

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 28th February, 2017

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

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

PRAYER

COMMUNICATIONS FROM THE CHAIR

ELECTION OF CHAIRPERSONS AND VICE-CHAIRPERSONS OF SESSIONAL COMMITTEES

The Speaker (Hon. Ethuro): Hon. Members, I have two Communications to make. First is on the election of chairpersons and vice-chairpersons of the sessional committees following the reconstitution of the sessional committees on Tuesday, 21st February and Thursday, 23rd February, 2017.

The elections of the chairpersons and vice-chairpersons were held today, Tuesday, 28th February 2017 and I wish to apprise the House on the outcome of those elections.

The Sessional Committee on County Public Accounts and Investments (CPAIC); the Chairperson is Sen. (Prof.) Anyang' Nyong'o and the Vice-Chairperson is Sen. (Prof.) John Lonyangapuo. The Sessional Committee on Devolved Government; the Chairperson is Sen. (Prof.) Lesan and the Vice-Chairperson is Sen. Naisula Lesuuda. The Sessional Committee on Implementation; the Chairperson is Sen. James Orengo and the Vice-Chairperson is Sen. Daisy Kanainza. The Sessional Committee on Delegated Legislation; the Chairperson is Sen. Stephen Sang and the Vice-Chairperson is Sen. Judith Sijeny.

Hon. Senators, allow me to congratulate the chairpersons and their vice-chairpersons on their re-election and urge them and the entire membership of these important committees to prioritize the most important business as we approach the end of the term of the 11th Parliament.

I thank you.

THE SECOND ANNUAL LEGISLATIVE SUMMIT 2017

The Speaker (Hon. Ethuro): Hon. Senators, the second communication is on the Second Annual Legislative Summit 2017.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate*

I am pleased to invite you to the Second Annual Legislative Summit 2017 which is scheduled to take place from 20th to 24th March, 2017, at Pride Inn Paradise Beach Resort Convention Centre and Spa in Shanzu, Mombasa County. The 19th and 24th March will be the travel dates. The theme of this year's Summit is 'Effective Legislatures for Sustainable Grassroots Development'. The event is jointly organised by the Senate and the County Assemblies Forum (CAF), in line with our shared constitutional mandate and obligation to conduct mutual relations on the basis of consultation and co-operation as required by Article 6(2) of the Constitution of Kenya (2010)

Hon. Senators, you will recall that the Inaugural Legislative Summit whose theme was 'Celebrating and Entrenching Devolution through Representation' was held at Flamingo Beach Resort, Mombasa County, in May 2016. This year's summit is primarily informed by the fact that the inaugural legislative bodies established by the Constitution of Kenya (2010) as part of the devolved system of government are now at the penultimate stages of their five year term. As such, the Senate, in collaboration with the CAF, need to meet in order to take stock of the gains made and to plan ahead of the next legislatures.

Hon. Senators, the objectives of this year's Legislative Summit are:-

- (a) Take stock of the complementary law making, oversight and budgetary functions of the Senate and the county assemblies;
- (b) To reflect on the period since the inception of the devolved system and to determine how stronger the institutions can be established, going forward;
- (c) Interrogate the effectiveness of oversight tools in enhancing prudent use of national resources;
- (d) Interrogate the measures that need to be taken during the transition period to receive the next legislatures;
- (e) Enhance citizen participation and mainstream the needs of marginalized groups such as persons with disabilities, youth and women in devolved system of governance;
- (f) Discuss on how to strengthen trust as a basis for effective collaboration and cooperation between institutions relevant to devolution; and,
- (g) Deliberate on ways of enhancing cohesion during elections period.

Hon. Senators, this being the last legislative summit during the 11th Parliament and considering that the above objectives are aimed at ensuring better legislative institutions and improving interactions between the Senate and the county assemblies, I urge and invite all the Senators to attend the Legislative Summit. Kindly confirm your participation with the Office of the Clerk of the Senate for logistical purposes.

I thank you.

Sen. (Dr.) Zani: Mr. Speaker, Sir, I take this opportunity to commend both the Senate and the CAF for putting the second legislative forum together. The county assemblies are our closest partners in matters devolution. The First Legislative Summit enabled us to have that linking and it was very productive because we were able to discuss issues of commonality and forge a way forward on how to proceed as well as how to increase and have better inter-linkages and collaboration between the two bodies.

It is great that we are going to have a second legislative forum. That means that it is getting entrenched as something that the Senate will always do. I hope that the next Senate will continue with these legislative forums. One of the things that we will look at

is taking stock and looking into the future. More importantly, we will discuss about devolution, our situation as well as look into the elections that are coming up. That way, we will ensure that we are streamlined to handle all these process well. The programme of the Summit is rich because we will have very many resource people who will come to talk about various issues. After that summit, we will come out strengthened and more collaborative and in synch with the county assemblies as it ought to be.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I commend you for the communiqué in respect of the Sessional Committees. I appeal to you in respect of the CPAIC. Unknown to this House and the country, we have not made much progress. I appeal that you bend all the way backward, go out of your way and facilitate this Committee to complete inquiry into reports of the 2014/2015 Financial Year before the Senate adjourns *Sine Die*.

