

that passport, he sent a permanent secretary in his office; he did not even call me to his office. At that time I had a legal office at Agip House.

He came and said: "I am returning to you this passport because it is the only thing that you can show out there that, indeed, you are a proud Kenyan." During those days the passport was written: "This passport is the property of the Republic of Kenya." It was a privilege to own a passport and it could be recalled. Article 12 of the Constitution was supposed to address that mischief of just taking passports and suspending them without a clear basis. These and other things in our nation that are beginning to creep in should not be there. The leadership both on the other side and this side should deal with these problems so that we can build one nation called Kenya. You cannot build one nation called Kenya if we do not want to talk to each other.

If one side of the nation says that they have sworn in somebody as the president of the people and that is the basis of arresting people and sending them to jail, what is the Constitution all about? In fact, that arrest was made without reading the Constitution properly. That oath was designed knowing what the Constitution says. Unless we control our madness and watch out, somewhere down the line, we will have anarchy in the country. My plea is; that let us have one country called Kenya under one Constitution. Regardless of whoever the President, Speaker of the Senate, Speaker of the National Assembly, Minority Leader and Majority Leader is, the Constitution is the guiding light and principle of the nation.

Mr. Speaker, sir, with those remarks I beg to support and thank you for listening in silence.

(Laughter)

The Speaker (Hon. Lusaka): Sen. (Prof) Ongeru

Sen. (Prof.) Ongeru: Thank you, Mr. Speaker, Sir. I rise to support this Motion. Like many Senators who have spoken before me did, I welcome all the Senators to this sitting because we have serious business to transact in this august House.

I have spent a considerable period of time going around my county and many other areas within the country. One thing that has struck me most is that, previously, it was very easy to fetch water for drinking or for cooking purposes in our homes from the springs. However, I never thought that a county like Kisii or Nyamira will run dry of water. One of the issues we need to address in this Senate is provision of drinking water for animals and domestic use. I believe the Senate Majority Leader will be able to fast-track this matter urgently because our people are suffering. To me, if we will be able to achieve that single element on how to provide water to our nation, we will have gone a long way and it will give us a stamp of approval as a House that works in a bipartisan manner.

I am looking forward to a robust Bill being presented before this House, not on an *ad hoc* basis of drilling a dam here or there, but that will address the provision of water to our people because it has now reached an emergency level. Year in, year out, we experience drought. With regard to this issue, we cannot sit pretty and hope that

everything will happen by God's grace. This is an issue we need to address ourselves to before it is too late.

Secondly, I speak with a heavy heart because what I see around is that this country is about to split. I qualify as an elder to say so. When an elder sees things splitting, he needs to caution because we are driving this nation to a point of no return. I believe in cautious manner, we should sit down and reason together. God himself said: "Come, let us reason together." He is the Almighty God. We mortal beings can also take the same direction by living what the Bible, the Quran or any other religious book says. This is because we cannot continue sitting pretty when this nation is burning.

Some of us who had little experience knew what had happened before the Serena talks. We were there with Sen. James Orengo, our current Deputy President, the late Kilonzo Mutula Snr. and others. The events that led up to the promulgation of the new Constitution 2010 were that certain fundamental rights of people had been tampered with.

Admittedly, I was on the side of Government. When that issue came to the table, the Agenda Four was nothing, but how to be able to make this country governable; where everybody enjoys equal treatment in every corner and in every direction. What I see today is completely the opposite of the Agenda Four that we so animatedly deliberated and agreed upon on what should be our normal conduct; whether in the Executive, Judiciary or in Parliament, for that matter, in this Senate. I am pleading for reason. Let us bring back our reason, sit down and discuss for posterity. If we do not do so, we can easily burn this country where it is.

I know, for instance, that a passport is a primary document for any citizen. To withhold the passport of anybody and yet in this House people are expected to transact business within and without this country, we are infringing directly on the fundamental rights of those people who voted us. We should honour that. There may be issues, but they can be discussed around a table. I have never said at any moment that everything is perfect. However, I am sure when we sit down together, we can reason together.

There will be Bills that some of us would want to bring before this House. All I am looking forward to is to discuss them in a bipartisan manner and be able to treat each other as equals. For instance, I would have wished to see a mix of experience and expertise in the recently constituted committees of this House. That was not the case. The majority side took an attitude of "winner takes it all". That is fine; I have no problem with it. However, this House would have been richer if we combined the experiences as a way of moving forward. However, whatever it is, we will make the best out of it from whatever level we are. I hope at that level, we will again be able to come to a clear understanding on how we need to move forward as a nation and as a people.

