

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Thursday, 1st March, 2018

*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 MANDERA COUNTY ASSEMBLY

The Speaker (Hon. Lusaka): Hon Senators, I wish to acknowledge the presence in the Speaker's Gallery this afternoon of a delegation of hon. Members from the Mandera County Assembly Service Board.

The hon. Members are visiting the Senate to benchmark on the operations of the Parliamentary Service Commission (PSC), the Parliamentary Car Loan and Mortgage Scheme Fund and the County/Constituency offices.

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

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| (1) Hon. Mohamed Adankhalif | - | The Speaker |
| (2) Hon. Adan Maalim | - | Majority chief Whip |
| (3) Hon. Fatima Qasay | - | Deputy Majority Leader |
| (4) Hon. Mohamed Robow | - | Board Member |
| (5) Hon. Saad Sheikh | - | Board Member |
| (6) Mrs. Fatima Ibrahim | - | Board Member |
| (7) Mr. Ali Mohamed | - | Board Member |
| (8) Hon. Abdinoor Teno | - | MCA |
| (9) Hon. Daqane Rafat | - | MCA |
| (10) Hon. Noor Mohamud | - | MCA |
| (11) Mr. Ahmed Suraw | - | Clerk |
| (12) Mr. Abass Ahmed Haji | - | Chief Librarian |
| (13) Mr. Kassim Haji | - | Executive Assistant to the Speaker |

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

I thank you.

(Applause)

Sen. (Eng.) Mahamud: Mr. Speaker, Sir, I would like to welcome members of Mandera County Assembly Service Board (CASB) to the Senate. They are led by the Speaker of Mandera County Assembly, Hon. Mohamed Adankhalif. I want to congratulate him and his team for being members of this MCASB. I know they have a lot of work to do for Mandera County. I wish them success because the task ahead of them is enormous.

I also congratulate them for seeing it wise to come and benchmark with the Senate and the PSC. I urge them to tirelessly work for the county because it has a lot of potential. We, as leaders and the Senate, will support them as much as we can. This is because it is our mandate to support the counties and their governments. The county assembly and the county government are both the two arms of the Government.

With those few remarks, I welcome you to the Senate.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, allow me to take a few minutes to welcome the Mandera CASB. From the outset, I congratulate the Governor of Mandera County for winning the petition. I am sure that it was not easy.

I sat in the Committee on Justice, Legal Affairs and Human Rights in the last Parliament that put your work in order. However, we are concerned about the high wage bills in all counties. We call upon you to ensure that Mandera complies with the law in terms of the wage bill so that it does not exceed the threshold of 35 per cent. We are proud of the work that was done by their previous Senator, Sen. Billow, in terms of public finance. We are also proud of their current Senator who is also the Chairperson of the Committee on Finance and Budget.

Lastly, I wish them well

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, allow me to join you in congratulating and welcoming the team from Mandera County. When I was the Chairperson of the Committee on Devolution and Intergovernmental Relations, my team visited Mandera County. We noted that Mandera County Assembly is doing a very good job. I remember interacting with hon. Robow who is the Majority Leader from that county. They now have a new speaker and team in the CASB. Mandera is the face of our country to the international community, particularly the Country of Somalia. Anybody who has gone to Mandera town will tell you that the border between us and Somalia is a walking distance.

I would like to assure the people of Mandera County that we will give them maximum support. We will work together with their Senator who is also the Chairperson of the Committee on Finance and Budget, to ensure that devolution works and that Mandera County succeeds. I would also like to assure them that the Senate is following keenly the issue of teachers in that region to ensure that education is uninterrupted and that all the people working in that region continue delivering services to the local community in a manner that will ensure that there is equity, fairness, progress and development in the county of Mandera.

Mr. Speaker, Sir, the Mandera CASB has a big job to ensure that the county assembly is strengthened to perform its role of oversight of the county government. We

were here in the last term and stood firm with the county assemblies to ensure that they got adequate resources for the oversight responsibility and we will continue to do so.

Sen. Linturi: Mr. Speaker, Sir, I also join my colleagues in welcoming the delegation from Mandera County. As the Mandera CASB tours Parliament to understand the workings of the PSC, I would like to advise them to ensure that Mandera County Assembly is properly facilitated to carry out its oversight role. It is a fact that the kind of revenue allocated to the counties from the national Government is so enormous. If properly utilized, it can change the lives of the people of Mandera.

As has been the case in most counties in the last Parliament, many broke governors went on a spending spree without following the Public Procurement and Disposal Act and the PFM Act. I believe whatever we have seen and heard from other counties with regard to pending bills, Mandera County is not in that list.

The only way to bring sanity is to have a strong assembly that will be keen to discharge its mandate, oversight the manner in which public finances are being spent there and ensure proper adherence to the law. What I am simply advising them is that they have a duty to ensure that the county Government of Mandera does not illegally borrow from Mandera by giving or dishing out contracts to the people of Mandera when they cannot afford to pay them hence denying the economy of Mandera the very liquid cash that is required to circulate there and make people happy and enjoy their lives.

Sen. (Dr.) Musuruve: Mr. Speaker, Sir, I thank you for the opportunity to welcome the delegation from Mandera CASB. It is a good gesture from that county for them to come and benchmark with the Senate.

They are well represented in this House. Their issues have come out strongly and the fact that they have presented themselves shows that they are concerned about their county. We will also look into how we can address their issues.

Some of the issues that have been addressed concerning Mandera County in the recent past, include the issues of cancer and insecurity. I am sure those issues are addressed. It is a good gesture for the county government to come and be with us here. This shows there is a good relationship between the national and county governments. We, as a country, will move forward together and achieve a lot for this country. It will also help us in our oversight role. If we relate well with counties, it will be possible for us to know the activities and probably influence projects in those counties.

I, therefore, join you in congratulating this delegation for coming to the Senate. *Karibu sana.*

Sen. (Dr.) Milgo: Thank you, Mr. Speaker, Sir. Let me also join my colleagues in welcoming the delegation of the Public Service Board of Mandera County. I want to tell them that this is indeed a good House to visit, particularly; we are the champions of devolution. I wish to encourage the Public Service Board of Mandera County to really stick to the law, particularly, in terms of employment.

(Sen. (Eng.) Mahamud whispered to Sen. (Dr.) Milgo)

Thank you, Sen. (Eng.) Mahamud. It is the County Assembly Service Board. They should stick to following the law in terms of checking on the people that have been

employed in that particular county. In any case, it would be very prudent if we would encourage diversity so that we are not employing people from the same area.

Secondly, there is a very huge wage bill in the counties right now. Most of the counties are grappling with a huge wage bill so that much of the money that goes to the counties will go to the wages. We are saying that, if it were possible, you would be able to go out and benchmark with best practices with other county assembly boards. This will enable you bring on board the right number of people and in any case, the people that will enhance development in that area.

Thirdly, the issue of security that has already been mentioned is really a challenge in Mandera County. Many of the teachers that have been going to Mandera normally come from my area, that is, Bomet County. We have been encouraging teachers that are unemployed to go to Mandera County. When you go back, kindly go and preach peace and love so that you will continue getting people to come and assist your students. I know that when we exchange ideas, the county can even go to a higher level. Otherwise, I welcome you once again and thank you for choosing to visit the Senate.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): As I invite the last speaker, note that this is the County Assembly Service Board (CASB), not the Public Service Board.

Proceed, Sen. Farhiya:

Sen. Farhiya: Thank you, Mr. Speaker, Sir, for allowing me to contribute to this issue regarding the visit of the County Assembly Service Board from Mandera County. I congratulate them for taking such a bold move to ensure that they are more effective for their county. I also wish to congratulate their Governor for winning his petition.

One of the main things that I want to encourage, especially the female Members of the County Assembly (MCAs), is that they should not shy away from contribution in terms of articulating issues regarding women and youth whose interests they represent. Please, let them contribute to these issues. Otherwise, I know they might not have members, but the fact that they have articulated their issues; it will make a difference for all the women in Mandera County.

I also would like you to ensure, as you do your oversight role since you are equivalent to the Senate in the County Assembly, the collection of revenue. This is because the Government will not continue financing counties. At some point, they need to be self-sustainable. So, in that regard, please ensure that you always look for solutions and advice on how to improve on revenue collection and even in terms of development. Where there is a development venture, one of the roles that you should have as MCAs is to ensure – because I heard some of you are MCAs; so, my advice is to the MCAs – that the projects that are invested are also sustainable and create employment opportunities.

This will ensure that you reduce the budget for the county wage bill alongside creating another avenue for investment so that there is more employment. You should do this with the understanding that the less money you pay in terms of wages, you will have much more money for development.

The other thing I wanted to discuss with regard to pending bills. Although this issue was brought up Sen. Linturi, what I wanted to add is that there are many youths who could have benefited from the entrepreneurship that they practise. Sometimes they provide goods and services to the county. If they are not paid on time, they lose their businesses. That means we are making more youth poor as opposed to the intended

purpose of ensuring that they are economically empowered so that they are better off and also as part of the development of Mandera County.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Proceed, Sen. Lelegwe.

Sen. Lelegwe: Thank you, Mr. Speaker, Sir. I am sorry for coming in late. But let me join you and my colleagues; the Senators and the Senator for Mandera County, to welcome the Members of the County Assembly Board of Mandera County to the Senate.

Having worked as a Speaker and a chairperson of a Service Board of a County Assembly in Samburu County, I know they have a lot to learn here in the Senate. They also have a lot to learn regarding the management of county assemblies. I know we have had challenges as county assemblies when we began, but I am sure, during their stay here, they will learn a lot from the Parliamentary Service Commission (PSC) and our Standing Committees.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Lusaka): Thank you, hon. Senators for your contributions. So, our visitors feel at home.

Next Order!

STATEMENTS

Let us get a statement from the Chairperson of the Standing Committee on National Security, Defence and Foreign Relation.

What is your point of order the Senate Majority Leader?

The Senate Majority Leader (Sen. Murkomen): Mr. Speaker, Sir, I know that the Senate Majority Leader comes last, but with your permission, can I lay my statement because I have another Senate business which you are aware that I am going to conduct shortly after this? This will ensure that in case I come back after statements are over; this is not overtaken by events.

The Speaker (Hon. Lusaka): Yes, you can proceed.

BUSINESS FOR THE WEEK COMMENCING TUESDAY, 6TH MARCH, 2018

The Senate Majority Leader (Sen. Murkomen): Thank you, Mr. Speaker, Sir.

Pursuant to Standing Order 46 (2) (c), I hereby present to the Senate, the business for the coming week.

The Senate Business Committee (SBC) will meet on Tuesday, 6th March, 2018, to schedule the business of the Senate. Subject to the directions of that meeting, the Senate will continue with consideration of business that will not be concluded in today's Order Paper and any other business scheduled by the SBC. On Wednesday, 7th March, 2018, the Senate will proceed to consider business that will not be concluded on Tuesday and any other business scheduled by the SBC.

Honourable Senators, the following Bills are due for Second Reading:-

(a) The County Governments (Amendment) (No.2) Bill (Senate Bills No.7 of 2017);

(b) The County Governments (Amendment) Bill (Senate Bills No.11 of 2017);

(c) The National Flag, Emblems and Names (Amendment) Bill (Senate Bills No.8 of 2017);

(d) The Food Security Bill (Senate Bills No.12 of 2017);

(e) The Assumption of office of the County Governor, Bill (Senate Bills No.1 of 2018);

(f) The County Boundaries Bill (Senate Bills No.6 of 2017); and

(g) The Warehouse Receipts System Bill (Senate Bills No.11 of 2017), which is at Division level.

Further, the following Motions are also before the House for Consideration:-

(a) Motion on the establishment of the Commission on Administrative Justice at the county level by Sen. Petronila Were;

(b) Motion on teaching of Kiswahili language to learners with hearing disability by Sen. (Dr.) Getrude Musuruve;

(c) Motion on registration of persons with disability by Sen. George Khaniri; and

(d) Motions on the adoption of the following reports:-

(i) The 8th Ordinary Session of the Forum of Parliaments of the International Conference on the Great Lakes Region;

(ii) The Women Political Leaders Annual Global Summit; and

(iii) Two reports on the Sessions of the African, Caribbean and Pacific (ACP) region - European Commission (ACP-EU) Joint Parliamentary Assembly.

I take this opportunity to urge respective Committees to prioritise consideration of the Bills referred to above and table reports to enable the House to process the Bills further. In the same breath, I request all Committees that have pending Petitions, to consider them expeditiously and submit reports to the House within the stipulated timelines.

I also urge all hon. Senators to be available whenever the House is sitting to ensure smooth transaction of scheduled business.

Mr. Speaker Sir, I thank you and I hereby lay the statement on the Table.

(Sen. Murkomen laid the document on the Table)

The Speaker (Hon. Lusaka): Let us continue with Statements. The Chairperson, Standing Committee on National Security and Foreign Relations has a Statement to issue.

Sen. Kihika: Thank you, Mr. Speaker, Sir. We do not yet have the answer to that Statement but we shall have it in the coming week.

The Speaker (Hon. Lusaka): The Chairperson, Standing Committee on National Security and Foreign Relations has to issue the answer to Statement (b).

HARASSMENT OF OPPOSITION LEADERS

Sen. Kihika: Mr. Speaker, Sir, at a sitting of the Senate held on the 14th February, 2018, hon. Sen. Moses Wetangula requested for a Statement on the harassment of opposition leaders.

The hon. Senator, Senate Minority Leader, particularly sought to be informed on:

(1) Whether the Chairperson is aware that the Government has withdrawn both residential security and bodyguards to opposition leaders, revoked the leaders' firearm

licenses and confiscated official cars assigned to some of the leaders by the Parliamentary Service Commission (PSC).

(2) Get an explanation on the reason as to why the Government has resorted to unjustifiable arrests of some opposition leaders citing their role in the 30th January, 2018 opposition event at Uhuru Park when the Constitution of Kenya guarantees freedom of speech and association.

(3) The legal provisions the Government based on in sanctioning the above actions.

Mr. Speaker, Sir, I wish to state as follows:-

During the purported swearing-in of the former Prime Minister as the people's President on 30th January, 2018 at Uhuru Park, some police officers attached to VIPs to offer close protection also attended the purported swearing-in ceremony, in violation of the laid down policy. The attendance by the officers amounted to gross misconduct and was unprofessional.

The Penal Code, Section 40, provides that any person who owes allegiance to the Republic of Kenya, who compasses, imagines, intends the maiming or overthrow of the legally elected President commits an offence termed treason. Therefore, whenever or whoever attended the swearing-in ceremony was an accomplice to the illegal act as provided for in the Penal Code. The officers were withdrawn pending investigations into circumstances under which they attended the swearing-in. The officers were withdrawn from VIP security duties as follows.

(1) Force Number 75989, Quinton Lughwisa Ouma of Rangwe Police Station previously attached to hon. Lilian Gogo, Member of Parliament (MP) Rangwe Constituency.

(2) Force Number 74831, Lawrence Wachira, of Siaya Police Station who was previously attached to hon. Cornel Rasanga, Governor Siaya County.

(3) Force Number 95512, Omondi Okoth, of Eldas Police Station who was attached to hon. Zachary Okoth, Governor, Migori County.

(4) Force Number 44635, Soteri Nyakundi, of Kisumu Central Police Station previously attached to hon. Anyang'-Nyong'o, Governor, Kisumu County.

(5) Force Number 79201, Peter Omolo of Kisumu Central Police Station who was previously attached to hon. Olago Aluoch, MP, Kisumu West Constituency.