We have done inquiries of only eight out of the 47 counties. Unless special support is given to the CPAIC, we are going to remain a laughing stock as a Senate that failed to carry out its oversight role.

The Speaker (Hon. Ethuro): Sen. (Dr.) Khalwale, we look up to the CPAIC which you are a Member and founding Chairperson. We will definitely accord you any support that you may require.

Next Order!

(The Clerk-at-the Table called out orders)

I thought that there is a paper to be tabled by the Committee on Finance, Commerce and Budget. I am aware that the report is ready and has been approved. I will therefore allow it to be tabled.

What is it, Sen. Mutula Kilonzo Jnr.?

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, the Chairman is around. If you could defer it for a few minutes, I will look for him.

The Speaker (Hon. Ethuro): It is deferred temporarily. Next order!

What is it, Sen. (Prof.) Lonyangapuo?

NOTICE OF MOTION FOR ADJOURNMENT UNDERSTANDING ORDER NO. 33

INSECURITY IN BARINGO COUNTY

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir, I seek the leave of the House to move a Motion of Adjournment of the Senate on 28th February, 2017 under the provision of Standing Order No.33 to discuss a definite matter of national importance, which is on the ongoing insecurity in Baringo County.

(Several Senators stood up in their places)

The Speaker (Hon. Ethuro): Order, hon. Senators. I am satisfied that the requisite number has been obtained although it took a while. The matter will be on the Order Paper at 5.00 p.m. because it is important.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate*

Let us proceed under the Order, Statements. Proceed, Sen. Khaniri.

STATEMENTS

DIRECTIVE ISSUED BY THE DEPUTY PRESIDENT REGARDING INSECURITY IN BARINGO COUNTY

Sen. Khaniri: Mr. Speaker, Sir, pursuant to the provisions of Standing Order No.45(2)(b), I rise to seek a statement from the Chairperson of the Standing Committee on National Security and Foreign Relations regarding the directive issued by the Deputy President in Baringo County on 24th February, 2017.

In the statement, the Chairperson should explain:-

(1) The legality of the directive issued by the Deputy President with regards to the Bill of Rights in Article(50) (2)(a) of the Constitution of Kenya. That is the directive on shooting to kill.

(2) What has the Government done to cure the real cause of insecurity in the region which is robbery in the name of cattle rustling?

(3) What are the measures the Government is taking to ensure proper infrastructural development and distribution of social amenities in the region to ensure a long term solution?

Thank you.

The Speaker (Hon. Ethuro): What is it, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. I am fully aware that before Sen. Khaniri made the requisition of this statement, he met the provision of Standing Order No.45(2). It is clear from the content of the statement that we will be discussing the conduct of the Deputy President of the Republic of Kenya.

Mr. Speaker, Sir, I would like clearance that this requisition for a statement meets the requirements such that when we want to discuss the person of the Deputy President, a substantive Motion should be passed. I intend to figuratively go right into the details of the conduct of the Deputy President in respect of insecurity in this country.

Therefore, we would like you to guide us whether we should go through this statement or we need another Motion.

The Speaker (Hon. Ethuro): Sen. Khaniri, you may approach the Chair. Let me read that statement.

(Sen. Khaniri approached the Chair)

Sen. (Dr.) Khalwale, what you are raising has nothing to do with the statement sought by Sen. Khaniri. I am highly constrained because you do not even need any guidance. There is nothing to guide you on but if it is just a matter of sharing information, I will refer to Standing Order No.90 which describes how to discuss the conduct of such personalities that you are making references to.

For the purposes of Standing Order No.45(2)(b), Sen. Khaniri was very clear; regarding the directive issued. It is not the person. He is asking; one, the legality of the directive; two, what the Government has done to cure the real cause of insecurity and;

three, the measures the Government is putting in place to ensure infrastructural development. I do not see where your matter arises.

What is it, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: On a point of order, Mr. Speaker, Sir. Thank you for drawing my attention to Standing Order No.90. Standing Order No.90(1) is very specific. It states:-

“Neither the personal conduct of the President, nor the conduct of the Speaker or of any judge, nor the judicial conduct of any other person performing judicial functions, nor any conduct of the Head of State or Government or the representative in Kenya of any friendly country or the conduct of the holder of an office whose removal from such office is dependent upon a decision of the Senate shall be referred to adversely, except upon a specific substantive Motion of which at least three days’ notice has been given.”

I sought this clarification because of two things. The first one is that in this Standing Order, the word “Deputy President” is not mentioned. I would like you to clarify this.