With those few remarks, I beg to support.

The Speaker (Hon. Lusaka): Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Speaker Sir. I rise to support this important Motion. As I do so, I am disappointed that what I thought would be a practice that we left in the last Senate has continued and persisted. I begin to wonder whether if that is the position taken by the National Assembly and we have not done anything about it on two important Bills. One of them is The Physical Planning Bill, 2017. The National Lands Commission sent The Physical Planning Bill, 2017 to us which is in consonance

with the Constitution; then another one is sent to the National Assembly which is obviously being fast-tracked. The second one is on The Computer and Cyber Crime Bill. I am the one who drafted the Computer and Cyber Crimes Bill, 2017.

As we go and retreat to discuss the business we bring to the Floor of this House, I would hate to sit in a committee where our work will be merely academic. We will be sitting to approve Motions and Bills by these good Senators and all of them will end up in a dustbin of history like it was in the last Senate.

Hon. Senators, the number of Bills that ended up being signed into law is less than seven Private Members Bills. It is actually five. Each Senator had a Bill. Unless we can assure these Senators that we will sit in that Committee to get law in place, then I am afraid that committee will be doing what the last committee was doing; pushing paper. I would hate history to record me as one Member who pushed paper for the sake of it. If we cannot get our Bill assented to, then there is something wrong with this leadership.

Secondly, I propose that the rulings that were done in the last Senate should be somewhere on the Clerks Table so that the Members who have joined us and those who were here previously can make references to them. The HANSARD records many things that we do here. So, I would urge that we spent some money and have those HANSARD copies here, together with these laws and many other reports that people can refer to.

Thirdly, one of the committee rooms in County Hall, now has beautiful i-Pads, that is where the Parliamentary Service Commission (PSC) sits because they love themselves more than they love us. It is us who take them there. We must tell you. They have put beautiful i-Pads for quick reference. You would imagine that the first place you would have such gadgets is here where we can make quick reference to the Constitution. Every time I label my Constitution and the Standing orders, they disappear. Those gadgets must be here. We must tell the PSC that they sit there on our behalf. Some of them do not like when I say it, but then I must say it.

Mr. Speaker, Sir, this House and particularly this building and where we sit, including inside the gate, we are the only people in this country who can say and do whatever we want within the precincts of Parliament. We are protected by law; nobody will sue you, you will not be arrested and nobody will refer to the statement you have made. We have all the freedoms. However, when the police, like they did last week, towed the official vehicle assigned to me, and which I had not seen, at the precincts of Parliament---

Mr. Speaker, Sir, I have not heard any communication from you or any person protesting this violation. It is a violation of Parliament. If you do not stand for us, history will judge you so harshly you will remember this young man from Makueni County telling you: "You must defend this place." This is the place we have been given by law. No other Kenyan enjoys such privileges; not the military nor the Executive or the Presidency. Nobody should violate the precincts of Parliament; it is not the act of taking the vehicle but the violation of the precincts.

I do not need the vehicle since I have one, but what are they saying about this House? History recorded the last Speaker, Hon. Ekwee Ethuro. He got police officers out of Parliament Road when they barricaded us and we could not access these premises. I am counting on you to be able to defend this House; otherwise this Senate will become

just another House. We are actually what Sen. Sakaja says: “The Upper House with lower powers.” Those are the words he uses. The other one is the “Lower House” with higher privileges or something like that. I feel sad.

Mr. Speaker, Sir, lastly, I defended one gentleman called Mahamud Muhumed Sirat. That gentleman, one Sunday morning was arrested by Kenya Police, in their usual style, and taken to the Jomo Kenyatta International Airport (JKIA) with a deportation order to go to Australia. That gentleman ended up being the Member of Parliament for Wajir South Constituency after a long court process. The Chairpersons of Senate Committees, whom we have given the privilege to lead us, when they do not speak about some of these issues, they are neglecting their duty as people we nominated as Chairpersons, for example, the Chairperson of the Committee on Legal Affairs and Foreign Relations. When media houses are shut down for a week, for whatever reason, and I can see the Deputy Chairperson here, we must speak.

Sen. Orenge was right that Sen. Murkomen, other Senators and I have a draft. The draft is here which, amongst other things, proposes that the allocation to counties must be 40 per cent. That is not an agenda for Makueni County, but for the 47 counties. We must adopt a bipartisan approach to some of these issues because that will help this country. The reason fire fighting trucks go to Kibera and run out of water is something we must speak to as the Senate. It is not Senator Sakaja’s issue, it is for us and somebody must say that Nairobi City County should be treated better. When the national Government through the National Treasury released funds to a few counties, somebody should have said something. We have not said anything. We have remained quiet, we are happy, somebody will take that space and it will either be the media or Mr. Okiya Omtata.