(6) Force Number 57253, Gordon Musa of Kisumu Central Police Station who was previously attached to hon. Shakeel Shabir, MP Kisumu East Constituency.

(7) Force Number 10799, Michael Omondi, of Kisumu Central Police Station who was previously escorting hon. Mathew Owili, Deputy Governor Kisumu County.

(8) Force Number 92514, Samson Injeni of Kisumu Central Police Station who was previously attached to hon. Onyango Oloo, Speaker of Kisumu County Assembly.

(9) Force Number 107937, Calvice Otieno of the Regional Police Headquarters, previously attached to hon. Mathews Owili, Deputy Governor Kisumu.

Mr. Speaker, Sir, the Firearms Act is an Act of Parliament that deals with regulation, licencing, control, possession and use of firearms and ammunition. The Firearm Licencing Board appointed under Section 3 of the Act, can issue, cancel, terminate or vary any licence or permit issued under the Firearms Act.

Among the considerations for one in the possession of a firearm or ammunition is that it shall not be a danger to public safety or to the peace.

Mr. Speaker, Sir, the arrests that followed the swearing-in were effected based on Section 40 of Penal Code which states that:

“Any person who, owing allegiance to the Republic of Kenya or elsewhere;

(a)Compasses, imagines, invents devises or intends-

(i)The death, maiming or wounding, or the imprisonment or restraint of the President; or,

(ii)The deposing by unlawful means of the President from his position as President or from the style, honor and name of the Head of State and Commander in Chief of the Armed Forces of the Republic of Kenya;

(iii)The overthrow by unlawful means of the Government; and,

(b)Expresses, utters or declares any such compassing, imaginations, inventions, devices or intentions by publishing and printing or writing or by any overt act or deed is guilty of the office of treason.

Mr. Speaker, Sir, the Government relied on Section 40 of the Penal Code to sanction action after the purported swearing-in.

Thank you.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, this is a very sad day for this country to hear what has been read to the House.

Mr. Speaker, Sir, this is a matter that deserves your direction for a Committee investigation into these events. To begin with, the answer given is a crude and cheeky attempt to profile members of one community; the Luo. It is an absurd thing. The event of 30th January, 2018 at Uhuru Park was not a Luo affair. There are members put in this list, for example, hon. John Olago Aluoch, MP Kisumu West, who was nowhere near Uhuru Park.

In fact, on the day of the event, he was away in Mombasa. I know so because he is a Member of the party that I lead. Prof. Anyang'-Nyong'o was in hospital undergoing hip replacement surgery in the United States of America (USA), but his name is on this list as having attended the Uhuru Park function. If you read through the list from number one to number to nine---

Sen. Wamatangi: On a point of order, Mr. Speaker, Sir. Is the Senate Minority Leader in order to mislead the country and this House? Yes, he has a right to the answer to his Statement, which has been read. But in what context is he addressing the House, saying that the swearing-in was not a Luo affair? Which part of the answer to that Statement referred to---

(Loud consultations)

The Speaker (Hon. Lusaka): Order, Members! Order!

Sen. Wamatangi: Mr. Speaker, Sir, every person in this country – irrespective of where they were born or whatever their names are – is a Kenyan. So, for the Senate Minority Leader to try and divert what the answer is because he has raised issues which are being addressed and which he can address without political innuendo or making some Kenyans feel like they are targeted. It is not right in the first place. So, can he confine himself to the Statement given? The Standing Orders require – and he knows that, as a long standing Member – that a Member must be relevant at all times. Is he in order?

The Speaker (Hon. Lusaka): Sen. Wetangula, proceed and make sure you keep to the Statement that you have been given.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I was pointing out issues arising from the answer given to me. I was developing---

Sen. Seneta: On a point of order, Mr. Speaker, Sir. Is the Senate Minority Leader in order to refer to issues of ethnicity and talking about Luos, while in the Statement, I have not heard---

(Sen. Khaniri spoke off record)

The Speaker (Hon. Lusaka): Order, Sen. Khaniri!

Sen. Seneta: Mr. Speaker, Sir, I have not heard any name of an ethnic group being mentioned here in the Statement. Hon. Shakeel is not from the Luo community. So, let him stick to the issue of relevance of his Statement.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I do not understand the unjustified agitation. I am raising issues following a Statement given by the distinguished lady, the Senator for Nakuru County.

Mr. Speaker, Sir, Ms. Lilian Gogo is a Member of Parliament (MP) of Rangwe Constituency from the Luo community. Mr. Cornel Rasanga, Mr. Zachary Okoth Obado and Prof. Peter Anyang'-Nyong'o are governors from the Luo community. Hon. John Olago Aluoch is an MP from the Luo community. Hon. Shakeel Shabbir is an adopted Luo representing a Constituency that is 100 per cent Luo in Kisumu County. Mr. Mathews Owili is a Deputy Governor of Kisumu County from the Luo community. Mr. Onyango Oloo is from the Luo community---

Sen. (Eng.) Maina: On a point of order, Mr. Speaker, Sir. My concern is the way this House is going and we need your guidance. As leaders, let us observe the fact that we have not managed to unite this country. I consider it not in order and I beseech your guidance on having, in this House, any subject that goes further into agitating Kenyans to start thinking against being one. In the jails today---

(Several Senators stood on points of order)

The Speaker (Hon. Lusaka): Order, Members! Order!

(Loud consultations)

Let us have order. Order! He is up on a point of order. Let him finish what he is saying.

Sen. (Eng.) Maina: Mr. Speaker, Sir, I will be quick. If you go to the courts of law and jails here, you will find more Kikuyus there than other people, but we are not crying that we are being discriminated.

(Loud consultations)

The Speaker (Hon. Lusaka): Order! Order, hon. Members. As we debate, let us avoid talking about ethnicity.

Hon. Senators: Yes!

The Speaker (Hon. Lusaka): If you are talking about leaders, let us talk about leaders, whether they are in the Opposition or in the Government. Let us talk about leaders; otherwise we are going to degenerate into ethnic profiling, which is not right.

Proceed, Sen. Wetangula.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, the altruism here is that there were more people in Uhuru Park. Hon. Wafula Wamunyinyi, my MP, was in Uhuru Park. Why is he not on this list? Many Members were in Uhuru Park. What I am saying is – and you are damn right – that this kind of profiling of a community in an answer coming to this honourable House exasperates the ethnic situation in the country.

Remember that Kenya has now been profiled and classified by the United Nations (UN) as the most ethnically divided country in the world today. As leaders, we must do something to bridge the gap and not widen it. I agree with the distinguished Sen. for Nyeri County, but what he should be telling the leaders on the side he is sitting is that this balderdash is not helpful to this country.

The Speaker (Hon. Lusaka): Order, Sen. Wetangula!

(Laughter)

(Sen. Mutula Kilonzo Jnr. spoke off record)

Of course, I also understand English, Sen. Mutula Kilonzo Jnr. I went to school properly.

(Laughter and loud consultations)

Order!

Sen. Wetangula, if there are issues that you are raising on the Statement, maybe with our leaders who were at Uhuru Park and their security has not been withdrawn, then you should point it out. That way, I can direct that a more substantive answer be brought, including why all the other leaders were left out, instead of delving into matters that will just raise passions in the House.

What is your point of order, Sen. Wamatangi?

Sen. Wamatangi: On a point of order, Mr. Speaker, Sir. The Statement that was sought by the Senate Minority Leader is in black and white on this paper. For avoidance of doubt, it can be read out as to what he sought specifically. There is nowhere the Minority Leader either sought from this Statement the ethnicity of communities from which either of those leaders whose firearms or security was withdrawn, came from.

So, Mr. Speaker, Sir, it is mischievous and intended to not only mislead the House and the Nation, but also to incite members of this country. If the Senate Minority Leader, being the person who holds the responsibility of leading his side, is allowed to continue with that trend, then we will have failed in our responsibility as a House. He cannot be allowed to continue with that line of presentation. He can speak according to what he has sought or then seek another statement if he wants to know the ethnicity of the Members and then that can be provided.

The Speaker (Hon. Lusaka): Proceed, Sen. Wetangula.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I need your protection to prosecute this Statement because it is very important.

In the Statement, the distinguished lady has even said that firearms were withdrawn because they were abused. Hon. Wycliffe Musalia Mudavadi was licensed to possess a firearm in 1993. He has never used it even to shoot at a flying bird. It was withdrawn and all his security detail withdrawn. What transgression had he done?

I will not shy away from talking about the issue that I was pursuing. Why is the Government trying to profile communities? This is what this answer is giving us. The distinguished Senator for Kiambu County can rant and say what he has been saying. Wisdom says that you can hide everything, but you cannot hide the truth and the sun. Somebody added that you cannot hide a woman's pregnancy. This is the plain truth.

I want the distinguished Senator to tell this House what violation Prof. Anyang'-Nyong'o committed to warrant him being listed as an offender. What transgression did hon. Olago Aluoch, hon. Musalia Mudavadi, hon. Stephen Kalonzo Musyoka and yours truly commit? Provision of security for leaders is not a privilege and *peremende* given and taken by the government; it is a duty.

Secondly, under the Firearms Act - I do not know how many lawyers are across the Floor who can help the distinguished lady - the Government licenses you to have the firearm. The Government cannot wake up and take away your firearm without due process. The first thing is to be given a notice to show cause as to why your license cannot be revoked and the firearm taken away from you for abuse and violation of the law. Can you tell this House and this country what violations the people whose firearms were taken away committed? I have given the examples of hon. Musalia Mudavadi, hon. Kalonzo Musyoka and many others. Can you table the notice to show cause that was served on them and any response thereto and hearing they were given before this violation was committed?

Thirdly, we are being told of a treasonable act. Can you cite to this House and the country any provision of the municipal law or in the Constitution that says nobody can be sworn in as a people's president? Hon. Raila Amollo Odinga was not sworn in as the President of the Republic of Kenya; he was sworn in as the people's president of the people of Kenya. Where is the law? Show us the section, subsection and the sub-sub-section that was violated and any provisions thereto.

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

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

Sen. Wamatangi: Mr. Speaker, Sir, I am just wondering whether the Senate Minority Leader should use this platform of Parliament to try and make good his political shortcomings. It is in public domain that he did not attend the swearing-in. Now that he did not attend, he is trying to justify---

(Loud consultations)

The Speaker (Hon. Lusaka): Order! Order, Members! Sen. Wamatangi, you are out of order.

Sen. Wetangula, proceed.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, yesterday, I used a very simple English word in reference to a Member and the Chair insisted on my withdrawal and apology. I protest in the strongest terms possible the outright insult,

innuendo, abuse and use of language unbecoming of a Senator in the person of the distinguished Senator for Kiambu County to me and my person.

(Sen. Shiyonga crossed the Floor without walking to the Bar and bowing to the Chair)

Sen. Khaniri: On a point of order, Mr. Speaker, Sir. You have seen for yourself?

The Speaker (Hon. Lusaka): Hon. Senator, can you go and do the rightful thing?

(Sen. Shiyonga walked to the Bar and bowed to the Chair)

(Loud consultations)

Order, Members! I think we need more induction.

Sen. Wetangula, proceed.

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, when I unleash some boulders on this Kiambu man, please, do not restrain me.

In the Statement, the distinguished lady has said that officers were withdrawn pending investigations into circumstances under which they attended the swearing-in. When were the investigations started? Who is leading these investigations? When is the outcome of these investigations?

Let me stop there. I urge you to indulge me to pursue further supplementary questions on this.

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

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, I am now addressing the Senate Majority Whip. Perhaps, in future, you should interrogate an answer before you bring it because you will get yourself into a lot of trouble, and you are a Member of the Committee on Justice, Legal Affairs and Human Rights. The Firearms Act is very clear. If a person violates the Firearms Act, Section 4 is clear; they will be charged for violation of the Firearms Act and the offense is disclosed.

My first supplementary question is: Which of the Section, under 4 (a), which reads 'offenses relating to specified firearms' was violated by hon. Musalia Mudavadi and hon. Kalonzo Musyoka in so far as their firearms are concerned?

The second question that you have not answered, which is serious and refers to yours truly is: Under what circumstances was the vehicle assigned to me withdrawn by the police at the Parliament gate? What offense did I commit, where did I commit it and with who?

Thank you.

(Laughter)

The Speaker (Hon. Lusaka): Proceed, Sen. Khaniri.

Sen. Khaniri: Thank you, Mr. Speaker, Sir. You can see that there is a deliberate attempt to derail us from interrogating the very shoddy answer brought by the Senate Majority Whip. We want to plead with you that this is a Statement that is

rightfully on the Floor of this House. You approved it and we deserve to get answers to the questions and the supplementary questions that we are raising.

In the answer, the Senate Majority Whip has clearly said that these officers were withdrawn because they attended an illegal function at Uhuru Park. You heard that yourself. Sen. Wetangula has quoted so many names of leaders whose security was withdrawn and yet, we know very well they were nowhere near Uhuru Park. If these security officers were being withdrawn for being present at Uhuru Park, I want the Senate Majority Whip to tell me why my security in the village, in Hamisi, was withdrawn. Why were my security officers guarding my home in Nairobi withdrawn? Were they also at Uhuru Park?

We want to remind them that provision of security to elected leaders is not a favour we are getting from the Government; it is a right. Do not use that to cajole us to agree with you in your political standing.

Mr. Speaker, Sir, this is our right. Today they are in Government, but tomorrow they may be in the opposition. Would they want the same treatment to be meted onto them when they are in the opposition? I am an elected leader and I am entitled to security. Therefore, I want to know why my security was withdrawn. What offence did I commit? Where and with whom? Why have I not been charged?

The Speaker (Hon. Lusaka): Sen. Wamatangi.

Sen. Khaniri: You are over-indulging this man.

Sen. Wamatangi: Mr. Speaker, Sir, precisely, why I had sought your attention is because when the Senate Minority Leader was addressing me, contrary the Standing Orders, did you hear him referring to me as ‘this man from Kiambu’?

(Loud Consultations)

The Speaker (Hon. Lusaka): Order, Members!

Sen. Wamatangi: Mr. Speaker, Sir, again, you heard Sen. Khaniri saying “you are over-indulging this man”.

Our Standing Orders are very clear that:-

“A senator shall only address another Senator as “Senator”.

I am the Senator for Kiambu by right via an election. The people of Kiambu gave me votes to come to this House that I can share with Sen. Khaniri and Sen. Wetangula and still be left with a balance.

(Laughter)

The Speaker (Hon. Lusaka): Order!

Hon. Senators, the whole world is watching us. As we engage, let us do so with some sobriety and decorum. Otherwise, we are going to lower our House from where it is. We can still communicate the same messages in a more decent manner than where we are heading.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir.

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

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, I agree that decorum is important. However, are you satisfied that the diatribe that you have heard from the distinguished Senator from Kiambu is within the Standing Orders?

This House is the great equalizer. That he comes from a county with a greater population than Vihiga County does not make him a better Senator. He has no business boasting about the number of votes he got because even our colleague from Isiolo County that has less than 100,000 votes is here with one vote just as the Senator for Nairobi.

I want to urge the Chair to protect Senators from errant bullies---

(Laughter)

The Speaker (Hon. Lusaka): Order!

Sen. Wetangula, you cannot be purporting to seek to be saved when you are the one who is firing the missiles at your fellow colleagues.

Sen. Wambua: Thank you, Mr. Speaker, Sir. It is a very sad day because, true, when the Senator for Kiambu was wrongly addressed as 'the man from Kiambu' he got agitated and rose on a point of order to reclaim the dignity of his office. However, the same Senator is okay with the rights of fellow elected leaders being violated and raising issues to the effect that we should confine ourselves to relevance. Yes, we want to be relevant.