Secondly, when the Deputy President spoke the words “shoot to kill,” that was his conduct. He conducted himself that way. The Constitution does not provide for extra judicial killings. The Constitution gives the President and the Deputy President clear functions.

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

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

The Speaker (Hon. Ethuro): Order, hon. Senators.

Unless you have forgotten your profession known as medicine which should not appreciate facial expressions of anger and happiness; I am completely relaxed and alive to the procedures involved.

First, it was unnecessary for you to read what you read. It was completely irrelevant to your submission. Secondly, you went ahead to debate when the matter is that a Member has sought a statement regarding a directive issued by an office.

So, wait until the Chairperson responds, and then, you can raise the kind of issues you are purporting to raise. More importantly for the specific one, the Office of the Deputy President is not mentioned. That is very easy to interpret. What is the reading of that Standing Order? The Office of the President in this Republic is the Presidency which has the President and the Deputy President. This does not require the legal sharp minds of the Senators in the House. This matter can be dispensed with on its face value.

Sen. (Dr.) Machage: On a point of order, Mr. Speaker, Sir. Taking great interest in your reply to Sen. (Dr.) Khalwale, is he also in order, in reading Standing Order No.90 (1), to ignore the last part of that Standing Order which says: “or the conduct of the holder of an office whose removal from such office is dependent upon a decision of the Senate shall be referred to adversely, except upon a specific Motion of which at least three days’ notice has been given?”

The Speaker (Hon. Ethuro): That is completely out of order. I did not want to go on to the merits, because I had already dismissed his selective reading of the Standing Order. Sen. (Dr.) Machage, from where I sit, it is not my job to be dismissive, but now that you have raised it, indeed--- I wanted to make that reference, but thought that, that was also delving too much into an issue that is not important.

Article 96 (4) of the Constitution, in terms of the function of the Senate, is what Sen. (Dr.) Machage is referring to.

What is it, Sen. (Prof.) Lonyangapuo?

Sen. (Prof.) Lonyangapuo: Mr. Speaker, Sir. I want to ride on that Statement, so that when the Chairperson is giving a response, this too will be captured. Could the Chairperson confirm to this House, where we have a conflict between two communities, whether it is allowed by law – and which law it is – that national police reservists are recruited from one community and the other one is left out? Is there a law that provides for that?

Sen. Kagwe: Mr. Speaker, Sir, I rise on a point of order---

The Speaker (Hon. Ethuro): Order! Let us dispose of this issue before I come back to you.

Yes, Chairperson.

Sen. Adan: Mr. Speaker, Sir, I request for one week to respond to that Statement.

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

Sen. (Dr.) Khalwale, do you have a Statement to seek?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I rise to renew Statements which I had asked in the earlier sessions. I have four of them. If you will allow me, I will read one, but if you are very kind, I will read all of them.

An. hon. Member: Two at most!

Sen. (Dr.) Khalwale: Shut up!

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale! You may resume your seat.

Hon. Senators, I do not see your requests; I want to dispose of Statements first.

Sen. Dullo.

Sen. Adan: Mr. Speaker, Sir, I have a request for a statement concerning security in my county, but I do not see any Member of my Committee to respond. Could you give directions?

Sen. Khaniri: On a point of order, Mr. Speaker, Sir. I requested for a Statement; I do not remember the Chairperson of the Committee making a commitment to this House as it is normally done.

The Speaker (Hon. Ethuro): Order, Sen. Khaniri! You must be canvassing very much with your good neighbour. She responded.

Sen. Dullo, proceed with your Statement since you are present. The HANSARD will be available. We will get a volunteer to represent the Majority side.

CLASHES ALONG THE ISIOLO/GARISSA BORDER

Sen. Adan: Thank you, Mr. Speaker, Sir. Pursuant to Standing Order No.45 (2) (b) I rise to seek a Statement from the Chairperson of the Standing Committee on National Security and Foreign Relations regarding the deadly clashes along the border of Isiolo and Garissa counties.

In the Statement the Chairperson should:

(a) indicate whether the Ministry of Interior and Coordination of National Government is aware that a motorcycle rider and two camel herders were attacked near

Garbatula High School on 20th February, 2017 and that one of the herders died on 26th February, 2017;

(b) indicate whether the Ministry is aware that on the morning of 25th February, 2017, gunshots were fired at Manyatta Water Point in Garbatula, Isiolo;

(c) indicate whether the Ministry is aware that on the evening of 25th February, 2017, a lorry transporting market goods was attacked and one police reservist injured in the same area;

(d) indicate whether the Ministry is aware that on the night of 26th February, 2017, Tana Village was attacked and huts and schools torched and people displaced;

(e) explain whether the Government will deploy emergency security reinforcement to the area;

(f) state and explain the steps the Government is taking to provide emergency accommodation and food to the displaced families;

(g) state and explain the steps the Government is taking to ensure that learning resumes in the area;

(h) state and explain the steps the Government intends to take to settle the displaced families;

(i) indicate when the Government intends to resume the boundary issues between Isiolo and Garissa;

(j) indicate when the Government intends to decentralize administration by establishing an administrative unit for Gafarsa in Isiolo South Sub-County to curb insecurity in the area;

(k) indicate whether the Government intends to recruit Kenya Police Reservists in the area to complement the regular security apparatus, to enhance security; and,

(l) indicate when the Government intends to implement the resolutions of the peace meeting held in Nanyuki in 2016 between Isiolo and Garissa, aimed at finding suitable solutions to the recurrent clashes over pasture and water in the area.