I will sit in the Senate Business Committee, but sometimes I will disagree with this Committee. If we cannot make a difference by making sure the work that Kenyans send us to do here, which is pass Bills to protect counties, and we are not treated as lower citizens by our colleagues in the “Lower House”, then there will be no value in sitting in that Committee.

Thank you, Mr. Speaker, Sir.

Sen. (Prof.) Kamar: Thank you, Mr. Speaker, Sir, for giving me the opportunity to support this Motion. The formation of the Senate Business Committee is a very important agenda before we start our business. I congratulate all the Members who have been named and support them because we have senior politicians here. We also have experts in their own rights and we know that they will drive the business of the House in a very honourable manner. We look forward to having a very good agenda this Session because we have lost a little bit of time before we went for recess. Further, I take this opportunity to welcome all my colleagues back to the House and wish them well even as they interact not only here but with the constituents because the real business is now starting.

Going forward, there is one item that was mentioned by the Senate Majority Leader, that we need to start asking ourselves how our oversight role is being handled. One of the urgent agendas we must deal with is how, as the Senate, we deal with oversight. Facilitation of oversight is something that begins from creating a Senate and

paying the salaries. If you pay the salaries of Senators and not enable them to actually do the work that you have employed them for, then we will have a problem as a country.

Mr. Speaker, Sir, I enjoyed the recess and I was able to mobilize staff in my office to participate in what we call public participation for the County Development Plan (CDP). It was exciting to be part of this exercise for the public in particular. The presence of my staff in any of the meetings receives a lot of positive response and they said: "Now we know that there is somebody watching over what is going to take place." The main reason I decided to participate and to have all my staff spread out in the whole county was to ensure that we know what the people of Uasin Gishu County want. This is so that when we do the follow-up and the oversight we already know and would have participated in their priorities. This is extremely important but after all the excitement and all the reports that came from the various corners of the county, I ask myself: "What capacity do my staffers have or do I have to move around and ensure that this is done?"

Mr. Speaker, Sir, we look forward to seeing you take up leadership in shaping the second Senate and making it the House that will ensure that the county development programmes and financing yield the fruits that Kenyans want. We chose a devolved government with the intention of reaching the people in the grassroots with development. The only people who will ensure that whatever revenue has been allocated to the counties is spent according to the priorities of the people is the Senate. I urge all of us to work together to ensure that we fulfill what we have been employed to do.

I would like to join colleagues who have spoken earlier that we must stand and be counted as a united Senate. It is very important to remain united and to move together so that this country enjoys the fruits of devolution. We are one country, as somebody has mentioned, and we cannot add an inch to the borders of this nation.

I was privileged to be a Member of the East Africa Legislative Assembly (EALA) and during those days, I learnt to be a proper Kenyan. This is because I realized that negative perception is a disaster. If we are perceived negatively, everybody believes that a Kenyan is different from them. In fact, in some instances, we were not receiving positive reception as Kenyans. I want to urge my colleagues that the move that we took to have a devolved Government and to have this "Upper House" is very important and we must show ourselves as a united force. I do believe that this is the "Upper House".

Finally, we have observed some panic. There are people who believe that the Jubilee Members of Parliament seem to be over-connected with the Executive. This fear is uncalled for. This is because in all democracies, there are Bills that are called "Government Bills". Government Bills are not tabled by the Executive; they are tabled by the legislative team that belongs to the Government. Our colleagues should not panic when they see a close relationship between the Executive and the legislative Members of Jubilee. This is because we cannot produce a Government Bill without discussing it with the Executive. They should not think that this is a marriage that is going to cause dictatorship; instead, it is going to enrich what we call Government Bills.

Government Bills are outlined in our Standing Orders. They are, in fact, Priority Bills. How would you present a Government Bill unless it has been thoroughly digested and discussed by the side of the Government? I wanted to stress that because there is unnecessary discomfort on how we are operating as a party. I want to assure our

colleagues that it does not mean that we are not conscious of what a legislator is in relation to the other arms of Government. I want to tell our colleagues that they will see the productivity of the Senators this Session. We have a determination to deliver for our party and the nation. When that is done, we will enjoy our stay.

Thank you. I support.