As the Majority Whip brings a more comprehensive response to this question, I want to go on record to point out that the security of elected leaders as of every citizen is a right under the Constitution. It is a duty of this Government to provide security, not just to elected leaders, but to every citizen in this country.

In that Statement, it has been stated that the list given, of people whose security was withdrawn was on account of their attending an illegal rally at Uhuru Park. However, it is on record that Hon. Kalonzo Musyoka did not attend, but his security was withdrawn. He went to court to reinstate it. Orders were given for his security detail to be reinstated, but they violated those orders. I want to remind the distinguished colleagues on the right side of the Speaker's Chair that today they are seated there, but they do not know about tomorrow. They could be seated this side.

It is unfortunate that this matter is becoming partisan at a time when we should be talking about healing and uniting our nation.

(Sen. Outa stood in his place)

The Speaker (Hon. Lusaka): Okay, Sen. Outa. You are already on the Floor.

Sen. Outa: Thank you, Mr. Speaker, Sir. I know you might be trying to avoid me but---

(Laughter)

The Speaker (Hon. Lusaka): Order! Hon. Senator, you are out of order! I have no reason to avoid any Senator in this House.

Proceed.

Sen. Outa: Mr. Speaker, Sir, I stand here with a very heavy heart because as I thought the country was trying to heal, this afternoon, it is more like we are trying to

open up the wounds. If this statement is not considered to be profiling a community, then I would not really be able to understand when people referred to other communities to be the only ones who attended the swearing-in, especially by the names that have been read in this House today, mentioning only the Hon. Members from one community.

Mr. Speaker, Sir, I want to categorically say that I was at Uhuru Park and my security was withdrawn. I did not hear my name being read as somebody who is now left for God to protect him and yet the Constitution allows me to have security. I would really request under your wisdom that we should not continue to discuss this matter and allow the Senate Majority Leader to come back with a more comprehensive response rather than trying to profile a community.

This is because the more you listen there and trying to read more names, how do our people feel when only the Luo people and their leaders are read as the only ones who attended the Uhuru Park function yet there were other hon. Members who did so?

Mr. Speaker, Sir, it was not in vain that the Peoples' President was sworn in on that day. It was real under the new Constitution. He was sworn in as the Peoples' President – President Raila Amolo Odinga.

(Applause)

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

(Loud Consultations)

The Speaker (Hon. Lusaka): Let us have Sen. Wamatangi.

Sen. Outa: The man from Kiambu.

The Speaker (Hon. Lusaka): Order, Sen. Outa!

Sen. Wamatangi: Mr. Speaker, Sir, it does not matter, but I would excuse Sen. Outa because he is new in this House. He came from the other House and he is learning the Standing Orders of this House. However, when he does so, then he will have the courtesy and know how to refer to his fellow Senators.

I am just keen that we follow the rules of this House to the letter because we are also setting a precedent. One, when Sen. Outa says that the so-called swearing-in was in accordance with the Constitution; which Constitution or Article of the Constitution is he referring to?

Now that I am on the Floor allow me to clarify what the Senator for Kitui County was saying because he was out of order.

Mr. Speaker, Sir, the Senator for Kitui was out of order. I was very clear and simple when I stood here. I said that the likes of the Minority Leader and any other leader in this country who reads a person's name whether it is Ouma, Outa or Wamatangi should see a Kenyan and not the ethnic background of the individual. We should refer to them as Kenyans. That is my point of order.

The Senate Minority Leader (Sen. Wetangula): On a point of order, Mr. Speaker, Sir. We are patriotic and proud to be Kenyans. Is it in order for the distinguished Senator from Kiambu to make repeated derogatory references to me and my person; a person and a Senator who leads my distinguished colleagues behind me on this Floor? Is

he in order to continuously protest against order and violate the same orders in the same vein?

The Speaker (Hon. Lusaka): Hon. Members, let me repeat what I have said, that you are degenerating this House yourselves because both sides are engaging using unparliamentary language. When you throw something from this side, you will expect a response from the other side in the same measure. I ask all of you to rise above the politics we are engaging in and focus on the agenda of the day. I call upon the Leader of Majority to respond to issues that have been raised and conclude.

Sen. Outa, please, conclude then we get the Leader of Majority afterwards.

Sen. Outa: Mr. Speaker, Sir, let me remind the Hon. Senator from Kiambu that I was in the 10th Parliament when he was not even known to be anywhere. When he talks about Standing Orders I truly understand what they are all about.

I seek your indulgence on this Statement so that the Leader of Majority can go back and refer this matter to the Standing Committee on National security, Defense and Foreign Relations for investigation. Since, the way he read those names, truly if you want to heal this nation, they cannot come back here and be read the same way.

Mr. Speaker, Sir, if this Government means well and wants this country to be united, in their own wisdom, could they return all our security? They were given to us not as a favor but as hon. Members for this country. That is my request. Consequently, next time when they bring this kind of answers then we could see that they are not continuing to profile a community but are trying to reach out to reconcile this nation.

The Speaker (Hon. Lusaka): The Leader of Majority. I have already made a ruling on the point of order raised.

Sen. Kihika: Mr. Speaker, Sir, let me respond to a few of the issues that have been raised. I also ask for additional time to get answers on the supplementary questions that have come up as a result.

On the issue of profiling, the Senate Minority Leader is the one bringing that to the Floor of this House. Nowhere in my answer did I say a Luo. However, it is common knowledge that the people who were---

The Senate Minority Leader (Sen. Wetangula): Mr. Speaker, Sir, is the distinguished senator for Nakuru and Majority whip in order to mislead the House? It does not take rocket science to know who comes from where in this country. Even a Standard One child reading these names will tell you where they come from. Is she in order to insinuate that I am the one profiling yet I was simply making a very honest reference to the statement that she brought to the Floor?

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

Sen. Cherargei: Thank you, Mr. Speaker, Sir. My concern is that when the Majority Whip brought that answer, most of these things are always done in the interest of national security. It is not in order for the people - I have not made my point, Leader of Minority. You just listen first.

(Sen. Khaniri consulted loudly)

The Senate Minority Leader (Sen. Wetangula): I have not said anything.

The Speaker (Hon. Lusaka): Order. It was Sen. Khaniri! Let us not shout from our seats.

Proceed.

Sen. Cherargei: If you look at that answer, what is important is that national security overrides any other. If the Government deems it fit to withdraw the security to avoid threatening the peace of the country, then it should be allowed to do that for the interest of the national security and cohesiveness. Kenya is made up of diverse ethnic communities. Before you become a Kenyan, you come from a specific community. So, by the fact that some names were written and there is a perception that they come from the region, it is very unfortunate.

The Speaker (Hon. Lusaka): Order! Order! What is your point of order?

Sen. Cherargei: Mr. Speaker, Sir, is it in order for the Minority Leader to say they were ethnically profiled from a particular community? In this country, there are even three tribes that use one name.

The Speaker (Hon. Lusaka): Hon. Senators, why do we not allow the Majority Leader to give her response so that we make a ruling and make progress? The Majority Leader, please, proceed.

Sen. Kihika: Mr. Speaker, Sir, if they had let me finish what I was trying to say, maybe we would get on the same page.

Although the Senate Minority Leader has brought up the issue of ethnic profiling, it is also common knowledge because we were home and saw a bit of Television, those who were at Uhuru Park that day. In fact, he was absent and maybe that is why his name is not in this list.

(Laughter)

The Speaker (Hon. Lusaka). Order! Order, Members!

Sen. Kihika: In my statement, it is also clear that the firearms were withdrawn as the investigations continue. The purported swearing-in was a gross misconduct for these officers to have attended. We are asking for a little additional time to come up with the answers for the supplementary questions that have arisen. We have also heard from Sen. Khaniri talking about how his security in the village was withdrawn. He should be one of the lucky Kenyans who have security in the village as well as in Nairobi. Most of us do not have that. The point is; he was also at Uhuru Park. So, you cannot attend an illegal swearing-in and then come here to cry that your security has been taken away.

As we continue to come up with a more comprehensive answer, that is the baseline. As far as the due process is concerned; a firearm can cause a lot of harm in this country. I am sure national security issues would trump your right for due process. Nonetheless, with time, that will happen as the investigations are concluded and we will come back with a more comprehensive answer. As far as some people who were at Uhuru Park and are not here on this list, I am also a bit confused as to whether the Minority Leader wants to see more of his colleagues' security withdrawn because they were at Uhuru Park but their names are not here. I am also sure that you know, if you go fishing and you throw a net in the sea, you do not catch all the fish, you catch some.

Mr. Speaker, Sir I ask for two weeks and we will be able to come with a more comprehensive answer on the subject.

The Speaker (Hon. Lusaka): Order! Order Members! What is your point of order, Sen. Wetangula?

The Senate Minority Leader (Sen. Wetangula): The distinguished lady Senator from Nakuru has made absolutely no attempt to answer or respond to any of the issues raised either by me, Sen. Khaniri, Sen. Mutula Kilonzo Jnr or Sen. Outa. We asked very clear questions on which law was violated, quote the section, the subsection and everything.

Mr. Speaker, Sir, be that as it may, seeing and acknowledging the inability to bring an answer that can convince even a kindergarten child, I request the Chairperson to refer this matter to the Standing Committee on National Security, Defence and Foreign Relation so that it can thoroughly investigate this matter and bring a Report to this House.

I cannot envisage that in another two weeks, anything will change other than the same caricature on the Floor of this House.

The Speaker (Hon. Lusaka): Hon. Members, I want to ask the Chairperson of the Standing Committee on National Security, Defence and Foreign Relations to get a comprehensive answer in two weeks. It should take into account all the issues that have been raised by the Senate Minority Leader and other Hon. Senators so that we will have less issues being raised from the answers that you will give.

So, make it a point to get in touch with the concerned Minister to get a full comprehensive Report.

Sen. Kihika: Mr. Speaker, Sir, I will do that.

The Speaker (Hon. Lusaka): Let us have the Chairperson of Standing Committee on Information and Technology to issue a statement.

Sen. Cheruiyot: Mr. Speaker, Sir, the Chairperson and the Vice-Chairperson are not here. So, on behalf of the Committee, I want to request for additional time. At the next sitting, we should be able to give a response to this House.

The Speaker (Hon. Lusaka): The Chairperson of Standing Committee on Roads and Transport, the Floor is yours.

RAMPANT ROAD ACCIDENTS ON THE NAKURU-ELDORET HIGHWAY

Sen. Wamatangi: Thank you, Mr. Speaker, Sir. The Committee has received a response to the request for a Statement that was sought by Sen. Naomi Shiyonga Masitsa on Wednesday, 14th February, 2018 regarding the rampant Road accidents on the Nakuru-Eldoret Highway.

As I give this response as received, I want to bring to the attention of this House that, indeed, we had received an earlier response which, in the purview of the Committee, we thought it was not satisfactory. Therefore, we sought a better explanation.

I received this Statement as I walked to this House. I hope and believe it answers all the matters that were raised by the Senator. Just in case there will be any---

The Speaker (Hon. Lusaka): Order Senator. Are you satisfied with the answer? You must own it.

Sen. Wamatangi: Yes, Mr. Speaker, Sir. I will proceed to read the answer.

On Wednesday, 14th February, 2018, Sen. Naomi Shiyonga Masitsa requested a Statement regarding the rampant Road accidents on the Nakuru-Eldoret Highway.

In the Statement, the Senator sought the following information:

(1) A report indicating:-

(a) The number of road accidents that have occurred on the Nakuru-Eldoret Highway, specifically in Salgaa and Sachangwan areas in the last 10 years.

(b) The number of fatalities, serious injuries and minor accidents.

(2) Reasons for the occurrence of many accidents in this specific area.

(3) The measures that the national Government has put in place to curb accidents in this area and other parts of the country.

(4) A list of Government agencies that are charged with prevention of road accidents indicating their specific mandates.

(5) Explain the permanent solution that the Government intends to implement to ensure that this area is free from accidents, following many accidents that have occurred in the area especially during festive seasons.

Mr. Speaker, Sir, the answers as provided by the Ministry concerned are:

1. (a) On the number of road accidents that have occurred on the Nakuru-Eldoret Highway, specifically in Salgaa and Sachangwan areas in the last 10 years, between January 2007 and December 2017, a total of 448 accidents have occurred along the Highway.

(b) On the number of fatalities, serious injuries and minor accidents; there were 448 recorded accidents, 229 of them were fatal, 115 were serious while 103 of the accidents were minor.

(c) Of the number of accidents recorded, a total of 1,758 victims were involved and 388 of them were fatally injured, 464 seriously injured, while 936 of the victims were slightly injured.

2. Concerning the reasons for the occurrence of many accidents in this specific area, the following have been identified as the causes of the many accidents between Salgaa and Sachangwan.

i) Careless driving particularly by drivers of the heavy commercial vehicles and Public Service Vehicles (PSVs) spurs this. Drivers of heavy commercial vehicles have been noted for free-wheeling between Kibunjia and Salgaa. This results in drivers losing control of vehicles and hence causing accidents.

ii) Unroadworthy vehicles, particularly heavy commercial vehicles and PSVs which have faulty braking systems end up leading the drivers to lose control and hence resulting into accidents.

iii) Recently, the Government has identified installation of traffic calming measures like erecting of speed bumps and rumble strips to slow down motorists, particularly along the sections where accidents have been noted to frequently occur. Also, one lane delineation has been intensified which involves road marking and installation of reflective road studs called "cat's eye".

The Government, through the Kenya National Highways Authority (KeNHA) has also standardized the dimensions of bumps countrywide. The process is ongoing.

(i) The major trunk road corridors are being maintained through Performance Based Maintenance Contract (PBC). This has ensured that bushes or any obstructions that might contribute to accidents are attended to on time.

(ii) The national Government has also identified refurbishment of road furniture and installation of traffic signs on all roads and its jurisdiction to enhance road safety.

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

[The Temporary Speaker (Sen. (Prof.) Kamar) in the Chair]

Madam Temporary Deputy Speaker, on question four, the list of Government agencies that are charged with prevention of road accidents indicating their specific mandates, the answer is: There are three major national Government agencies which are mandated with the prevention of accidents on national trunk roads and all of them have got specific mandates in accident prevention. These include:-

(a) The traffic department under the Police Service. It has the following roles in as far as prevention of road accidents is concerned:

- i) Enforcement of laws regarding traffic and persecuting traffic offenders.
- ii) Investigating the causes of accidents.
- iii) Road safety sensitisation.

(b) The National Transport and Safety Authority (NTSA) has the following roles in as far as prevention of road accidents is concerned.

1. Advise and make recommendations to the Cabinet Secretary on matters relating to road safety and transport.
2. Implementation of policies relating to road safety and transport.
3. Ensure provision of safe, reliable and efficient road transport services.
4. Develop and implement road safety strategies.

(5) facilitate the education of the members of the public on road safety;

(6) conduct research and audits on road safety; and,

(7) compile inspection reports relating to traffic accidents.

(c) The Kenya National Highways Authority (KeNHA)

The Kenya National Highways Authority has the following roles as far as prevention of roads accidents is concerned:-

(1) Ensuring provision of quality and safe national trunk roads;

(2) Maintenance of the national trunks to safe motorable condition.

The other question required us to explain the permanent solutions that the Government intends to implement to ensure that the area is free from accidents, following the many accidents that have occurred in the area, specifically during festive seasons.