The Speaker (Hon. Ethuro): Sen. Mositet, you are holding brief for the Majority side.

Sen. Mositet: Mr. Speaker, Sir, I will consult with the Chairperson and make sure that an answer is given within two weeks.

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

Sen. (Dr.) Khalwale, I will allow you two Statements today. You will do one tomorrow and the other one on Thursday.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, that is perfect.

The Speaker (Hon. Ethuro): Before you do so, you need to withdraw your utterances to your good neighbour and apologize profusely to him and the House.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I used the words “shut up.” I was carried away because he is my kid brother. I remember that we once sat here and he read seven Statements to us.

I withdraw and apologise.

The Speaker (Hon. Ethuro): Proceed.

STATUS OF KENYAN MILITARY FORCES IN SOMALIA

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I have two Statements. The first one is short.

Pursuant to Standing Order No.45 (2) (b) I rise to seek a Statement from the Chairperson of the Standing Committee on National Security and Foreign Relations relating to the presence of Kenyan military security forces in Somali, serving under the African Union Mission in Somalia (AMISOM.)

In the Statement, the Chairperson should:-

(1) Confirm whether it is true that the Kenyan military security officers are abating illegal trade in charcoal, sugar and other contraband goods, thereby unknowingly oiling the funding of *Al Shaabab* operations.

(2) Confirm whether the Government of Kenya is aware that sometime in November, 2015 the National Parliament of Somali voted, with an overwhelming majority, in a resolution that the Kenyan forces must be excluded from the AMISOM forces and leave Somalia.

(3) As a consequence, could the Chairperson explain whether the Government has an exit strategy for our military security forces from Somalia?

Mr. Speaker, Sir, my second Statement---

Sen. Billow: Mr. Speaker, Sir, on a point of order. With your permission, I wanted to ride on that Statement for an additional clarification. Many of the attacks that have happened from Al Shabaab in Mandera from across the border have happened because the area known as the Gedo region bordering Mandera County on the Somalia side, is under the control of Ethiopian AMISOM forces who are not on the ground. We have asked as Mandera leaders for a long time that Kenya Defence forces (KDF) within AMISOM forces should take control of that region because it borders our country. It is strategically important for our security and that is why we keep being attacked from Mandera. Could the Vice-Chair also explain why the Government has not been able to convince AMISOM so that they can take over the control of Gedo region in Somalia?

Sen. Adan: Mr. Speaker, Sir, I will be able to respond in two weeks. Thank you.

The Speaker (Hon. Ethuro): The next Statement, Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, with your permission, allow me to contest the two weeks. The Vice-Chair of the National Security and Foreign Relations should not be given the two weeks for the reason that this Statement has been there for very long months. What is worse, it is only a few weeks ago when again we lost in excess of 68 youths who are serving in the forces. Could the answer come a bit faster before another attack?

Sen. Sang: Mr. Speaker, Sir, on a point of order. The importance of the question raised by Sen. (Dr.) Khalwale cannot be ignored. Is the Vice-Chair in order to ask for two weeks for such a brief Statement while she was contesting two weeks for her own lengthy Statement? Is she in order to exercise double standards with regards to handling issues in this House?

(Laughter)

The Speaker (Hon. Ethuro): Order, Vice-Chair. I am satisfied with the submissions by the two Senators. First, this is a Statement that lapsed because of the end of the session. So, there must have been some work already done. I direct that you give the response to the House on Thursday this week.

(Applause)

Sen. Adan: Mr. Speaker, Sir, that might not be possible but I will try my best because Thursday is only after tomorrow. We will have to revisit the Statement again. So, I would request if I can be allowed to do that early next week if it is possible.

The Speaker (Hon. Ethuro): Order, Vice-Chair. I am aware that Government has something called e-learning; make use of it. Demonstrate to us the ease in capacity or capability by failing to produce documented issues.

The Speaker (Hon. Ethuro): The next Statement, Sen. (Dr.) Khalwale.