Sen. Olekina: Thank you Mr. Speaker, Sir, for giving me this opportunity. I rise to support this Motion. However, before I get to that, on behalf of the people of Narok County, I would like to send my message of condolences to the Senator of Nyamira County, Sen. Omogeni, for the loss of his mother. I would like to call upon all Members to reach out to the Senator and support him during this hard time.

Secondly, I would like to delve into the issues of this House. I have said this severally and I want to repeat it; that this is, indeed, the House of union. What can set us aside is when we try to become visionaries; we must deal with issues of this country in a bipartisan way. The only way that we are going to be remembered in this country as able men and women who came during trying times and united the country is if we set our differences aside and discuss our issues during these trying times. We should agree that we must defend the independence of the three arms of Government.

When I was growing up, I longed for the time when I would stand and say that I live in a democracy that respects separation of powers. If we turn a blind eye on that, then we will not know what to defend. I came to this House because I believe in the independence of Parliament. I also believed in the independence of the Judiciary and the Executive. These are very trying moments. I have just heard that the Attorney General, Githu Muigai, has resigned and someone else has already been appointed. The Director of Public Prosecution (DPP) also resigned yet they were in constitutional offices that give them time to serve this country well.

During this second Session of the Twelfth Parliament, I would like to call upon all the Members in the Senate Business Committee to approach the business of this House in a bipartisan manner. I might be strong in certain things, but I should be ready to consider what the people who brought us here would like to say. We want a country where you can proudly say that whenever we have a problem, we can sit down and dialogue. That is what democracy is all about.

With that in mind, I want to request you to apply your own discretion under Standing Order No. 120 on all the Bills that come here even if they are Government Bills. You can probably waive the pre-publication period for us to be different from the First Senate that had very few Bills passed and became Acts of Parliament. I would like to request that you consider invoking your powers under Standing Order No. 120 on the Bills that have been already presented instead of taking too much time. That might help us achieve progress in this House.

I would like to support.

Sen. Dullo: Thank you Mr. Speaker, Sir. I rise to support the Motion on the nomination of the House Business Committee, for the House to start running. I have listened to various speakers before me. I want to reiterate the issues of constitutionalism and rights. It is important for all of us to know that rights come with responsibilities. You

cannot claim that you have a right when you are violating other peoples' rights. That is important for us to understand.

Secondly, this is the Second Senate. The First Senate was on a learning curve. I am sure that we have drawn a lot of lessons from the last Parliament that we should correct. We should also seal the gaps that are there in terms of legislation, practice and what we need to practice.

Thirdly, I will talk about the issue of oversight and the Senate. On Friday, I was in my County on the invitation of my Governor. There were some donors who were pooled together by some organization called Frontier Counties Development Council (FCDC). These donors said that they had to go through that particular organization for them to fund the Arid and Semi-arid Land (ASAL) counties. Turkana, Isiolo, Marsabit, Mandera, Wajir, Garissa, Lamu and Tana River were represented. Fortunately or unfortunately, I was the only Senator who was there. I think that this is something that we seriously need to discuss as a Senate.

When it comes to funds, the body that is supposed to oversight all the monies that go to the counties is the Senate. If we do not take our work seriously, we will just become irrelevant. So, when we talk of being bipartisan, these are areas we really need to work on because we cannot speak of being bipartisan when it just interests us, as an individual and as a party.

Therefore, Mr. Speaker, Sir, I want us to challenge ourselves; the leadership and yourself as the Speaker to assert our position; we must make this Senate relevant. If we do not do that, then I do not see why we are sitting in this House. When we are actually invited to meetings, we do not have anything to talk about. You will find that a governor has his own funds as well as the Members of the National Assembly. But when it comes to Senators, we are just flower girls, like somebody has just mentioned.

So, Mr. Speaker, Sir, can you help this Senate to become relevant?

The other point I wanted to raise is the issue of the Senate sitting outside this particular House. This is a matter we discussed even in the last Parliament. For the Senate to be seen as being relevant and to be seen to be working, we should be able to have sittings in various counties so that the impact and effect of the counties is felt.

Mr. Speaker, Sir, the other issue I wanted to raise is with regards to the Devolution Conference. In the last Parliament, we had a lot of issues concerning the Devolution Conference because we were not considered as equal partners in that function, yet this House is part and parcel of the conference. Since you are new with this particular conference – although you have been on the other side – it is good to go back to the records and see the concerns of this particular House and the Senate as a whole before we agree to attend the upcoming conference.

Thank you, Mr. Speaker, Sir, I beg to support.