The answer is that the KeNHA has instituted measures to ensure that road accidents are reduced between Salgaa and Sachangwan which are a section of the Nakuru-Eldoret Highway by dualling the 10 kilometre section between Kibunja to Salgaa at a cost of Kshs870 million. The works will consist of adding two new lanes and installing a new jersey crash barrier at the median. This will eliminate head-on collision accidents that contribute to almost 90 per cent of the accidents along the section.

In the long run, KeNHA is also procuring a Public-Private Partnership (PPP) with a view of dualling the Rironi to Mai Mahiu section of the Eldoret-Nairobi A8 Road.

I thank you.

The Temporary Speaker (Sen. (Prof.) Kamar): I cannot see the questioner. Do you have any question?

Sen. Shiyonga: Madam Temporary Speaker, I am the one who asked for the statement. However, I have just received this and I was busy listening to the answer. Putting into consideration that I am the one who asked for the statement, I have not had any time to go through all that he has read. I need time to go through all these answers. If I am satisfied, then I will come back to the House to reply. He might also not be satisfied because he said that he has just received it.

The Temporary Speaker (Sen. (Prof.) Kamar): Order, Sen. Naomi Masitsa. The rules of the House provide that if you are not satisfied with the answers, then you should tell us at the beginning. Members here have read and some of them have listened to the answer and they are ready with their supplementary questions.

What I will do is to allow the other Members to ask their questions and then you will ask last. Ordinarily, you should be the first and the last to speak if a statement is replied to. The other Members will have time because there is no provision in our Standing Orders that a question that is not deferred at the initial stage can be deferred midway. Since the answer has been given, it becomes the property of the House. So, other Members will have the opportunity to ask supplementary questions and then you will speak last.

Hon. Members, I want you to note that Standing Order No.46 provides for Senators' Statement Hour, which should not start later than 3.00 p.m. Since it is now 4.00 p.m., I will just allow a few questions, so that we can continue with the business of the day. That means I will defer some of the statements but I will tell you when the answers will be provided.

I will now allow the Senate Minority Leader to have the Floor.

(Loud consultations)

Hon. Members who are consulting should do it in low tones so that we listen to the Senate Minority Leader.

The Senate Minority Leader (Sen. Wetangula): They are not consulting but giggling and laughing.

(Laughter)

Madam Temporary Speaker, road accidents in this country have been very costly in terms of human lives and loss of property. There is a particular blackspot between Salgaa and Sachangwan. You may remember that Sachangwan is notoriously known for over 100 people perishing in a bonfire after a trailer ferrying fuel crashed and caught fire. There is a big monument for a mass grave there.

Recently, the President ordered the National Transport and Safety Authority (NTSA) officials off the roads and I laud him for that. Could the Chairman tell this House the contribution of the NTSA to the series of accidents between Sachangwan and Salgaa? We have it on record that more than three or four times, vehicles crashed causing loss of lives because the NTSA officers were physically chasing drivers.

We understand the reason for chasing them was not to find out whether they were driving properly or not but to “harvest” some tolls from the drivers. Could the Chair assure this House that everything will be done in so far as the elimination of corruption on the roads is concerned because even police roadblocks---

The Temporary Speaker (Sen. (Prof.) Kamar): Point made!

The Senate Minority Leader (Sen. Wetangula): Let me just finish. Some people like myself, Sen. Poghio and others drive to western. As you drive, you will see police officers openly collecting money from drivers. This is what contributes to the malady of accidents. Can the Government come down heavy on road indiscipline to save Kenyans from being maimed and losing lives and property?

Sen. Pareno: Madam Temporary Speaker, mine is to seek directions from you. Could we have it as a practice in future that statements are circulated? I was trying to reach out for the statements but I am told the practice of this Senate is that a statement is always supplied to the Chair to answer and the Member who requested for the statement. I urge that you consider directing that in future statements are circulated so that Members can intervene accordingly.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you for the comment although it is not a supplementary question. I urge Members to take note that supplementary questions are supplementary questions and you should not diverge.

For the sake of Sen. Pareno, anything on the Order Paper is always found in the Journals Room. If you want a statement or a Bill, you can always get it from there.

Sen. Cherargei: Thank you, Madam Temporary Speaker. As a supplementary question to the Committee on Roads and Transport, I have not heard him mention anything about the road design. I know quite a number of Senators who use that road and some of our people have perished there. We laud the President for withdrawing the National Transport and Safety Authority (NTSA) officials from the roads.

Finally, since I come from a community where we believe in extra powerful powers, could the Committee allow us to do some atonement at the black spot so that we can save Kenyans' lives?

Sen. (Eng.) Maina: Thank you, Madam Temporary Speaker. I listened to the responses and something struck me, which I would wish the Chairperson of the Committee on Roads and Transport looks into. We have been told how the roads would be improved to reduce accidents, especially on that particular black spot and others spread around the country. I was among the people who accompanied retired President Mwai Kibaki to the burial of 100 people who perished there.

But this is not the only black spot in the country, and this is my concern. With the frequent accidents happening there, could the Ministry of Roads and Infrastructure go and find out whether there is something wrong with the road design, which is actually causing the accidents? Perhaps when the drivers are approaching this particular spot, they are not able to see the oncoming traffic from a distance. Therefore, when they come here and say that there is a contract for maintenance, this may not address the issue. There have been accidents in this one particular spot consistently and, therefore, there is need for research to see whether the original road design is defective. We should not just deal with the road as it is.

Thank you, Madam Temporary Speaker.

Sen. Kasanga: Thank you, Madam Temporary Speaker. I would like the authorities concerned to elaborate further about what they are doing about the careless driving, freewheeling as well as the un-roadworthy vehicles, which they have cited as some of the reasons for the accidents. Additionally, what safety mechanisms have they installed there? I do not know how honest that report is because we have seen roads which do not have these installations, especially the reflectors and paintings. In fact, we see roads being painted and the following day, the paint has already worn off. So, I would like a more elaborate answer when it comes to installation of road safety features.

Thank you, Madam Temporary Speaker.

Sen. Kihika: Thank you, Madam Temporary Speaker. I also wish to add a supplementary question, especially on the road design of the Salgaa/Kibunja Road. We have heard about the measures that will be taken to help reduce these accidents and I have previously been informed that the construction of a dual carriageway would commence very soon. So, I would like to request the Committee to get us an answer, first, on whether that is going to happen. I believe a dual carriageway will probably solve this problem because we have had a lot of deaths in that area. So, if we can have traffic flowing on the dual carriageway, then that would help solve this problem.

Secondly, is there a budget for that? Thirdly, when is it commencing? Additionally, what else does the Government intend to do as far as the design of that road is concerned to help to reduce these deaths?

I also noticed that since the President ordered the withdrawal of the NTSA officials from the roads, it seemed like the accidents stopped instantly. So, I am not really sure what is going on. The Committee should, therefore, tell us why in the months of November and December, we had so many deaths and then, suddenly, the first of January hits and we are good. So, we are happy that, that is happening; but I am also just wondering about what is really going on.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you. I had promised you, Sen. Shiyonga; I do not know whether you would like to take the next opportunity; or should we go back to the Chairperson?

Sen. Shiyonga: Thank you very much, Madam Temporary Speaker. I have taken time to go through the responses and some of the questions have actually been answered to my satisfaction. However, I have not heard a lot coming from the Government side, considering lives have been taken and these lives will not come back. So, looking at the answers that have been given, I request the Chairperson of the Committee to revisit the question on what the Government is doing in order to drastically reduce the number of accidents at this particular spot.

Madam Temporary Speaker, I support what my colleagues have said about improvement of the road design and the call for more action by the Government in order to tame road carnage on this spot. The 'Saligaa' spot along the Eldoret/Nakuru Road has gone down in history for leading in the number of deaths caused by accidents---

The Senate Minority Leader (Sen. Wetangula): It is 'Salgaa,' not 'Saligaa.'

Sen. Shiyonga: I am sorry; it is Salgaa and not 'Saligaa.' Sen. Wetangula, pronunciation depends on where one comes from. I hope you come from the same place.

So, Madam Temporary Speaker, I request the Chair to revisit the question on that particular answer that has been given.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you.

Proceed, Chairperson.

Sen. Wamatangi: Thank you, Madam Temporary Speaker. I have noted the supplementary questions that have been raised by hon. Members. Certainly, the Committee on Roads and Transport will have to seek further answers from the relevant Ministry for some of the questions raised. This is specifically on the questions asked by the Senate Minority Leader about the contributions that have been made by the NTSA previously in those accidents and also on the elimination of corruption on our roads.

It is certainly a concern of every Kenyan that corruption has continued to be one of the leading and key underlying causes of road accidents. Therefore, we will seek to get that answer alongside the others on what the Ministry is specifically doing. The question on road design has been raised by three Senators. I will also seek to get an answer on that as well as the question on whether there is something wrong with the design of that section that has been the cause of accidents.

Finally, the question about upgrading the section to a dual carriageway has been answered. I read out that the programmed dualling of this road will cost Ksh870 million. That also includes installing what the Ministry is calling ‘a new jersey crash barrier,’ which will reduce the accidents by about 90 per cent. This is because it is the view of the Ministry that most of the accidents that have been occurring there are head-on collisions.

In this reply, I said that the Kenya National Highways Authority (KeNHA) is procuring Public Private Partnership (PPP) contract with a view of dualling part of Rironi-Mau Summit Road. Rironi-Mau Summit Road is a long stretch. Indeed, it covers almost the entire road from Rironi all the way past Salgaa and Sachang’wan because that is almost as far as the junction to Kericho. Therefore, the question on dualling should be taken care of by that.

With your indulgence, I request that we be given two weeks for us to ensure that the answers that will come here will meet the threshold of the expectations of the Senators in terms of sufficiency and quality. Two weeks will be sufficient for us to get the extra information.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Chair. We will give you the two weeks, but I would like to encourage Chairpersons to be thorough before they bring statements in round one. This is because there is a huge backlog of questions. The Chairpersons should try as much as possible to give us as much information as possible in round one.

Hon. Senators, that brings us to the end of Statements time. I had said that we will try as much as possible to end around 4.00p.m., because statements are supposed to take an hour.

We will now move to the next Order.

MOTION

ADOPTION OF SESSIONAL PAPER No.2 OF 2016 ON THE NATIONAL SLUM UPGRADING AND PREVENTION POLICY

THAT, this House adopts Sessional Paper No. 2 of 2016 on the National Slum Upgrading and Prevention Policy, laid on the Table of the House on Tuesday, 10th October, 2017.

(Sen. Murkomen 28.2.2018)

(Resumption of debate interrupted on 28.02.2018)

The Temporary Speaker (Sen. (Prof.) Kamar): This Motion was already under debate and it was interrupted yesterday. We had reached at that point where the Mover was to reply.

I now call upon the Senate Majority Leader to reply.

The Senate Majority Leader (Sen. Murkomen): Thank you Madam Temporary Speaker. I want to thank the Hon. Members who made contributions to this Motion. This Policy document is laudable. I want to congratulate Prof. Kaimenyi, who was the Cabinet Secretary (CS) in the Ministry, for the work he did in so far as policy positions are concerned.

This policy document is very important. It mirrors what devolution is all about; the fact that there must be consultation and co-operation between the National and county governments to solve this problem. The problem of slums and their prevention is very critical. In fact, what we should be dealing with now is slum prevention because we already have enough slums that we are trying to eradicate. The problem is that we are not doing enough to stop the mushrooming of new slums. The Policy provides for the person responsible for that.

Sadly, county governments are sleeping on the job. If you go to many parts of Nairobi, new slums are coming up. I am told that it is usually collusion between unscrupulous business people and land brokers in town. Also, whenever there is infighting among some people, they get people from a slum area and move them to another slum area. They tell them to construct their structures. It is a shame because if you look at some places in Nairobi right now, it is a disaster.

Therefore, there is urgent need for us to relook at the legal framework as the policy statement says. This is because the complexity as provided for in this policy between land ownership, persons who own the houses in the slums and the persons who are living in those houses, is making slum upgrading to become a complicated process.

Sadly, we are told that when they started the slum upgrading programme in Kibera, those who were moved to the new houses preferred leasing out or selling them and then going back to the slum. This is because it is cheaper and better to make more money from selling the house and then go back to the previous life. I think we need to change this situation.

I appreciate the Ministry for coming up with this Policy document. I also appreciate them for the role they played and their consultation with county governments. It is now time for us to look at the legal framework for us to deal with these issues when the law comes here. We know very well that His Excellency the President has focused on four key agenda, including matters of housing and urban development.

To eradicate the issue of slums, it will be great to ensure that this Policy document is passed by this House. We will then we wait for the legal proposals and pass them. I also request that where we think that the Government has not come up with legislative proposals, it is our responsibility as Senators to draft Private Members Bills that will fill

the gaps that are existing in so far as housing and urban development and matters of slum upgrading and prevention are concerned.

Madam Temporary Speaker, I want to thank everybody who contributed. I believe that their views will be incorporated in the next stage when it comes to passing the legislation.

With those few remarks, I beg to move and request that instead of putting the question today, we should reschedule it to a time to be determined by you, so that we can get the 24 delegations necessary to pass this important Policy.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you, Senate Majority Leader. Now that the debate is over, we will defer the putting of the question to Wednesday, 7th March, 2018.

(Putting of the question on the Motion deferred)

Next Order!

BILLS

Second Reading

THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO.11 OF 2017)

The Senate Majority Leader (Sen. Murkomen): Thank you Madam Temporary Speaker. I had earlier consulted with the Speaker and we had agreed that we should postpone this Bill to Wednesday next week, awaiting the Report of the Committee.

The Temporary Speaker (Sen. (Prof.) Kamar): Thank you very much. We had gotten that information, but wanted it to go on record. The Bill is deferred to Wednesday, 7th March, 2018.

(Bill deferred)

Second Reading

THE COUNTY BOUNDARIES BILL (SENATE BILLS NO.6 OF 2017)

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, I rise to move that the County Boundaries Bill (Senate Bills No. 11 of 2017) be now read a Second Time.

This is a very important Bill and I will explain briefly. In 2015, I moved a Motion that the Committee on Legal Affairs and Human Rights considers drafting a Bill that would anchor our counties in law. My dear colleagues, the counties are specifically provided for both in the Schedule and Article 6 of the Constitution of Kenya. For the avoidance of doubt, the Committee of Experts stated the following with regard to counties:-

“For the unit of county governments, districts enacted in 1992 by the District and Provinces Act were adopted as proposed counties. It was necessary to establish units of

devolved government that could be effective for this purpose. This and the fact that they were lawfully recognised as administrative units, explains the adoption of the 1992 districts”.

The Constitution provided for a review of boundaries by a specialised commission. The object of including these units of devolution as it is in the draft was to provide a starting point for a new dispensation of devolved units. But the boundaries of the devolved units could then be altered in accordance with the procedures provided. It is to be noted that whereas the Electoral Boundaries will be reviewed and could change periodically, those for the counties as units of devolution would not change regularly.”

Madam Temporary Speaker, the law as it is and as I have quoted the Committee of Experts, our counties are anchored on the Districts and Provinces Act of Cap 105A which describes every county of the 47 counties in terms of their location and boundaries from County No. 1 to No. 47. So, to say this, there is a legal lacuna; we do not have counties’ boundaries or counties established in law.

The main purpose of this Bill which you will find at the end is to repeal the Districts and Provinces Act of Cap 105A to provide the districts to be converted to counties. The basis upon which the Standing Committee on Justice, Legal Affairs and Human Rights thought of this Bill is that, at the time we were drafting this Bill, there were disputes upon disputes. When the Governor for Meru County was a Senator, he proposed a task force while he was here to determine the dispute between Meru and Isiolo. The result was a bloody dispute that left more than ten people dead. At that time, we recognised that there was no process for altering any boundary of the counties.