KILLING OF STANISLAUS NAMAI MUKOMA AT SHIBALE
IN MUMIAS, KAKAMEGA COUNTY

Sen. (Dr.) Khalwale: Pursuant to Standing Order No.45 (2)(b), I rise to seek a Statement from the Chairperson of the Standing Committee on National Security and Foreign Relations in regard to the killing by police of a boda boda youth by the name of Stanislaus Namai Mukoma, who was also a mechanic at Shibale in Mumias, Kakamega County, who hailed from Mushikosi Village of Shibinda Sub-location, Kisa South Location of Khwisero Sub-county.

(Sen. Mutula Kilonzo Jnr. laughed at Sen. (Dr.) Khalwale)

Can you protect me from Sen. Mutula Kilonzo Jnr.?

The Speaker (Hon. Ethuro): Order, Sen. (Dr.) Khalwale. You need no protection at all. In any case, how can you be protected from laughter which is an appreciation of your own vernacular pronunciation? It is an appreciation.

Proceed.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. These are the names of our villages, locations and sub-locations.

In the Statement, the Chairperson of the National Security and Foreign Relations should explain:-

(a) The circumstances leading to the shooting to death of this young man and the razing down of his shop and garage by the police.

(b) What support the Government will give to the two widows and seven children that he left.

(c) Whether the Government will underwrite the hospital bill and funeral cost of the deceased.

Mr. Speaker, Sir, allow me to change that a little bit. We have already buried the youth but we are still having the hospital bill to content with.

(d) What action is being taken against the police officers who shot dead the youth?

(e) Whether the government is going to compensate the family for the spare parts that were burnt when his shop and garage were razed down by the police.

Thank you.

Sen. Adam: Mr. Speaker, Sir, I would request for two weeks because we have to refer this matter to the county.

Thank you.

Sen. Khaniri: Mr. Speaker, Sir, on a point of order. I know it has become a tradition and practice that whenever a Statement is requested Chairpersons asks for two weeks. It is very clear this Statement and the other one that the Senator for Kakamega asked earlier are Statements that were carried over from the previous session. They were requested in September. The assumption would be, instead of asking for two weeks I thought the Chairpersons would be ready with the responses. If possible just read them now.

Why would you ask for two weeks for a Statement that was requested in September? This is just a renewal. I have a number that I am going to renew probably tomorrow or next week, with your approval. My expectation is that the Chairperson and the Committees have worked on these Statements and they have the Statements ready for delivery.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, on a point of order. To stress the point so that it is clear as you have directed, the simple reason that the request was not answered is that time lapsed. So, the question did not expire and neither did the answer expire. Therefore, it must be delivered within time. The Chair must exhibit seriousness in matters of this nature.

Thank you.

Sen. Adan: Thank you, Mr. Speaker, Sir, with all due respect to my colleagues, some of whom are Chairpersons of Committees, I am giving the time frame of two weeks because of the technicalities that arose. I might say today or tomorrow but I will not be able to get that answer. That is why I am giving myself time two weeks to be able to respond to the Statement but I will try my best to see that it is brought before time.

Thank you.

The Speaker (Hon. Ethuro): Order, Members. On this, on the basis of workload, we have already given her one Statement to ensure it comes to the House on Thursday. So I am giving her another week for this.

SENATOR'S GENERAL STATEMENT

TRANSITION IN NYERI COUNTY GOVERNMENT FOLLOWING THE THE DEMISE OF GOV. NDERITU GACHAGUA

Sen. Kagwe: Thank you, Mr. Speaker, Sir. I rise to make a Statement on a matter regarding counties in accordance with Standing order No. 45 (2)(a).

As each one of us knows, my county Nyeri regrettably lost its governor, Gov. Gachagua, last week on Friday following a long battle with illness. The late Governor

was not only a patriotic Kenyan and a committed leader of Nyeri County but he was also a dear friend of mine. Despite his illness, the Governor led our county to the best of his ability. He shall be remembered with respect and admiration by many.

Mr. Speaker, Sir, they say that although all good men must die, death cannot kill their names. In the case of Governor Gachagua, this cannot be more true. Governor Gachagua will be remembered for many things at the county level but, relevantly to the Senate, as being the first governor to request for an appearance before this House. You will remember that that was a time when governors were saying that the Senate has no mandate on them and cannot summon them.

Mr. Speaker, Sir, as we all know, when he was accused of impropriety, as it is a common trend with governors to seek court injunctions and other evasive tactics to avoid being answerable to the Senate, that was not the case in the case of Governor Gachagua. When the Attorney-General raised issues about his government expenditures, he did something unique. The Governor did not even need a summons from us. He asked me as the Senator for Nyeri County to arrange for him to make an appearance as he felt it necessary to be accountable to the people of Nyeri and of course to be compliant with the laws of the nation.

Mr. Speaker, Sir, upon my requesting Sen. Billow, in deed, we got the opportunity to come on his own request. This had never happened before in this Senate and I believe it is worth recognising and emulating.