Sen. Nyamunga: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to the Motion that is before us. First of all, I want to thank God for allowing us to be back to the Second Session in this House. It was a very long recess; we are back and ready to work for this nation called Kenya. Therefore, I want to thank all of us. We have had a very long time refreshing, reflecting and looking at the way forward.

On our side, I must say that it was a very busy schedule for us as the National Super Alliance (NASA) community. We managed to perform one of the very historic events in this country that will have to go down in history and the fact that it was done successfully. I think right now we are on a level playing ground since the National President is there as well as the People's President. That is very important. Therefore, the most important thing that we should do is that we must dialogue, because you can have the country on one side but you do not have the people. So, for us to move forward, the two parties should sit together and move this country forward. It will not move being carried by one side or by one single person.

It is also very important that we should note that Kenya does not belong to one or two people. Kenya is a nation with 47 million people and we must look at the bigger good for all us. So, if you are a leader, even if you go back to the Bible and you see what it says on the type of leaders that went very far and left tangible results, they were those who listened. As much as we were under one party, I remember that President Moi listened so much to the voice of the people. So, we should learn some of these traits from our former leaders. They may have had their own mistakes, but there were also very good sides of them. So, moving forward, it is very important for leaders to listen to each other; to sit, discuss and understand where the people are hurting.

Many speakers have gone before me and one thing we must accept is that Kenya is divided; it is hurting and we are missing out on very many issues. On the issue of water, there is no water in even in Nairobi. Where I live, I must buy water, which is very unfortunate. We cannot plan the Nation or a city like Nairobi that is growing very fast; it is being counted as one of the fastest growing cities in the world and yet we do not come up with infrastructure that should take care of the growth.

We have seen a lot of houses coming up, Nairobi is changing by the day but we are not looking at the infrastructure. There is no water, the roads are being worked on--- Thank God for the former Prime Minister, who was in the Ministry of Roads, Public Works and Housing because we can now see what is happening in this nation, where the infrastructure is working very well in the whole country. The roads are being done but water is a big problem, and it is not only in Nairobi.

Mr. Speaker, Sir, if you look at Turkana, sometimes you wonder if it is part of Kenya. You will also ask the same about West Pokot and Baringo Counties. Surprisingly, Baringo County produced a President who ruled for 24 years. Could we not even just drill boreholes for these people to make sure that they have enough clean water? Water is life; it is a necessity and everybody should have clean water. So, as a nation, we are lagging behind and as the Senate, we should move very fast to make sure that Kenyans have access to clean water.

The moment we have water, we will have food. We cannot talk of food security without looking at the issue of water. The dams are there and there are so many people who can build dams; and I wonder how much a dam costs. I do not think it is very expensive. So we should be very strategic in planning to make sure that there is clean water flowing and also water for irrigation. The moment we continue to rely on rainfall or rain-fed agriculture, we will never feed our people and we will always be talking about drought and floods.

Now it is drought; but two months down the lane, my Nyando Constituency will be flooded and the people will be moving houses. If you go to my constituency, in fact, my location is one of the poorest locations in terms of looking at the index. Why is that happening and yet we are just next to Kisumu City? This is due to lack of planning. People cannot have permanent residences because they have to move up and down when the rain comes. When the dry period sets in, it becomes very dry.

These are some of the things that we should look into as a Senate to make sure that devolution and the county governments are working; food security is assured all over the nation and that we have electric power all over. We must also look at the quality of that power. It is very important that we do things at a time and do them properly as a nation. We should be united when it comes to developing this Kenya. When it comes to Kenya, we should make sure that the whole nation is developed at a rate that is sufficient and good for everybody.

Civic education is very important and we must look at it because most of our people do not understand many things. For example, they do not understand what is at the national Government, what is at the county governments, what are the responsibilities of Women Representatives or even Senators. I hear they call Senators “flower girls.” I do not think we should be happy referring to ourselves as such. We should get out of that. The only way of getting out of that is by doing a lot of civic education so that the people understand the role of Senators. They should see that with the presence of Senators, there is value that we can add to the county governments.

When you come to public participation, it is very important that our people participate in development. This is because when we were campaigning, we were telling them that we are bringing the government closer to the people. This phrase means that they must understand and participate in the governance of each and every county.

Lastly, is the issue of Gender Based Violence (GBV). While we were on recess it was a very big issue. As women, we have to do a lot of work to reach many people. This is happening everyday – men killing themselves, their children and wives. It is so rampant. When such things happen, there must be a root cause. One of the root causes, as we know is poverty. It causes a mother to kill a child because of Kshs 50. This is because they were relying on that money to feed children or do something on that day.