I am happy to say that the court has finally found that the Standing Committee on Justice, Legal Affairs and Human Rights was right. The only way to touch a boundary, if there is a dispute, is through Article 188 of the Constitution which specifies how you will do it. The first thing would be to anchor the 1992 Act in a law as it is. Many Senators have asked me and said that they oppose my Bill. I asked them why? They said that the boundaries I have put in my Bill are not lawful and that they do not recognise them. I told them that I was not the one who did it and referred them to the 1992 Act which was adopted by the Committee of Experts. I have lifted it word for word, comma for comma and full stop for full stop.

However, we have now provided a formula. That formula would be; how does a resident of, for example, Isiolo, Nakuru, Makueni, Taita Taveta or Kwale, where there are disputes - how do they come, where do they come from, and how do they approach it? But I have been a little selfish.

Why do I say so? We passed a law here, which I strenuously objected to, on the limitation of constituencies and ward boundaries. This House has no jurisdiction to touch wards and constituencies whether it is by a report, discussion, adoption or recommendation. By one stroke of the pen, we removed our jurisdiction to determine electoral units for which we are Members of. This is the only avenue left for you Senators to defend your counties in Article 96 of the Constitution. This will ensure that a person who is aggrieved and has an issue about a boundary will have to follow the process that we have proposed here.

With that background, allow me to just take my colleagues through a few of the clauses that they should note. In Clause 3, we have adopted the Constitution. In Clause 4, we have suggested that the Cabinet Secretary (CS) in charge will be the one to avail

electronic updates. That is one of the most innovative things we have come up with. Members, if you look at Page 207 of the Bill, you will see that the county boundaries of, for example, Kericho County, have GPS bearings.

Madam Temporary Speaker, this Bill provides, particularly, in Clause 4, that at some point, you will have an electronic map of your county, that is, the GPS code. This is because we want to move from the traditional way of doing physical beacon or if you do physical beacon, you should do it plus the electronic ones and the ones that we do out there in the villages by planting sisal. We do not want to do those things; they are archaic. The records are provided there.

Clause 6 is now the avenue of which any Kenyan will proceed. We have again lifted Article 188 of the Constitution in Clause 6 in its entirety. The criteria are on Clause 6(2); the population density, physical and human infrastructure, historical and cultural ties, the cost of administration, the views of the communities affected, the objects of devolution and geographical features. This Bill does not attempt by any stretch to make it easy to change a boundary. The criteria will be very difficult. We must say so to ensure that any person will have to follow very stringent criteria in order to alter a boundary.

Part III is about the resolution of county boundary disputes. Upon a request by a governor and recommendation of a Senator which shall be made to the Senate accompanied by evidence, a resolution shall be made and it shall go to the President and a mediation committee shall be appointed. I wanted to say that we did not assume that every boundary dispute will be cantankerous or there will be firefighting. We have assumed, under Clauses 8 and 9, that there will be mediation. We have provided for the mediation in Clauses 9, 10, 11, 12 and 13; the functions of that mediation committee.

This will ensure that in an attempt to alter any boundary, the ultimate intention is to make sure that your neighbours in your county, for instance, in Uasin Gishu County, and others next to you do not quarrel. If you can actually reach an agreement like what we have been attempting to do with my colleague, Senator from Taita Taveta County, without having a dispute, the mediation is provided for. But should you not agree, we have provided that in Part IV. The sequence of events of how that will be done and how the agreement will be arrived at is provided for in Clause 15.

In Clause 16, there is approval of the Senate. Again, we have attempted to make sure that, since boundaries of counties concern counties, we have left the ultimate decisions on alteration of boundaries, commencement of mediation, end of mediation, reports to the President and Committees to the Floor of the Senate. Members will have to vote in accordance with Article 124 of the Constitution to agree on anything, whether it is a report agreeing or a report disagreeing. The same applies to Clause 17.

Part IV is the alteration of county boundaries. Where do you begin? There will be a petition by a registered voter, an elected member of the county assembly and a governor. The threshold is in Clause 19. The Speaker shall receive the report and refer the report to a special committee, the same way that we form special committees for the impeachment of a governor. We will use the same format. We will most likely amend the Standing Orders to include a petition of this nature so that it then follows that route. I believe in that route if the Standing Committee on Devolved Government and Intergovernmental Relations will be the one in charge.

In Clause 20, the timeline is specified as to how the special committee will act. This committee shall within 21 days, where a petition is presented under Clause 18,

obtain a certificate of Independent Electoral and Boundaries Commission (IEBC) confirming, for example, that that petitioner is a registered voter. These are the preliminaries.

Madam Temporary Speaker, the same way, in dissolution of a county, the voter is required to be a registered voter.

[The Temporary Speaker (Sen. (Prof.) Kamar) left the Chair]

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

Under Clause 21, the Special Committee of this Senate shall have four jurisdictions:-

- (a) To determine that this matter should go to mediation;
- (b) To establish a Commission;

Sen. Kang'ata: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Nyamunga): What is your point of order?

Sen. Kang'ata: Madam Temporary Speaker, I seek your direction on this Bill. Is it in order for the hon. Senator to bring this Bill, notwithstanding the fact that the matter has not been considered by the Committee that is concerned? I imagine that once he moves the Bill, the second stage will be to second it. It will then be opened up for debate. I thought that this is the stage where the Committee brings a report stating whether the Bill ought to be supported or defeated. I seek your direction as to whether he can proceed, notwithstanding there is no Committee report?

The Temporary Speaker (Sen. Nyamunga): Please allow him to go through the Bill.

Sen. Mutula Kilonzo Jnr.: Madam Temporary Speaker, I can help you a bit. He was not in the House yesterday. It was agreed through an intervention by the Senate Minority Leader that a Bill similar to this one will not go to Division and the Mover will not reply until the Committee submits its report. There will be no replying and we will wait for the Committee to give its report.

The Temporary Speaker (Sen. Nyamunga): Continue, Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: Thank you, Madam Temporary Speaker. I was in Clause 17 where the President may approve a period which we have given the discretion for extension. It is from the report on the degistration of counties that we realised that we do not want to be put in a cold sack simply because there is no timeline; the President cannot receive the report and we cannot act.

Madam Temporary Speaker, I had gone through Part Four on the alteration of county boundaries. However, I would like to note that Clause 18 states the qualifications of the person who will bring the Petition and what the Speaker will do. Clause 20 states that the Petition will go to the Independent Electoral and Boundaries Commission (IEBC) to confirm. Clause 21 speaks of the formation of the Special Committee which will have three jurisdictions:-

- (i) To determine that this matter should go to mediation;
- (ii) Establishment of a Commission to determine the alteration of the boundary;
- (iii) To determine that there is nothing that needs to be done.

If it recommends in (i) that there is mediation, the Senate shall within seven days, revert this to a Special Committee and report. If it does not recommend anything, there will be no further proceedings. We have given these three jurisdictions to a Special Committee of the Senate.

If it is returned as stated in Clause 22 and the Senate approves the mediation as appropriate, the Speaker shall, within seven days forward the resolution to the President for the establishment of mediation or approves the recommendation of a Special Committee for establishment of the Commission.

Madam Temporary Speaker, according to Article 188 (1) (a) and (b), this matter cannot be resolved without the concurrence of the National Assembly. Under Clause 23, we have provided that the National Assembly shall consider a report under Clause 22.

Clause 24 on Independent County Boundaries Commission is where the rubber meets the road. Whenever Parliament under this Act and Clause 23 resolves that an independent county boundary commission is established, the President shall establish a Commission under Clause 24. I borrowed this from a Commission that was established in 1962 called the Regional Boundaries Commission. That is the Commission that came out with regions.

In 1962, Kenya had seven regions. In fact, on reading the report of this 1962 Commission, some of the boundaries that are in the 1992 Act were adopted by this Commission before Independence. So, that is where I have borrowed this Commission from. We had another one but it was on delimitation of constituencies. As I said, we have removed our jurisdiction on constituencies. We are only left with the ones of counties. That is where this Commission comes in.

As I stated in Clause 25, the Commission will consist of the National Land Commission (NLC) and Independent Electoral and Boundaries Commission (IEBC). We have also thought it wise to have two licensed surveyors under the Survey Act nominated by the Land Surveyors Board.

Madam Temporary Speaker, in Clause 26, the composition of the Commission is clear. It also states that the persons need to meet the requirement of Chapter Six of the Constitution. The functions of the Commission according to the Constitution are very limited. The Commission will either recommend that there should be an alteration of the boundary or refuse.

On Clause 28, this Commission will act like any other Commission. It will summon anybody it needs to summon. We have provided for all those powers. Clause 31 is on how the Commission will give its report. Clause 32 is on the payments. Clause 33 is on the oath of office. Clause 34 is on secrecy. Secretariat services are provided for under Clause 35. Clause 36 is on removal of the Commission. Clause 37 is on protection from personal liability. Clause 38 is on liability of Commission to damages. Under Part VI, Clause 39, which is one of the most important clauses, is how they will undertake their work and invite the public so as to give their views. In Clause 40, the Commission has four jurisdictions.

- (a) To propose alteration of the affected boundary of the county;
- (b) The specific geographical or demographical duty relating to such proposed alteration.
- (c) An assessment of the impact of the proposed alteration
- (d) Any other information that the Commission considers necessary.

Madam Temporary Speaker, in the case of the Ligale Commission, before several boundaries of constituencies were approved, the reports were published in the Kenya Gazette and two other newspapers. Any person who feels that he or she ought to put in either a recommendation or have something to say is offered that opportunity under Clause 40. That is why I have said before that alteration of boundaries will not be a walk in the park; there is a process. Anybody who thinks that he or she can do it will have to read this very carefully.

Madam Temporary Speaker, Clause 41 is on the final report of alteration of boundaries which is a point to note; the process under which the recommendation to alter those boundaries will be processed. On Clauses 41 and 42, the National Assembly and the Senate will have to seek concurrence. Clause 43 is on regulations on how this Bill will be carried out.

On Clause 44, we do not want people to alter boundaries just before elections. We have put in a timeline that people will not petition the Senate on alteration of boundaries 12 months to the general election. The proposals to alter boundaries during that time might be confused to be gerrymandering. It might take a turn which is not in the interest of the county or the counties affected. Clause 45 is on the resolution of the Senate and how the gazettelement will be done.

Clause 47 is on withdrawal of a petition if the person thinks that they ought to withdraw. In Clause 46, we have considered that it is possible that one might have two or three petitions. I have seen some petitions here where we will be at liberty to consolidate those petitions. In Clause 48, we have provided for offences and penalties. Clause 49, which is the mother of all, provides for the repeal of the Districts and Provinces Act, if this Senate and the National Assembly agree to this.

Madam Temporary Speaker, to all my colleagues, Senators, the schedules of all the county boundaries are described here in such minute details that they will have no problem in determining and identifying the boundaries.

Madam Temporary Speaker, as I wind up, the compromise achieved in 1992 was not easy. Prior to 1992 Gazette notices and those of boundaries after 1992, which I have, the cut-off point – we must thank the drafters of the Constitution for finding a cut-off point – was 1992. Anything done after or prior to 1992 will have a formula of how you will bring it through this Bill. Otherwise, there is nothing else you can do about these boundaries.

I plead with my colleague Senators; this is one method that we can protect our counties. Sen. (Dr.) Zani came up with a very nice Bill which ended up in the shelves in the National Assembly. What will happen if we find minerals bestriding two counties? Sen. (Dr.) Zani had proposed that there is a formula for sharing of either revenue or benefits.

Turkana County has oil and they are demanding 20 per cent. That Bill never saw the light of day and another one has been published. What if the neighbouring county finds that they have oil, how do you determine those benefits before you determine the boundaries? Baringo County was fighting over a water resource with the other ones. This Bill will provide a formula. That formula will be; that I know where your boundary is and we can live as good neighbours. These boundaries are not walls. I am not proposing that we build perimeter walls with our neighbours. I am just proposing that everybody knows where they should be and where they should not be.

It is a contradiction that every ward and constituency knows where their boundary is. All Members of either the County Assembly or constituencies do not have a problem where they ask for votes. When it comes to counties, there is a dispute as to where these boundaries are. This is one way of keeping this country together, by understanding that if you stay in your compound and you do not throw stones at your neighbours, it does not make you a bad neighbour. However, if we can put fences around our compounds and live together peacefully, then counties can live together peacefully without necessarily having a conflict. We want to provide that formula to ensure that these county boundaries are firmly in law.

However, my fear is that – I want to tell my colleagues – by strange luck, if you find a despot in this country, they would easily remove counties because they are not anchored in law. If you ask where your county is, your county only exists in a Schedule and some paragraphs in the Constitution and nothing more whereas the constituencies and wards have clear boundaries.

If you recall the Petition by Sen. (Prof.) Ongeru where they wanted to excise a part of a forest to create a factory, the question then was; are you going to add the size of the ward or constituency? The formula is provided for if they wanted to do so and if they can. However, if it was your boundary, you cannot do so.

With those few remarks, I beg to move and ask my senior, the Senate Minority Leader, Sen. Wetangula to second.

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, I congratulate the distinguished Senator for Makueni County for a job well done and for ably moving the Bill.

I remember the precursor to this Bill was a Motion that I also seconded the distinguished Senator in the last Parliament. It was informed by the fact that we have a lacuna in the law and the Constitution provides a framework that will then have to be developed into law. Article 188 of the Constitution makes reference to alteration of county boundaries and stops there. So, this Bill, now gives meaning to the provisions of Article 188 of the Constitution. I will adopt in totality the salient technical details that the Mover has gone through and put on record and urge this House to support this Bill.

If you look around the country, there are several flash points between counties on the issue of boundaries. Right from where I come from, we have a flash point between Busia and Bungoma counties in an area called Malakisi, more particularly, Changara. We have a flash point between your County of Kisumu and Vihiga County in Maseno. In fact, a question has come to this Floor more than once by the distinguished Senator for Vihiga County. We also have a flash point between your County of Kisumu and Kericho County and arguments about boundaries. We have issues between Kajiado and Makueni counties and, Kajiado and Machakos counties.

As we speak, the county of the distinguished Senator for Laikipia is embroiled in an argument with Nyandarua County over their headquarters. We also know there is an argument between Nyeri and Laikipia counties. There is an argument that nearly led to some physical and armed confrontation between Meru and Isiolo counties and many other places.

Madam Temporary Speaker, this Senate, as a custodian of the interests of counties, we owe it to the country to engineer a law that will have an orderly resolution of this boundary disputes. Even where the people are the same in terms of communities,

ethnicity and so on, we still have those arguments. Boundaries generate very difficult relationships even between brothers. Unless there is an orderly resolution to such issues, the outcome can be quite chaotic.

We have, for example, the metropolitan set up of Nairobi County. How does it relate in terms of boundary with Kajiado, Machakos and Kiambu counties?. All these need a mechanism of addressing how to deal with these boundary disputes. For example, in the case of Konza City, you saw the comedy between the governors of Makueni and Machakos counties, where they went to address the people and none of them would want to make the address on a podium labeled the other's county. So, Gov. Mutua would come and address the people with a podium labeled Machakos County. When he finishes, they carry it away and bring another one for Gov. Kibwana to address, labeled Makueni County. This is because both Makueni and Machakos have a claim on Konza, not to mention that Kajiado County is also waiting on the wings, claiming Konza City.