Governor Gachagua's name will also be remembered because he is the first governor who has passed on while in office. His death has highlighted the importance of having proper governance structures that relate to transition of office. As you are aware, Nyeri County swore in a new governor yesterday in the morning at about 9.00 a.m. and that was Ambassador Samuel Wamathai. The transition was smooth. For that reason, I applaud Article 182 of the Constitution of Kenya for clearly stipulating the process that must be followed in the event that a governor's office is vacated.

However, with that said, there are two key issues that at least became evident upon the Governor's demise. The first one regards transition of office. We should interrogate the issue of by-elections and ask whether we need it. It is time for us to look at the Constitution and see whether it is possible to eliminate by-elections because we were happy with the way we transitioned in this particular case. A lot of wastage is witnessed when by-elections occur. In countries such as the USA where they have been discontinued, a replacement is appointed by a party and embraced as a catalyst for smooth, fast and cost effective way of transition.

The second issue is the need for us to examine the law surrounding the demise of a governor. With the governor's passing we have been faced with a dilemma because there are no provisions in law regarding protocol. When a governor dies in office, there are issues regarding who bears the responsibility for the funeral. Is it a national Government or a county Government? Is it a state or a county funeral and what would constitute a county funeral? These are questions for this House and not any other House because we are responsible for matters of counties. At an appropriate time, we should table a Motion that brings to focus this issue as it is imperative that we as country representatives create procedures regarding even matters that are not pleasant to us.

Mr. Speaker, Sir, to finalise, even we leaders must appreciate our own mortality. The occasion that has faced us right now is the end of one issue and the beginning of another. However, this House must never shy away from addressing issues that face us squarely and cannot be addressed by any other institution.

Mr. Speaker, Sir, in thanking you, I also wish to thank Kenyans and many “Nyerians” who have sent messages of condolences and continue sending messages of sympathy. I would like to send a clear message of condolence to the family of the late Gachagua. As the people of Nyeri County, we will continue supporting and praying for them.

Mr. Speaker, Sir, for me as an individual, I say *kwaheri* to Nderitu Gachagua and may he rest in peace. As it is evident, we are all bound to meet him again. I thank you.

Sen. Mutula Kilonzo Jnr.: Mr. Speaker, Sir, allow me to make a comment on that statement. First, on behalf of the people of Makueni, I would like to express my sincere condolences to the people of Nyeri and the family of the late Governor Gachagua.

Mr. Speaker, Sir, his impeachment here and his death has highlighted a constitutional lacuna. Although Sen. Kagwe said it was a smooth transition, there are two provisions of law that appear to be contradictory, particularly where the County Executive Committee (CEC) members under Article 179(7) are required to cease acting as such on the vacancy of the office of county governor.

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

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

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): What is it, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I also requested to comment on the statement but I think the Speaker saw Sen. Mutula Kilonzo Jnr. before he saw me.

The Temporary Speaker (Sen. (Dr.) Machage): Very well. Sen. Mutula Kilonzo Jnr., please continue.

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Speaker, Sir, the Constitution requires that all CECs of Nyeri County cease to hold office following the death of the governor. The Constitution also does not speak about the office of the deputy governor for the remainder of the period which the deputy governor assumes office. So, if a governor is elected today and he loses his life like in the circumstances of Governor Gachagua, the deputy governor will hold office without a deputy governor for a period of five years. In this case, it is four months. In addition, the deputy governor who was sitting with CECs will then be required to start a process of vetting CECs to be approved by the county assembly like it was before the demise of the Governor, which is a contradiction.

Therefore, Mr. Temporary Speaker, Sir, in the fullness of time as Sen. (Prof.) Anyang'-Nyong'o says, we will have to check Articles 179(7), 182(3), 182(4) and 182(5) so that it is very clear what the deputy governor can do like in the case of Nyeri. In the case of Nyeri, although he has assumed office, I am curious to know how he will appoint his CECs and how he will continue acting in office without a deputy governor. I thank you.

Sen. Kagwe: Mr. Temporary Speaker, Sir, point of information. I want to inform the House, but specifically, Hon. Sen. Mutula Kilonzo Jnr. in regard to the issue of how we intent to tackle the matter of the deputy governor and the under government so to speak.

The Temporary Speaker (Sen. (Dr.) Machage): Sen. Mutula Kilonzo Jnr., do you want to be informed?

Sen. Mutula Kilonzo Jnr.: Yes.

The Temporary Speaker (Sen. (Dr.) Machage): Very well.

Sen. Kagwe: Mr. Temporary Speaker, Sir, indeed, what Sen. Mutula Kilonzo Jnr. has said is a very important matter in terms of the transition by a deputy governor to the position of the governor. Because of that, the Office sought an opinion from the Attorney-General regarding the method and process of transition and also whether the appointed CECs will continue in the office or not. The opinion that has been given to the County Government of Nyeri is that what Sen. Mutula Kilonzo Jnr. is saying is true to the extent that if you appoint a new Government, then the vetting process will have to be done again.