Most of these things, for example, alcoholism is because many people are very idle. There are many people who are doing nothing. So, these are some of the causes. Another issue is drugs. So many people abuse drugs. This is because people are losing hope. It is very important that we instill hope in our people and work towards eliminating GBV. It is an ill in this society. We must make sure that we deal with it.

Mr. Speaker, Sir, with that, I thank you for giving me the opportunity.

Sen. Sakaja: Mr. Speaker, Sir, allow me first to welcome all Senators to Nairobi. Welcome back from your various counties. Officially, as a host Senator together with my other colleagues from the cities of Kisumu and Mombasa – we are only three from cities - we welcome you back to Nairobi. We look forward to the work that we will do in this Session of the Senate.

Mr. Speaker, Sir, I associate myself with many of the remarks that have been made by fellow Senators with respect to our outlook towards this Session. First of all, I

am grateful to be nominated to be one of the Members of the Senate Business Committee (SBC). I have served previously in the House Business Committee (HBC) in the National Assembly. So, it is not entirely new.

However, I have heard the comments by Members, that we want the Senate to be taken seriously and exercise the mandate that it should. The reference that Sen. Mutula Kilonzo Jnr. was looking for is that - I kept saying and still say that in as much as this is the “upper” House and the National Assembly is the “lower” House but it is the “lower” House with the upper hand. That is how things are unless we decide. Nobody will give us additional mandate. It is up to us to decide what to do within the confines of the law as it exists and even as we move to look at the law.

Mr. Speaker, Sir, if you go to the National Assembly and if you are honest with yourself – I tell you and hon. Senators that you cannot compare the work ethic – at least of the Eleventh Parliament - at the National Assembly with that of the Senate. The Majority Leader in the National Assembly, hon. Duale is there every day up until very late. They process Bills. He has time for his Members. I hope that is what we will have in this House as well. If we are looking for additional mandate, we must also be able to put in work that is commensurate with the mandate that we want. I know it because as a Member of the National Assembly in the last Parliament. I brought a Bill to this House but I think it took close to seven months to move beyond Second Reading. Getting a delegation to vote would take so long in this House. It would not be easy to get things passed.

So, even if you were sitting in the Executive and had a Bill that you wanted processed quickly, of course, you would send it to the National Assembly. You would not bring it to a House where even getting delegations to vote or a bill processed in less than three months is difficult. Therefore, I hope we are all ready to pull up our socks and put in the kind of work, time and energy that is required to make this House as relevant as we desire it to be. It works both ways. I am not sure about the Twelfth Parliament in the National Assembly but I can attest to the fact that if you compared the last two Houses, there was a lot of effort that was put in the National Assembly.

I also understand that the leadership of the Senate did its best but I understand the frustrations they had in getting Members to come and be available in the House just to vote. Also, getting quorum in Committees was difficult in the last Senate. I hope Members will be able to attend Committees, and if one is a leader of a county delegation and has not delegated to somebody else in the delegation, please do that so that we can always have business moving fast. That way, as Chairs of Committees, the Leader of Majority and the rest of the leadership, we can persuade the different ministries to make sure that business comes first to the Senate and that they can deal with us directly.

Mr. Speaker, Sir, in addition, I urge Members – when we talk about a bipartisan approach to matters, I agree with it completely. Members know that is the kind of politics I subscribe to. I call it *siasa safi* because once we are elected, our work is to serve but as a Member of Jubilee, my work will be to persuade my colleagues in NASA to support the agenda on which the manifesto of the Government is being run. If we do not agree on it, then we agree to disagree. It is foolhardy to expect that Members from this side of the House will then in the spirit of bipartisanship drop an agenda that they went to the people

with their presidential candidate because NASA also went to the people with their presidential candidate with an agenda.

The one being implemented today is a Jubilee manifesto. So, our work is to align what we do in this House with that manifesto; build housing for people, make sure there is universal healthcare in all our areas, people have water and our young people get jobs through manufacturing. So, this is in the spirit of bipartisanship. It is about speaking to each other, being able to sit on a table or agreeing or agreeing to disagree. In that spirit then, our work will then be to persuade our colleagues across the aisle to support that agenda but also being able to listen to the ideas, input and incorporate ideas from across the aisle. That is the kind of politics that I believe this Senate must pursue.