As a country that must be at peace with itself, a country even whatever politics we play, some of us believe 100 per cent in the unitary State called Kenya. The misbehavior of politicians and the politics of the country notwithstanding, we believe that this country must remain united as one. The people from my village in Bungoma County should have the right to buy property and live in Murang'a County, and vice versa. People must have the right to move their labor, settlement and everything to any part of this country.

Madam Temporary Speaker, if the fortunes of West Pokot County change today – and from the seismic reports we have, that there is plenty of gold there – there will be a gold rush. All of a sudden, West Pokot County will probably house the largest human settlement in Kenya because every Kenyan will go there. That is what we must all believe in. That is why sometime we speak quite harshly against the advent of parochial politics in this country in whatever form and manifestation that it comes in.

Looking at the Bill, I have already said that I agree with some of the technical issues. However, I just want to point out one or two things that the mover may – once the Committee has looked at it, he comes to reply and we go to Committee – wish to also look at. I would want, in general terms, the Independent Electoral and Boundaries Commission (IEBC) to be given a much bigger role in dealing with issues of boundaries. This is because, eventually, it is the boundaries of counties that generate boundaries of wards and, subsequently, constituencies.

For example, if there is a Commission that will determine the movement of a whole division or ward from one county to another, it will necessarily mean that it will also trigger a spiral effect in the change of boundaries of representation within that county. This is because the movement will probably create two bigger constituencies which have to be reshaped into acceptable demographic limits and new wards may be created. So, I would want to see a greater role assigned to the IEBC alongside the structures being created.

Madam Temporary Speaker, in Clause 9, the proponent of the Bill has set out how to resolve county boundaries. He also describes the composition of the mediation team by including a Chairperson who is fit to be a judge of the High Court; one person from each of the affected counties; two persons, a man and a woman not resident in the affected counties; then public officers nominated by the Cabinet Secretary and so on, and so forth. I would want – and I think Sen. Mutula Kilonzo Jnr. mentioned about this – to see surveyors in this set up because, eventually, it is going to be a matter of survey to put up

not just beacons, but also coordinates and the Global Positioning System (GPS) structures. These will ensure that anybody sitting anywhere in the world wanting to google about what Nyangores Ward in Bomet County is, can find the coordinates of that ward and transact whatever they want to transact.

Madam Temporary Speaker, equally important is the manner in which petitions can be brought to this House. I have not understood why Sen. Mutula Kilonzo Jnr. eliminated the possibility of an elected Member of the National Assembly or an elected Senator from bringing a petition. It is us who are the representatives and protectors of counties. So, we are probably even more concerned about county boundaries than the Members of the County Assembly (MCAs) and others. In terms of representation, I think representation from the Senator of Wajir or Murang'a counties will carry a lot more weight than one of the MCAs from their counties. So, I would want Sen. Mutula Kilonzo Jnr. to expand Clause 18 so that the persons who can bring petitions include Members of the National Assembly and Members of the Senate.

In fact, Members of the Senate are best placed because we have seen even in this House in the last Senate that a lot of petitions were brought to this Floor by Senators conveying messages from the people they represent. One such petition was the one from your County of Kisumu, which was brought by Sen. (Prof.) Anyang' Nyong'o. We prosecuted this petition to the fullest, including summoning the then Governor, his Deputy, and his Cabinet to appear before the Committee on Finance and Budget not less than five times. So, nobody has a better interest in pursuing the interests of the county than the Senator elected to do so.

Of course, the Governor is provided for; and if a Governor can bring a petition, why not the Senator? We are elected more or less on the same platform, within the same jurisdiction and, sometimes, on the same ticket.

Madam Temporary Speaker, I also want to point out Clause 25, where I had mentioned earlier that the role of IEBC should be expanded. That is one entry point where it is important that whenever boundaries are adjusted, the IEBC must have a say because they will have to administer the outcome.

Madam Temporary Speaker, there is something that ought to be in this Bill. It is not that it will happen soon, but I strongly believe that this country deserves fewer counties than we have. You may recall, for those who were in Bomas of Kenya, that the original Bomas Draft provided for 16 regions; they were then not called counties. The consensus in Bomas was very good for this country. Regions were bigger with better populations and would have more meaningful regional Parliaments. At that time, the general consensus in Bomas was that we have Central, Western, Nyanza, and North Eastern provinces as they were then, divided into two. The Rift Valley and Eastern provinces were to be divided into three while Nairobi was to remain one. The people of the Coast all opted to remain one; and we really lauded them for that. That brought the country to 16 regions. With 16 regions, we would be having very strong regional parliaments. Right now, the transition we have is still from councilors to MCAs; and we are yet to wean ourselves off the mentality as it was then.

So, Madam Temporary Speaker, I would want the proponent of this Bill not to anticipate anything. But I want him to make a provision where it is possible for a Commission to be set up by a radical President to seek views of Kenyans to reduce

counties from the current 47, which number as we all know was arbitrary and arrived at just to stop an unhelpful argument from continuing.

That is how we agreed that anything that was a district by 1992 becomes a county. That is why we have very small counties like Tharaka-Nithi *vis-à-vis* a huge one next to it like Meru. If Meru was ever to be divided into two, its boundaries and that of Tharaka-Nithi would not be where they are. That is how Bomet, having been hived off Kericho, qualified to become a county, yet in terms of demography and size, it was much smaller and probably would not have qualified. There are many others. If we were to go back to that, I can assure you that counties will be more meaningful and vibrant economies. This is because in economic terms, the bigger, the more successful and better.

You imagine the county of Kisumu County, if it was now radiating on more than half of the former Nyanza Province. It would be a lot better. Combining the economy of Uasin Gishu, Elgeyo-Marakwet, Nandi and probably, West Pokot, would make a lot more sense than having small counties where the national Government is now just giving them therapies for survival. They are sent money to pay salaries, so that people do not riot and nothing to develop. That is why, yesterday, I spoke here a little harshly about the national debt and the skewed manner that national resources are being used to develop some regions and ignore others.

Madam Temporary Speaker, you may recall the President in Kiambu, some months ago, very gleefully telling the people of Kiambu that in the next financial year, he would pump Kshs100billion for public projects in the region. What about Bungoma, Makueni, Kajiado, Kisumu and Wajir? What are they getting? We have it on record here that almost the whole amount of money sent to counties like Nyeri and Mombasa is gobbled up by the wage bill. Therefore, they cannot develop and yet, money is being borrowed and selectively gerrymandered to develop some areas as we continue marginalising others.

Devolution came to correct the historical injustices and imbalances in the development of this country. However, what we are now staring at, even as we are excited about it, is that what was a wonderful idea is slowly degenerating into a nightmare. There are governors who do not sleep in their counties because they have no money to pay workers, contractors and suppliers. We have to address these issues.

More importantly, this Bill is very important because whenever we have problems of boundaries, there is no way we can put it undercover forever. It will always explode. An example is the Konza City. Right now it is not under construction and so, the interests of Makueni, Machakos and Kajiado are diminished. Let me assure you that if we put up ten skyscrapers in Konza City, you will see the daggers. Makueni, Machakos and Kajiado will come blazing. Even if you tell my brothers in Machakos and Makueni that they are both '*wa- kwitu*,' they will say: "*Wa- kwitu kitu gani? We want our share.*"

Madam Temporary Speaker, this has happened all over the world. Countries have gone to war over small parcels of land. Kenya nearly went to war because of a quarter of an acre island in Lake Victoria called Migingo. Sen. Orengo, the late Sen. Kajwang' and I had our boat nearly capsize, with the Uganda's Minister for Foreign Affairs and two other Ministers as we were cascading through the waves of Lake Victoria to go and see what Migingo was about. We found that the Migingo we were talking about was a rock in the lake that was less than half an acre. What we saw there is a story to behold.

I remember when we were at the university there was a Provincial Commissioner (PC) in Nairobi called Mwakisha. At one time, I do not know what madness drove him to raid a den of iniquity called---

(An hon. Senator spoke off record)

It was not Sabina Joy, but Imani on Ronald Ngala Street. He came out saying:

“If anybody has never seen to Sodom and Gomorra, I saw it. I walked in and saw men and women in various stages of dressing and undressing in broad daylight.” That is what we saw at Migingo; beautiful young girls that we see on Koinange Street. When you do not see them here, they are in Migingo waylaying fishermen. They arrive with their day’s catch and the little girl is waiting. Some were drinking and doing all manner of things that I cannot describe on this Floor. I have never seen such a den of iniquity, and we nearly went to war with Uganda.

Spain and Morocco have a permanent conflict over a rock called Ceuta, just north of Tangier; 25 kilometres across the aisle from Africa to Europe. Spain is occupying this unproductive rock, but they are technically in conflict because of it. There are many other such places. I need not mention the intermittent difficulties your county has with both Nandi and Kericho Counties. About two years ago people raided the home of the Member of Parliament for Nyakach and killed his parents because of a boundary.

This is happening because as leaders we have failed this country. It is because of the sort of nonsensical things that that we saw on the Floor of this House this afternoon; profiling a whole community and bringing it on this Floor without shame. The people who watch do not know that after this argument on the Floor, Sen. Mutula Kilonzo Jnr. and Sen. Kang’ata will go to the Members’ pub here and enjoy a drink. People out there--

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Sen. Kang’ata: Madam Temporary Speaker, I do not drink.

(Laughter)

The Senate Minority Leader (Sen. Wetangula): Madam Temporary Speaker, I did not say alcohol; I said, ‘a drink.’ I am sure you drink water; I can see a bottle of water in front of you.

People out there do not know that we relate well. The moment you insult Sen. Poghisio, you have insulted the people who elected him and they will rise up. Passing this law is, therefore, a stitch in time that will save nine.

The other day I heard some angry retorts from my colleagues across the Floor. This Bill is not about Sen. Mutula Kilonzo Jnr., the National Super Alliance (NASA) or Wiper Party, but the country called Kenya. Even between Trans Nzoia and West Pokot counties we have issues to straighten out. We have issues to straighten between West Pokot and Elgeyo-Marakwet and Turkana. As more oil is being discovered in Turkana, the Pokots are realising that their boundaries have been shrank. They want it to be where they can also have the piece of the cake.

Madam Temporary Speaker, I was talking to Sen. Pareno and she says that in her county, they have issues with Nairobi, Makueni and Machakos, where they believe Export Processing Zone should be in Kajiado. They have issues with Taita-Taveta they

believe the mines should be in Kajiado and not Taita Taveta. They will soon have issues with Tanzania.

(Laughter)

In 1918, in a fit of excitement, the queen of England took our mountain and gave it to Tanzania as a birthday gift to Prince Ferdinand of Germany. Africa has been raped by all manner of people. A whole Mt. Kilimanjaro, if you look at the map between Kenya and Tanzania, it is a straight line and when it gets to Mt. Kilimanjaro it detours and curves the mountain into Tanzania and then goes on a straight line again. This was a birthday gift by the queen of England to Prince Ferdinand of Germany. In an excitement that has cost us forever. As a country we adhere to the constitutive Act of the African Union and the forerunner protocols of 1960 of the Organisation of African Unity; that boundaries as they were in 1963 are the boundaries of every African country. Subsequently, we do not quarrel unnecessarily.

Madam Temporary Speaker, you remember the case of Bakassi Peninsula between Cameroon and Nigeria. They have been quarrelling for the last 40 years. Eventually, they agreed to go to The Hague. The international court awarded the territory, a small piece of strip, to Cameroon. However, the people who live there are all Nigerians, so Cameroon said you have given us but we cannot have it. Since the Nigerians living there have said 'we do not want to be Cameroonians. Period! If this was resolved much earlier probably that problem would not be there. If today you find gold or oil in the Bakassi Peninsula, you will see the bonfire, everybody will be up in arms. That is why resolving boundaries in time; whether it is between you and your brother, between neighbours, constituencies, wards and counties is so critical.

I saw somebody on TV speaking virulently about how Nyahururu must be in Laikipia. We all have grown up knowing Nyahururu to be in Nyandarua. Nevertheless, this fellow was speaking with his mouth foaming; 'we want our town!' it is fellows like those that go to war. He will talk like that in a drunken stupor, probably pick a stone and kill somebody and the fireball will follow.

Madam Temporary Speaker, I want to encourage this House to pass this Bill and when it goes to the Committee, I will want the Committee not to rush.

Sen. Mutula Kilonzo Jnr. has reproduced the detailed description of boundaries lifted from the Districts and Provinces Act which describes the boundaries, and we must salute the guys who did that survey. They would describe like the boundary of Kenya and Uganda and say 'it ends up on Lake Victoria in the centre of the mouth of Sio River'. Not on one bank or the other, in the centre, meaning it is shared. We know on the part of Kacheliba and others, our neighbours have been destroying beacons. We need to address these things so that whatever we do, the sanctity of boundaries as we inherited and created them in an arena of sanity must be protected.

May God help this country to never lose any human life because counties or constituencies or wards are quarrelling about boundaries. This Senate, after passing this Bill, must also revisit the Sen. Agnes Zani Bill on the sharing of resources. We do not want Kenya to have the same problem as the Ogonis in Nigeria where people who have protected land with oil, gold, uranium, titanium with everything below, all of a sudden, stand and watch helplessly as foreigners and their local accomplices freight away their

wealth and they do not get a single share. That is when people lose hope, and a hopeless person is a dangerous person regardless of where they come from.

Madam Temporary Speaker, I beg to second.

(Question proposed)

The Temporary Speaker (Sen. Nyamunga): Yes, Sen. Kang'ata.

Sen. Kang'ata: Thank you, Madam Temporary Speaker. I rise to give my views on this Bill. Firstly, I congratulate my friend, Sen. Mutula Kilonzo Jnr. for having found time and done a very good job of coming up with this Bill to that extent I am quite happy. I encourage all Senators to keep on producing Bills so that we can have a discussion in this Senate and therefore move the country forward.

Madam Temporary Speaker, I support the philosophy that underpins this Bill. The whole idea of setting up a framework upon which we can set boundaries for various counties. I say that because I also know in my county of Murang'a, we have a problem with the Kiambu County. In Murang'a County, there is a place called Blue Post Hotel currently deemed to be in Kiambu County. They pay taxes to "Governor Baba Yao" whereas we strongly believe Blue Post hotel should be paying money to Murang'a County. There are several other facilities along that boundary near Thika town including several other hotels which do not pay a single penny to Murang'a County.

Madam Temporary Speaker, there is a polling centre near Thika Anglican Church of Kenya - ACK Memorial Primary School - where people vote for candidates in Kiambu county. Whereas when you look at this document and I am going to show you; those people should be voting for President Kenyatta and Sen. Kang'ata. I refer you to page 159 which is the one that is describing the boundary between Murang'a and Kiambu counties. I am going to read to you. It says; 'commencing in the intersection of Chania River with the generally eastern boundary of the Kikuyu escarpment forest, this generally south easterly downstream by the course of that river to its intersection with the western boundary of Thika Municipality'.

The bottom line is very clear, the boundary as per this description is what we call the river and that river ought to be the physical feature that shows the boundary of Murang'a and Kiambu counties. Nonetheless, it is not. Therefore, to that extent, I am very happy with this Bill because now I will bring a petition or Motion and say that indeed Blue Post Hotel is in Murang'a County, ACK Primary School is in Murang'a County in Gatanga Constituency.

There are areas that I would want to strongly express my objection to. First; you will need to have a clause in this Bill that clearly explains what the import of a duly established boundary is. For instance, we have a boundary, so what? I say that because I would imagine you are making a presumption some other things will follow, for example, a polling centre that falls within Murang'a County, ideally it should be in Murang'a County, but you may find a situation where, yes, the boundary is here but various facilities have not been moved.