However, there is also the fact that if you are continuing with the same County Executive Committee members (CECs) who have been vetted already, given that the purpose of vetting was to determine their suitability for office, then it is not necessary for them to go through a vetting process all over again. That is only in provision because they had been vetted before. That is the opinion that has been given to us by the Attorney-General's office.

(An Hon. Member spoke off record)

The Temporary Speaker (Sen. (Dr.) Machage): Order! If you want to communicate, please, do so through me.

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. (Dr.) Machage): Do you have another issue Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Yes, Mr. Temporary Speaker, Sir. With your person allow to join the people of Nyeri County during this difficult time of mourning. On behalf of the people of Kakamega County, I would like to send---

The Temporary Speaker (Sen. (Dr.) Machage): Could you wait a little bit? There were some interventions. I thought you had an intervention that is why I gave you the floor.

Sen. (Dr.) Khalwale: Yes, Mr. Temporary Speaker, Sir. I had an intervention on the same point of order. I thought I could say *pole* before---

The Temporary Speaker (Sen. (Dr.) Machage): Go straight to your intervention.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, Sen. Mutula Kilonzo Jnr. has spoken to a point of law. Thank God it was not Sen. Mutula Kilonzo Snr. If it was Sen. Mutula Kilonzo Snr., he would have said that Article 179(7) makes it very clear.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. (Dr.) Khalwale! You cannot pretend to think of what the dead would say if at all they do. That is not a

joke. You are talking about somebody's father in this House. You must withdraw and apologise.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I have withdrawn the name Sen. Mutula Kilonzo Snr. and replaced it with Sen. Mutula Kilonzo Jnr.

I am afraid Sen. Mutula Kilonzo Jnr. might be misleading the House. This is because Article 179 (7) is very clear. It states that:-

“if a vacancy arises in the office of the county governor, the members of the county executive committee appointed under clause(2)(b) cease to hold office.”

They have ceased to hold office as far as this is concerned. If Gov. Samuel Wamathai wishes to continue with the same members, he is free to re-nominate them in accordance with Article 179(2)(b)---

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. (Dr.) Khalwale! It was supposed to be a point of order.

Sen. (Dr.) Khalwale: Yes, Mr. Temporary Speaker, Sir. It is the one I am making.

The Temporary Speaker (Sen. (Dr.) Machage): Yes, It is too long.

Sen. (Dr.) Khalwale: Yes, Mr. Temporary Speaker, Sir. If he wishes to re-nominate them, he is free to do so under Article 179 (2)(b). The same Constitution in Article 179 (2)(b) allows the county assembly to re-vet them and they will be appointed. The government is different. This is because the leader of the former government is dead.

The Temporary Speaker (Sen. (Dr.) Machage): What is it that is not in order?

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, the fact that Sen. Mutula Kilonzo Jnr. and the Senator for Nyeri are misleading the House. The CEC members have ceased to be members of the CEC according to the Constitution. That is the fact, unless we have amended the Constitution.

(Sen. (Prof.) Anyang'-Nyong'o stood up in his place)

The Temporary Speaker (Sen. (Dr.) Machage): Let me listen to Sen. (Prof.) Anyang'-Nyong'o. Do you have a point of order?

Sen. (Prof.) Anyang'-Nyong'o: Sorry, Mr. Temporary Speaker, Sir. I was standing to appreciate what you---

The Temporary Speaker (Sen. (Dr.) Machage): Very well. I will give you time to do so when your time comes.

What is it, Sen. Mutula Kilonzo Jnr.?

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Speaker, Sir, I think Sen. (Dr.) Khalwale did not hear what I said. I said that it poses a constitutional question; whether they have now ceased to hold office. Will they be re-vetted again under Article 179(2)? I did not mislead anybody. I said that there is a constitutional lacuna. It is possible that the word “lacuna” confused him? That is what I said.

The Temporary Speaker (Sen. (Dr.) Machage): Very well. Let us listen to Sen. (Prof.) Anyang'-Nyong'o.

Sen. (Prof.) Anyang'-Nyong'o: Mr. Temporary Speaker, Sir, I want to appreciate the Statement given by Sen. Kagwe on behalf of the people of Nyeri and Kenyans in general, following the demise of Gov. Nderitu Gachagua.

I have known Gov. Gachagua since the Seventh Parliament when Sen. Leshore and I were in the Public Investment Committee (PIC). He was then working with the National Housing Corporation (NHC). He eventually became a Member of Parliament and was the Governor for Nyeri County at the time of his demise.

I appreciate one thing that Sen. Kagwe has said which is extremely important. I must commend his family and the people of Nyeri for having been very transparent and honest with the people of Kenya with regard to what was ailing him. Cancer has been treated as a taboo for a very long time. The more people become open about it, the more we shall be able to know that each and everyone of us is a potential candidate for cancer in one way or the other. Therefore, prevention and looking for ways of cure in our nation is extremely important.