Mr. Speaker, Sir, trying to assume that then the Members from Jubilee should be divorced from the plan of our agenda of the executive is not democratic. It is not what our Constitution stands for because, similarly, we would not expect Members from NASA to divorce themselves from the principles around which they went to seek a mandate from their people – in Kilifi or Kisumu – there is what they believe in and why they voted you in.

So, where we are today is, how do we bring this together? How does the Senate become a forum where everybody, no matter how you got into this House, can sit and say, what is the best thing for our people? I am glad I have heard Sen. Nyamunga, for instance, talking about the challenges of water in Nairobi. This is something that I would need your support to see how we can ensure that what needs to be done for Nairobi to get water is done. On a light note, the water that was going to come to the City of Nairobi through the north collector tunnel was “resisted” by your party. That is neither here nor there. Now, we are here. How do we agree because when there is lack of water in the city, the people who do not have water are from both sides of the political divide? That is the spirit of bipartisanship that we require in this House. We can look at issues objectively as they are and as are brought to us.

Mr. Speaker, Sir, during this recess, as you may be aware – and we will be bringing business to the SBC to address the matter of disasters – that in Nairobi County I had more than five fire incidents in different slums, of course, without any allocation but because the people elected us, we had to help and sort it out. I am glad that Sen. Mutula Kilonzo Jnr. has put together disaster management legislation that brings together National Disaster Operations Centre (NDOC), National Drought Management Authority (NDMA) and all these institutions so that our response to these disasters is coordinated.

This will also help in the efforts that we put in place to prevent these disasters from happening, from the issue of illegal connections of electricity in the slums. I am sure Sen. Outa can relate in Kisumu to the issues of land where somebody, in case of a dispute, tries to burn the place so that he can evict the people living there. This can be addressed in this House. I will be looking for the support of Senators.

Also during the recess, I witnessed something very interesting, that from the level of Member of County Assembly (MCA) – MCAs, Members of Parliament (MPs) and governors were giving out bursaries to students to go back to school. The women representatives also have a fund. The Senator is just what we call “*Kizungu mingi, Kiswahili mingi na cat walk*”

We seriously need to look at how we can give our Senators capacity. I have 85 wards and 17 constituencies. I need to put my Governor to check and make sure that he delivers. I also need to make sure that the work of the Senate is felt by the people. That is some of the agenda that we hope will come to the Senate Business Committee (SBC) and we will support it.

Mr. Speaker, Sir, on a closing note, I heard my Deputy Majority Leader, Sen. Fatuma Dullo, talk about the Devolution Conference and remembered when Sen. Murkomen was the Chair of the Committee on Devolved Government. I have always wondered why the Senate insists to invite itself to a party that it is not invited to. There is nobody who holds a franchise on devolution. Devolution is not owned by governors or the national Government; it is a relationship between different institutions.

We can as well have our own conference on devolution and invite Members of County Assembly (MCAs), Members of Parliament (MPs) and whoever else wants to come because we are the only lawmaking body with respect to devolution. We do not need to say: "Please, put us in your programme. Please, let us chair a session." We are the Senate of the Republic of Kenya. Is it that we do not have resources or the right frame of mind and disposition to actually take charge of devolution? Power is not given to you; power is taken.

I apologise to the Members who have had a rough time since they did the swearing in of the people's president. It is very interesting to hear them say today that it is not what is in the Constitution. However, at this time, as a country, we must remember that when the pursuance for liberty upsets order, the drive to restore that order might silence liberty. Because of that, we need to cool down the temperatures in our country. I speak as a Senator who is most affected when there are shenanigans and violence in Nairobi County.

I am glad that on the day they were doing their activity at Uhuru Park, the authorities were able to agree with me that there was no need for excessive police presence. Because of that I am happy that in my county of Nairobi, no life was lost and vehicle stoned on the 30th January, 2018. They did their thing and went home. As we go on, that is the spirit we need to have as we look at these issues. Let us move in that manner.

Mr. Speaker, Sir, I beg to support this Motion.

Sen. Kang'ata: Thank you, Mr. Speaker, Sir. I rise pursuant to Standing Order No. 98 (1) on closure of debates, which, with your indulgence, I would like to read.

It provides that:-

"After the question on a Motion the Mover of which has a right of reply has been proposed, a Senator rising in his or her place may claim to move "That the Mover be now called upon to reply."

Mr. Speaker, Sir, I rise to seek that the Mover be called upon to reply, reason being that we need to close this debate to enable the said Committee to proceed and plan for the business for tomorrow and those other days.

The Speaker (Hon. Lusaka): Hon. Senators, I will put the question forthwith.