So, probably you need to say once you establish a boundary, then a polling centre within that boundary will now be deemed, for instance, to be lying in Murang'a County. If it is property, then once a boundary has been established under this law, then it means the property in that area will be under the jurisdiction of the respective county so that boundaries are not mere legal features but have import and legal effect. When you look at

this document, it is very clear. For instance, Blue Post Hotel should be in Murang'a County because it is on the other side of that river. But as of today, they pay their taxes to the Kiambu County Government.

The second area that I would want to propose to the Mover of this Bill to consider recasting is Clause 18 of the Bill. This clause establishes the procedure of bringing a petition and under what circumstances do you bring one. I want to read it so that, Sen. Mutula Kilonzo Jnr. can see my point. Clause 18(1) says:

“A petition to Parliament for the alteration of the boundary of a county may be made by —”

So, it appears you can only bring a petition where you want to make a change in the boundary. What if you are asserting the boundary is yet to be ascertained? Can you use this provision to move the jurisdiction of that entity? Therefore, it needs to be phrased in such a manner that if you want to change or where you are doubtful as to the certainty of a boundary, for example, that dispute in Murang'a County. That way, one can move the petition under this clause. Otherwise, one may say no, this is where you want to change. Where the boundary is known, that should be it. So, you need to recast your wording here so that those who are yet to ascertain the boundary probably, they can use this clause to raise it.

Madam Temporary Speaker, my main worry - and this is where I object to this Bill - is the issue of proposing to establish a commission whose only work will be to check these issues of the boundary. My good friend, Sen. Mutula Kilonzo Jnr. has dedicated a whole part. Part V — Establishment, Powers and Functions of an Independent County Boundaries Commission. It has several clauses from Clauses 24, 25, 26, 27 up to Clause 38. Surely, this country does not need any other commission.

By the way, this commission will be so idle. You will find its commissioners going to Malaysia, Tanzania and America for benchmarking. They will be saying: “Hey, there is a boundary dispute between this and that place”, then they go to check. We do not want a huge Government. If this country is to grow, we need to reduce our bureaucracy. We need to have lean institutions. One way of checking that is to ensure we, as parliamentarians; do not keep on creating several commissions.

The functions of this proposed Commission can easily be undertaken by the Independent Electoral and Boundaries Commission (IEBC). In fact, if you look at its name, it means Independent Electoral and Boundaries Commission. Therefore, you can take all these ideas and revise the IEBC Act by incorporating all this functions in the Act. The IEBC is one of the idle commissions we have in this country. Immediately after elections, they are usually idle. Like now, what are they doing?

I know they are now busy prosecuting petitions which is good, but immediately after these circus of petitions, they will be idle. If you visit an IEBC official in your constituency next year, most likely, he or she will be reporting to the office at about 10.00a.m. and when it reaches 3.00 p.m., he or she will be at home because there will be no work. So, we need to give the IEBC work.

I wish this Bill was proposing to amend the IEBC Act - we would expand the jurisdiction of IEBC to handle what this Bill is proposing to give to this County Boundaries Commission. It will be an idle commission and a drain to the taxpayers. We want to focus as a country on the so-called “Agenda Four” that has been clearly explained by His Excellency President Uhuru Kenyatta. In the Agenda Four pillars, one

of the ideas is to ensure you do not put a lot of money in the establishment of various commissions.

In the last Parliament in the National Assembly, I was a Member of the Public Investments Committee (PIC). I was surprised to realize this country has about 350 parastatals. Most of these entities are superfluous. Some of them like the Lake Basin Development Authority (LBDA) and other authorities do nothing but drain taxpayers' money particularly in this kind of a devolved system.

Out of that experience, I came to the realization that this country's Parliament ought not to establish any other statutory body. It ought to ensure we do not create even a single extra statutory body. Therefore, I propose that my colleague considers deleting the entire Part V of this Bill and take what he is proposing to give to this commission to the IEBC Act.

Madam Temporary Speaker, I heard my brother, the Senate Minority Leader, proposing that we have fewer counties. That will be the end of Kenya as we know it today, if we were to have such kind of a thing. I want to dissuade any person who ever thinks of reducing the number of our counties. In an ethnically divided country, one way of managing tension, is usually to reduce entities that can form spheres for conflict. If you were to have a *Pwani* County, that will be one way to foment agitation for secession. It makes all the sense to split up those nationalistic tendencies so that you do not have people coalescing together and causing trouble as huge blocks.

I wanted to tell the Senate Minority Leader - though he has gone - that the whole idea of having 47 counties makes a lot of sense. Otherwise, you may have a situation where people are coming together and probably having other ideas because of being very large entities. We have several examples. If you look at the history of the former Yugoslavian State, one of the reasons why it split up is because the provinces that were there like Serbia, Croatia and Kosovo were very strong. They had strong regional governments that were somehow coinciding with ethnic groups.

The same has also happened in places like Eritrea. The reason why it seceded from Ethiopia is because it had a strong government which became the focus for agitation for secession. The same thing is happening in Spain in a place called Catalonia. They have a very strong regional government with a huge territorial jurisdiction. On that basis, the leaders of Catalonia want to part ways with Spain. If the Spanish leaders had the foresight of splitting up Spain in smaller devolved units, it could have been better instead of having a situation where there is a large regional government. The same problem obtains in the United Kingdom (UK). The Scottish Government is championing the cause for a referendum to secede from the UK.

I strongly disagree with the suggestion that we need to merge counties. We need to have as many counties as possible. Therefore, if at all this Bill is being brought here with such kind of a plan, again, I will oppose it. I doubt as to whether that can happen particularly now that my colleague is still on the other side of the minority.

With those few remarks, I support the philosophy underpinning this Bill, but I have reservations on some of the key aspects appearing in this Bill.

Thank you.

The Temporary Speaker (Sen. Nyamunga): I would like to persuade Members to line up to debate on this Bill because it is very important.

Sen. (Dr.) Zani: Madam Temporary Speaker, I am shocked that we managed to go through the Eleventh Parliament without this Bill because it is anchored in articles 96 and 188 of the Constitution. There is no jurisdiction in this world that can legislate on counties without having clarity on boundaries. Probably we did that on the basis of the other Act during that time where we had districts and provinces but we needed to anchor it clearly.

We have heard Sen. Kang'ata speak. Maybe it is only now that he has clearly understood the boundaries of his county. Probably other governors and Senators have not. I know at the beginning of the session, governors went round in helicopters and I think they were just shown arbitrarily where county boundaries lie. I am amazed about this Bill according to the First Schedule because it clearly states where county boundaries are.

We will introduce fighting in counties if we are not careful. The first phase of devolution was to understand what counties are all about. In the second phase of devolution which we are in, Kenyans have understood the wealth and the capacity of their counties. Therefore, if they find something happening in another county very close to theirs, they will claim that it is their county.

Sen. Mutula Kilonzo Jnr. mentioned about natural resources benefit sharing. When a Bill was discussed in this House, I remember the Senator for Murang'a at that time indicated that water originates from Murang'a County but is used in Nairobi County. Who should own the revenue from that resource? That becomes a tricky question.

Kenyans have also become innovative in many ways. In the first phase, they would sit back and watch. It is a question of perception from one angle. For example, what is happening in Kitui and Kiambu counties with regard to protecting the environment.

There is a map that has been going round on WhatsApp which shows Kenya as a desert and portrays Uganda and Tanzania having trees. People will begin protecting their counties. There is no way one county will be happy for their trees to be cut. We can have a problem when a county stops people from doing something. That is the response I have heard.

We need to keep the national psyche but at the same time understand what counties are doing. It will be impossible to do this if features of boundaries are not addressed. Therefore, this Bill is critical and it should be bi-partisan.

Issues of reducing counties should not be discussed in this Bill because it is not stated anywhere. In addition, issues that can divide this House should not come in at all because if anybody listens to us in Kenya, they will laugh their heads off. They will say that the Senate is still trying to understand its mandate and Members are wondering whether they should talk about eliminating counties or not. This is a Bill that should have been brought to this House yesterday.

This Bill has a lot of clarity. Clause 4 provides that the Cabinet Secretary should keep the record both in electronic and manual forms and that is important. In many matters we expect credibility from people. I also like what Clause 3 seeks to address. If there is any unlawful change of the county boundary, there is a heavy fine of Kshs2 million or five years imprisonment, or both. It should just be imprisonment immediately. We should forget about the fine because a cabinet secretary can afford Kshs2 million.

We should change that Clause during amendments because that is the basis of how people will lose their lives. When people begin to fight across boundaries, that forms

a basis of a problem. We can think of making the fine heavier because there is also the issue of people blaming each other. Somebody will say it was not me. So, the utmost responsibility must be adhered to at any one time.

Clause 6 is very clear. It states that the boundaries of a county may, in accordance with Article 188 of the Constitution, be altered only by a resolution. This Clause is entrenched in Article 188 of the Constitution. However, it also raises the question that Sen. Kang'ata has brought up and I was thinking about the same; the role of the IEBC. My take is that going the amendment way might take long. We need to think of having a subcommittee within the IEBC to have the responsibility because this is something very urgent and it needs to be done.

Again, we do not want to create a situation where we double up responsibilities but we want to have it entrenched in an institution that people have faith in. We cannot say that for the IEBC at the moment. They have already started looking at boundaries but a lot of discussion needs to be done.

One committee of the Senate should seize especially the First Schedule and take the information round to all the counties. They could for example take education materials to counties so that by the time we go for public participation, the information will be round and discussions going on in the counties, so that issues of counties' boundaries are ironed out in advance. This will help to address the misconceptions before discussion on the Bill. That will create a sense of peace and understanding right from the outset.

Clause 7 talks about a mediation committee. It provides for putting teams together to discuss issues in case there is any misunderstanding or anything that needs to be discussed and put into place.

Madam Temporary Speaker, you will remember that in the last Parliament, mediation committees were very key. We could have lost many Bills if we did not have mediation committees that ran very well by hearing people who made the right decisions. I remember I was in one mediation committee and there was a tie across coalitions. We had one person move from one side of a coalition to the other because, according to them, they were doing the right thing. Such mediation committees are what we need and I can see the requirements for committee members.

We also need to know the type of person who will sit in such committees. For example, we should know if they are administrators, local community leaders, elders or if they are knowledgeable. We need to be specific about that. We should also have somebody who has experience in conflict management. Up to this point, the Bill is thinking through most of the issues that might come up and need to be addressed in a concise manner.

I will now move to Clause 18(2) which provides that a petition made under subsection 1(a) shall be supported by at least 15 per cent of the registered voters of the petitioner's county. Modalities will have to be put into place to ensure that a person who supports a petition understands what is going on and they can defend the position that they have taken.

It also makes it a participatory process, creates involvement, creates authenticity and a level of authority that people should have before they can support. I know in many of the Petitions you cannot get people to support it even those who do not understand what the subject matter might be. So, we need to have clarity that the people coming to

defend and support the Bill understand exactly what is going on and they can do that very well.

Madam Temporary Speaker, at Part V, Clause 24, we have the Establishment of the Commission. Sen. Mutula Kilonzo Jnr., that is a part where as we go into public participation and into Committee, some sort of adjustment has to be done and clear role allocation given, specifically in terms of the responsibilities; whether it is to the existing Commission and then definite deliverables that would be expected from this process.

If we drive this process from the Senate and not just from a committee perspective but as a whole Senate process, it will be critical, almost like the way we handle the transfer of functions. When we were doing the transfer of functions, we actually stopped the proceedings of the House and we all went to a seminar in Mombasa County and mobilized everybody so that we could deliberate on this. This might be one of those Bills where we might want to build synergy so that we can all get together and move to address it in a specific, loud and clear way for everybody to see.

On page 117; Inquiry and Report of the Commission; A Commission established in accordance with Section 24 shall within 90 days of receipt of the Petition, consider the Petition and undertake any necessary inquiry into the issues raised into the Petition. This again is good public participation. They will also invite the members of the public, the affected county government and any other interested parties to present their views and give the residents of the affected counties an opportunity to give their views on the Petition.

This is also key and important so that everybody is reading from the same page. Also, the leadership of the counties would need to be assured that they are there. This is because sometimes the people who come are the participants, whereas the community and the leaders do not buy into what these people are saying. Therefore, it leaves it as something that is not bottom-up driven but top-bottom driven which creates a problem.

In general, looking at the First Schedule and the 47 counties, it would be nice to know where Sen. Mutula Kilonzo Jnr. got all this information that is helpful and important. I suggest you publicize this, go out with it and run with it very fast.

Madam Temporary Speaker, there is the aspect of what happens within the counties as well. As a result of these, counties will then have the confidence and would know what to do and what to is expected of them. This directly connects with what Sen. Wetangula was talking about; which is the unfortunate situation where development is not happening within the counties.

However, if people in the counties feel that the boundaries are clear and are happy with what is going on, that should also create a pressure point for them to push into that. We looked through this Bill but I did not see whether it directly suggests the creation of an Authority. I do not want this Bill to hit a snag like the other Bills referred to as 'Money Bills.'

I would want to get assurance that this Bill has already gone through the Speakers of the two Houses. Also, the provisions of Article 110 (3) have been adhered to so that we have this Bill firmly entrenched; that it originates from the Senate and will be moving to the National Assembly smoothly. If there is need for a mediation committee after the National Assembly has dispensed with the Bill, we are happy to come together to do exactly that. However, we do not want any provision in here to destabilize the processing of this particular Bill.

Congratulations, Sen. Mutula Kilonzo Jnr., we do not expect anything less from you. Again, you have raised the standards of this House to a point where we can all be proud. Let us support this Bill because it is a Bill for this Senate.

I support.

Sen. Pareno: Thank you, Madam Temporary Speaker. I rise to support this Bill but with a lot of caution. In my opinion, the area of boundaries is sensitive, considering what has been going on in the country. I am happy that after this, the Bill would go through public participation where the citizens will have a say in what we are going to pass in this Senate.

Going through the presentation made by the Mover, he ensured that he has put stringent measures to ensure that we do not just change boundaries. In fact, at one point, I was wondering whether we should call it alteration or formation of boundaries. Traditionally, we know where the boundaries are in some way. I said this is a sensitive area to me because you might go and touch those boundaries and it sparks off a lot of conflict between one county and another.

I will give an example of Sen. Mutula Kilonzo Jnr.'s Makueni County and Kajiado County. Two years back, there was a map that circulated showing some boundary alterations between Kajiado County and Makueni County and it was a nightmare. I remember within a week we had all sorts of threats and war drums between the two counties.

As leaders of those counties, together with Sen. Mutula Kilonzo Jnr., we had a very urgent meeting to discuss the situation. We had to cool the temperatures and told the people that they cannot dare raise a finger against anybody and should bring their grievances to the authorities who will deal with the issue. This was sparked off by a mere boundary map that was presented to the Senator of Makueni County and at that time he did not realise that in Kajiado County, there have been several boundaries in existence over the years.

So, you might go and say that we are going to alter a boundary but actually end up altering an original boundary that displaces a lot of things. Alternatively, you might go alter boundaries and you do not know that there are several fraudulent boundaries that are in existence. In the case where we had to talk to the people, we were informed about three or more boundaries since independence.

Madam Temporary Speaker, at one point, we were informed that the boundary between Makueni, Machakos and Kajiado counties was Mombasa Road. At another point the boundary was the railway line. There was somebody with another map that shows another boundary that is fraudulent. Further, we were even informed that the Economic Processing Zone (EPZ) was actually in Kajiado County but because of boundary alterations, it has gone to Machakos County.