(Question, that the Mover be now called upon to

Reply, put and agreed to)

The Senate Majority Leader (Sen. Murkomen): Thank you, Mr. Speaker, Sir. I can see the enthusiasm that the Senators have in so far as debating very important matters of the Senate are concerned. It is important that this Committee retreats right now to prepare the business for tomorrow, to enable the many Senators who would have wished to continue to contribute to do so.

I want to thank Senators for their intelligent contributions. I have noted with a lot of humility the difference in terms of tone, particularly, from the Senate Minority Leader and his Deputy, Sen. Orengo; Sen. Mutula Kilonzo Jnr. and Senator for Kisii, Sen. (Prof.) Ongeru who have had good contributions. Particularly, they castigated the political scenarios that we have in the country. I am so happy that this is coming from them because they have the key to stop what they call political madness, if I may quote them.

As Senators, we are the engine of political operations in many of our political parties. We must now come back to our senses and focus on the business that matters in this country. We have business to run and want our economy to grow. We do not want an economy that is full of protestors. We do not want to misuse young people for purposes of just calling them for rallies. It is now time to sit down and work on the creation of jobs.

Mr. Speaker, Sir, if this Senate and the Senators want to be respected, they must demonstrate that they respect the Constitution and constitutional offices. It must not be heard from the Floor of this House that there is a Senator who does not recognize that there is a democratically elected President. If that happens, in all our counties some characters that we defeated will declare and swear themselves to be Senators. We will be in a circus when we should be sitting down, working on how to make this Senate a strong House as my colleague talked about. That call, duty and desire to make the Senate a strong institution must be demonstrated in the manner in which we respect the Constitution of the Republic of Kenya.

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

Sen. Outa: On a point of order, Mr. Speaker, Sir. With due respect to the Senate Majority Leader, could he tell this House who the "characters" are? Is that language that can bring harmony to this House? The language he is using is derogative. Could he kindly apologize, if he really wants us to treat this House as the 'Upper House,' where people can reason together? The direction he is heading to, he is calling hell to fall on us.

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I insist that I am only following in the footsteps of Sen. Orengo, Sen. (Prof.) Ongeru, Sen. Wetangula and Sen. Mutula Kilonzo Jnr. who spoke passionately about the desire to strengthen this House and stop what they called political madness. Sen. (Prof.) Ongeru was even more categorical that as an elder he cannot just sit and watch people run a charade out there.

If there are characters out there who do not recognize the Senate and the constitutional offices, it must not include a Senator who is elected to represent the people of Kenya in this House. I insist that the collective respect of the Senate of the Republic of Kenya, depends on the behavior, manner and conduct of the individual Senators in this

House. Collectively, 67 of us become the ambassadors and representatives of what the Senate stands for.

We will be more than happy to see that a Senate that has senior counsels, respectable lawyers, elected politicians, party leaders--- This is the only House that has party leaders; the 'Lower House' does not have. Such a respectable House must lead the nation in the recognition of constitutional institutions, that is, the presidency, Judiciary and every other office. If the Senators will pontify out there and say that we are the 'Upper House' and respect the institution of the Senate, it must be seen in the manner in which we conduct our affairs outside this House.

I was particularly happy to hear Sen. Orenge - and I wish he was here because he presided over an event that put to doubt his status as a senior counsel - say that they couched the so called oath in a manner that would not violate the Constitution. Why would we even want to go there? Every kind of character, whom we defeated and took fourth or fifth positions, would do their own funny oaths; couching something and swearing in themselves as Senators of Elgeyo-Marakwet, Kisumu and Siaya counties. There would be a charade in this country.

Mr. Speaker, Sir, I do not want to belabour the point. I am sure that the Minority side is waiting for us to go for the meeting. All of us on the Majority side who sit in the Senate Business Committee (SBC) are here and eager to go and sit in the Committee to ensure that we generate the business of the House and the Senate performs its constitutional duty.

Mr. Speaker, Sir, with those many remarks, I beg to reply.

(Question put and agreed to)

The Speaker (Hon. Lusaka): Hon. Senators, the House has just approved Members to serve in the Senate Business Committee (SBC). At the rise of the House, the Committee will proceed for its first sitting in the Second Session. So, all Members of the Committee are, hereby, invited to this meeting to be held in Committee Room No.4 at 4.30 p.m.

ADJOURNMENT

The Speaker (Hon. Lusaka): Hon. Senators, the Senate, therefore, stands adjourned until Wednesday, 14th February, 2018 at 2.30 p.m.

The Senate rose at 4.25 p.m.