Those issues are very sensitive and can cause a lot of friction between our citizens. Therefore, this is a Bill that is geared towards the right direction if we guide it properly and with proper public participation so that we do not rattle anybody in the process.

I am not particularly keen on the creation of the Commission. It is envisaged that the Commission shall be independent. How can Parliament be given powers and then take it back to the presidency?

At Part 5 is Independent County Boundaries Commission. Article 188 of the Constitution states:

“Parliament shall proceed to ensure that they consider alterations of boundaries,”

Then the same Parliament goes back to say; ‘yes, we will do it, but we give it to the President to create the Commission.’ With the historical injustices that we have had in this country---

*(Sen. Ndwiga walked into the Chamber
without bowing to the Chair)*

The Temporary Speaker (Sen. Nyamunga): Order, Senator. I would like to ask Sen. Ndwiga to go back to the Bar and bow.

(Sen. Ndwiga went back to the Bar and bowed to the Chair)

(Laughter)

The Temporary Speaker (Sen. Nyamunga): Continue, Senator.

Sen. Pareno: Madam Temporary Speaker, I was saying that the Constitution is superior to the law that we are making. Article 188 of the Constitution gives this Parliament powers. However, Clause 5 of this Bill proposes that this Parliament goes ahead and takes back the issues of land to the presidency. In fact, we go further to even ask the President to nominate members of a Mediation Committee. Considering the history of land matters in this country, that should not be the case. Our history is replete with directives from the presidency where land has been misappropriated, people aggrieved and that is why we are talking about historical injustices.

Why did we, in our Constitution, create the National Land Commission (NLC)? We created it to address all the land issues in this country. To me, this is the Commission that should be given more powers to address land matters. We were trying to remove land issues from the Presidency and the Executive so that it is handled by an independent Commission. Sen. Kang'ata indicated that we can give it to the Independent Electoral and Boundaries Commission (IEBC). However, having in mind the performance of the current IEBC and its predecessors, I think we would better make use of the NLC, which has been created by the Constitution to address land matters in this country.

We are talking about historical injustices over boundaries and ownership of land and we have a constitutional commission in place. We can look at how we can relate this Bill with the functions of the National Land Commission.

Madam Temporary Speaker, I am happy with a provision that says that we can only ask for boundary alteration, although I am suggesting that we should also consider boundary affirmation, where we confirm boundaries. We might not have disputes in some areas, so let us not restrict this Bill only to alterations. Let us also expand it to include confirmation so that if we have an area where there is no dispute, then let us confirm it as such.

Madam Temporary Speaker, the Constitution has also given us a provision where we can use traditional dispute resolution mechanisms. We should also consider that option instead of just focusing on the Mediation Committee alone. Let us also allow

traditional methods of mediation and dispute resolution, because it is provided for under the National Land Commission in the Constitution. So, we can expand that to include the traditional means of dispute resolution on land matters.

Madam Temporary Speaker, I am particularly happy with this provision that says that we cannot change the boundaries 12 months prior to an election. I say this because I had an experience in 2013 which ran almost up to 2017. Two very heavily populated polling stations in Kajiado North Constituency were actually shifted from Kajiado North to Kajiado West just to alter that boundary for purposes of political interest. For me, that provision will serve us well.

I do not know whether 12 months is good enough – but public participation can also enlighten us on this. This is because we do not want people to change boundaries for their political interests. Instead, boundaries should be changed for the interest of the citizens.

Madam Temporary Speaker, I am sorry because I have to give examples from Kajiado. This is because that is where I am familiar with cases of boundary problems. Namanga, which is just next to Kajiado town, was at one point in Kajiado South in Loitokitok. But because of politics, the Namanga Division was shifted to Kajiado Central and it is no longer in Kajiado South. So, you can imagine who took it to Kajiado South and how it was brought back. For purposes of constituency and voting, it was now brought back to Kajiado Central. So, that gap between the time of election and the time of alteration will help us not to have people doing the wrong thing just for their own benefit.

Madam Temporary Speaker, in conclusion, this is a sensitive topic for which we need to do very elaborate public participation for people to have a say in it. This will ensure that we do not end up being the Senate that is going to raise conflicts between our counties. Of course, we need to know that as we go by, we have fraudulent boundaries – like the ones in Kajiado – and also those that are not fraudulent. So, we need to conduct extensive research for us to find out whether we want to go back to the original boundaries; whether we want to identify the fraudulent boundaries or whether or not to leave the people as they are and just to confirm the area they are living in for the sake of peace.

With those amendments, I beg support.

The Temporary Speaker (Sen. Nyamunga): Very well.

Proceed, Sen. Mwaruma Joseph from Taita Taveta.

Sen. Mwaruma: Thank you Madam Temporary Speaker. I am Sen. Johnes Mwaruma and not Joseph.

Madam Temporary Speaker, I stand in support of this Bill. It is a very important Bill because it sets a framework for resolving boundary issues. This Bill operationalizes Article 188 of the Constitution, which deals with boundary issues and conflicts in boundaries. When I was campaigning, I campaigned on the platform of assisting in solving boundary issues in Taita Taveta. This is because Taita Taveta County has boundary issues with our neighbours such as Makeni and Kwale counties; and also Kajiado County at Rombo. So, in my contribution, I will contextualise by referring to Taita Taveta County.

When I was elected, I told my constituents that when I come to this honorable House of the Senate, I would assist in solving the issues of boundaries. Article 188 talks about an independent commission, and I was thinking about the Truth, Justice and

Reconciliation Commission Report. This report talks about historical injustices that were meted out against communities. For example, if you look at the boundary of Kwale and Taita Taveta, it took a District Commissioner (DC) of the former Taita District to write a letter to the DC of Kwale District. In the letter, he told him:-

“Mackinnon Road is too far from the Taita Taveta County headquarters and it has no economic value. So, I am finding it continuously expensive to move to Mackinnon Road to administer it from Wundanyi. So, by this letter, please administer Mackinnon Road from Kwale.”

Madam Temporary Speaker, the then District Commissioner (DC) for Kwale did some public participation and the people of Mackinnon Road said that they still want to be administered from Wundanyi. However, the DC for Wundanyi gazzetted that boundary quickly and Mackinnon Road found itself in Kwale County. We have been trying to resolve that issue through the Alternative Dispute Resolution (ADR), but the framework for ADR in boundaries resolution is not well defined in law.

Recently, we tried to set up a committee composed of representatives from Taita-Taveta and Kwale counties and used the former Regional Commissioner, Mr. Nelson Marwa. However, as we were beginning to resolve that issue, he was promoted to be a Principle Secretary. We are now forced to begin from scratch.

Madam Temporary Speaker, this Bill will be a milestone if it passes. It will help in resolving the boundary issues. Some boundary issues are just administrative. Instead of altering some boundaries, we can just restore them. I will give an example of Mtito Andei, Makueni County. Previously, the County Council of Taita-Taveta used to collect revenue from Mtito Andei but stopped at some point and Makueni County started collecting revenue from there. That led to shifting of the boundary from where it was previously. These are administrative issues that can be sorted out through such a Bill.

We are awaiting the public participation report and the report from the Committee so that they can debunk it and bring to us the real proposals.

Issues have been raised such as why the Independent Electoral and Boundaries Commission (IEBC) cannot do this job. The answers from the discourse analysis that I have got is that the IEBC may not be trusted to do the job well. Therefore, if we can have an independent commission, specifically mandated to resolve boundary issues, it will be so good because our people are living on hope.

Madam Temporary Speaker, when I was campaigning, I promised to try to resolve the boundary issue through the Senate and the people elected me. What those people have is hope. They say that one can go for days without food or minutes without air, but you cannot survive even for a second without hope. Our people know that the Senate will resolve the boundary issues and restore the cultural sites that were taken as a result of the alteration of boundaries.

I recently spoke to some old men at my home who told me about Taru in Mwembeni. In Taita culture, people's skulls were kept in shrines. From time to time people would go to those shrines and pray and ask their gods to do some particular things. The old men said that if people insist on taking up that area, they would leave the shrines with skulls of our people there. The old people in my county are very hopeful that at some point, the boundaries will be restored and they will get back their shrines. For purposes of restoring culture and the holy places of our people, this Bill should be supported.

There are skeptics who say that it will divide people along tribal lines. However, this is not an issue in a place like Taita-Taveta. This is because there are other tribes, especially the Kambas who live there and yet, we still have boundary disputes. Therefore, such things will not come up.

Madam Temporary Speaker, the people living in areas with boundary issues have no problem. They know where the boundaries were before, and, therefore, just need some sort of mediation framework to solve the boundary issues. I strongly support this Bill. I am happy that even Members of the other side of the House also have boundary issues. I hope and pray that we shall take a bipartisan approach on this Bill.

Madam Temporary Speaker, I beg to support.

The Temporary Speaker (Sen. Nyamunga): Proceed, Sen. Kasanga.

Sen. Kasanga: Thank you, Madam Temporary Speaker. I want to support this Bill and agree with my fellow Senators that this Bill is long overdue. Knowing Kenyans and how we are very particular about our boundaries even in our small pieces of land, it goes without saying that, definitely, our counties need this definition. At the same time, I want to agree with my Senator, who is right here next to me, that indeed there is some work yet to be done on it.

The issue of verifying should come to the forefront. Just like the other Senators had mentioned, indeed it is important that, ahead of discussions on this Bill, we need these boundaries to be shared out. The discussions should be held before hand so that whatever issues that are there in the descriptions and the definitions, they can be addressed as we finalise with fine tuning the Bill.

Madam Temporary Speaker, I am particularly happy about the dispute resolution clause that has been included here. First, it is because I am very passionate about it. Secondly, it is because there is a lot of clarity that has been defined in the drafting of this Bill. So, I would want to commend the Senator for Makueni County for the good job and that indeed with fine tuning, I absolutely support the Bill.

Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Nyamunga): Any other interests?

Yes, Sen. Omogeni.

Sen. Omogeni: Thank you, Madam Temporary Speaker. I also rise to support this initiative of this Bill that should deal with the boundaries of our counties. I have heard a glimpse of the contents of the Bill. First, I want to congratulate the Mover of this Bill for the thoughts, the good work and the input that he has put into this Bill. I hope that as we debate this Bill, we will improve it and even make it better.

We cannot shut our eyes to the fact that when we enacted our new Constitution in 2010, we were in a hurry to set out the boundaries for our 47 counties. If I can recall well, initially, the Bomas Draft had intended that this country should have 14 regions. But when there was a meeting of the political class in Naivasha, it was resolved that we should have 47 devolved units and that is how we came to have the current 47 counties. So, in essence, the creation of the 47 counties was done in a rush and we used the boundaries that were governing the then districts. That is how we came to have a county like Nyamira which has four constituencies while our neighbouring Kisii County has nine constituencies.

We cannot again fail to emphasis the fact that we have had disputes in various counties in terms of boundaries. I am happy to make my presentation when my good

friend, the Senator from our neighbouring Kisii County, Sen. (Prof.) Ongeru, is in the House. We had serious boundary disputes touching on one town bordering Kisii and Nyamira Counties, that is, Keroka Town. At some stage, there was a likelihood of serious fights between residents of Kisii County and residents of Nyamira County. I remember that we were at a loss on how best to resolve the disagreements in terms of the boundary in the urban centre called Keroka. If you have driven through Keroka, the left side as you drive to Kisii is historically presumed to be Kisii County while the right hand side is presumed to be Nyamira County. In terms of amenities, the market is on the right side which is presumed to be Nyamira County. On the left side is where we have a number of butcheries and is presumed to be in Kisii County yet these two counties must collect revenue. It became a big problem to determine whether the revenue collected from vehicles that drive through Keroka should go to Kisii County or Nyamira County. As I speak, that issue remains unresolved. I am giving this example to demonstrate to this House why we should all join hands in supporting this Bill.

Madam Temporary Speaker, having gone through the Bill, I appreciate the fact that in appointments to the composition of the various Committees that are mentioned, it has taken into account involvement of stakeholders and also brought in people who have experience in these areas. For example, going through Clause 9, I have seen that the composition of the Mediation Committee will have a chairperson who is, at least, an advocate with 15 years of experience. This is someone who is qualified to sit in the Supreme Court which is the highest court in the land. This is a good thought by the drafter of the Bill; that the person that we will entrust with the task of guiding the Mediation Committee will be somebody who is experienced with dealing with dispute resolutions.

Madam Temporary Speaker, the only addition I would like to make is that we need to have a clear mechanism of picking one man and woman who should represent the interests of the counties that are involved. I also want to propose that this country should begin to appreciate people who have rendered exemplary service in the public service. When we speak of picking people who have experience in conflict management, my recommendation is that these people should have experience in public administration.

Madam Temporary Speaker, I am sure there is no county that is lacking in terms of administrators who have served this country diligently, risen to the position of District Commissioner (DC) or Provincial Commissioner (PC) and can be resourceful in serving in the Mediation Committee.

When we talk about the powers that we are giving to this mediation Committee, this Bill has taken into account the fact that if they do not enjoy *quasi*-judicial powers; the power to summon people to appear before them, then we will not have given it the teeth to effectively discharge its duties.

So, this Bill in a very commendable manner, has given powers to the Committee to summon witnesses to seek production of books, plans and documents. Speaking from experience, these are some of the challenges that I witnessed when Kisii and Nyamira counties were trying to resolve the boundary dispute in Keroka Town. People wanted production of books of accounts to be able to know historically, if the revenue that was generated in the past benefited exclusively the county of Nyamira or Kisii.

Again, it is very commendable that this will not just be a Committee that will receive evidence that can assist them in making a resolution that is fair and just; but that

they will also be able to have the powers to summon witnesses that can help in effective discharge of conflict resolution.

Madam Temporary Speaker, we must appreciate that the Senate is the custodian of the interests of counties. We need to play a very critical role as Senate in terms of guiding resolution of disputes in various counties.

In terms of the membership of the Independent County Boundaries Commission (ICBC) in that Clause 25, where it is proposed that the Chairperson be nominated by the President, I would propose that we reconsider that power that has been given to the President. Perhaps, we should make a provision to the effect that a Commissioner from the Independent Electoral and Boundaries Commission (IEBC) should be the person who should chair that Commission.

Finally, as I suggest this, I also want us to consider that as we debate this Bill that deals with our boundaries, we consider the wisdom that guided the drafters of the 2010 Constitution. They put it that the boundaries of our counties should be guided by the districts that were in place in 1992. We all know that there was a lot of politics behind the creation of districts prior to 1992. You can see the imbalances in terms of the numbers, constituencies, population and size in some counties. In some regions, you find people who come from the same ethnic group are in counties that have a lot of imbalance in terms of population and area in square kilometers. It then becomes a challenge in terms of resource allocation.

So, I think this is an opportune moment for us as a country to consider opening debate in terms of that provision in the Constitution, which states that boundaries of counties should be guided by the districts that were in place in 1992.

With those few remarks, I beg to support this Bill and commend the drafter. I hope that our friends from the other side of the House will have a bipartisan approach and support its passage.

Madam Temporary Speaker, I beg to support.

ADJOURNMENT

The Temporary Speaker (Sen. Nyamunga): Hon. Senators, it is now 6.24 p.m. Pursuant to Standing Order 31(2) and for the convenience of the Senate, I interrupt the Business of the Senate. The Senate, therefore, stands adjourned until Tuesday, 6th March, 2018, at 2.30 p.m.

The Senate rose at 6.25 p.m.