Gov. Gachagua struggled gallantly with cancer. At no time did he have a sense of self-pity about himself. That kind of courage is a good example to Kenyans who must continue to live a full life and bear full responsibility, not withstanding what they are going through.

As Sen. Kagwe has said, all of us must be aware of our own mortality. This world is not our home. We are just passing through just like our ancestors passed through it. Our responsibility is to leave it a better place than we found it. We should not think that amassing wealth and mountains of accounts abroad can in any way lengthen our lives. In the end, we shall come to our end. The only gift that the world will give us is a six by three hole or a furnace where we shall be burnt. That is the end, except for the fact that those who have faith in God will meet somewhere.

God bless his soul and keep the people and the government of Nyeri County in eternal peace as they wait to rejoin their Governor in the everlasting home above.

Sen. Mositet: Asante sana, Bw. Spika wa Muda, kwa kunipa nafasi hii ili niweze kuungana na Seneta wenzangu ambao wametoa rambirambi zao kwa niaba ya kaunti zao.

Natoa rambirambi zangu na za kaunti yangu kwa familia ya rafiki wetu Gov. Nderitu Gachagua, jamii yake na Kaunti ya Nyeri yote. Gov. Nderitu Gachagua aliweza kuingia siasa wakati kulikuwa na watu ambao walijulikana kuwa shupavu sana kama vile Mheshimiwa Matu Wamae.

Wengi wetu tulikuwa vijana tulifurahi sana kuona ya kwamba kiongozi chipukizi kwa jina la Nderitu Gachagua alipigania kiti cha Mathira na kushinda. Kwa hivyo, ushujaa wake uliweza kuonekana mapema akiwa kijana.

Alikuwa mtu ambaye hakuwa na uoga hata kidogo. Wakati alipohitajika kufika mbele ya Seneti kwa sababu wabunge wa kaunti walikuwa wanataka apoteze kiti chake cha ugavana, ninakumbuka Sen. (Dr.) Khalwale akisema kuwa Gov. Nderitu Gachagua akubaliwe aketi chini. Yeye aliona ni kama Sen. (Dr.) Khalwale alidhani yeye ni mnyonge na kumuonea huruma. Kwa kweli Gavana Gachagua alisimama pale siku mbili akiwa na ujasiri mpaka tuka ikamilisha ile Hoja.

Nalipongeza Bunge hili kwa sababu hata baada ya hayo, aliweza kuachiliwa, hakua na hatia. Pia mliona kwamba aliweza kujitetea na kuonyesha kwamba alikuwa na uongozi bora.

Bw. Spika wa Muda, kwa wakaazi wa Kaunti ya Nyeri na wale pengine waliokuwa wana tofauti za kisiasa, nawaomba waweze kushikana ili wampe mkono wa burhiani Gavana aliyetuaga ili apumzike vile ameitwa na Mwenyezi Mungu aliye mpenda kabisa.

Kwa hayo machache, Bw. Spika wa Muda, naunga mkono Hoja ambayo imeletwa na Seneta wa Kaunti ya Nyeri. Namtakia kila la heri rafiki yangu Sen. Kagwe ili wakati wa uchaguzi utakapofika Agosti, Mungu amuonekanie aweze akawa Gavana wa Kaunti ya Nyeri.

The Temporary Speaker (Sen. (Dr.) Machage): Sen. Madzayo.

Sen. Madzayo: Asante Bw. Spika wa Muda kwa kunipa nafasi hii. Kwanza natoa rambi rambi kwa familia na jamii ya marehemu Nderitu Gachagua. Vile vile pia kwa watu wa Nyeri na hata Seneta ndugu yetu, Mutahi Kagwe.

Bw. Spika wa Muda, kama binadamu, njia ni hiyo moja. Siku ya mtu ikifika, tutakuwa tayari kusalimu amri. Mara nyingi WaKenya wamepoteza maisha yao kupitia ugonjwa wa Seratani. Jambo la kusikitisha ni kwamba Serikali ya Jubilee haijatalia manani na kutenga pesa zinazotosha kupambana na ugonjwa huu. Imekukwa ikizembea na kubidi Wakenya kutumia pesa nyingi kwa matibabu hapa Kenya. Matibabu ya *Chemotherapy* inafanywa kwa bei ya juu sana. Inabdii watu watafute nafasi za kwenda nje kwa matibabu ya bei nafuu.

Kuna umuhimu wa Serikali ya Jubilee kufanya bidii na kutenga pesa za kutosha kuona ya kwamba Wakenya hawana haja ya kutibiwa katika hospitali za bei ghali huko ng'ambo, bali humu nchini. Hospitali zilizoko India, South Africa na kwingineko zinaweza kutengenezwa hapa. Ikifanyika hivyo, madaktari wetu wataweza kutibu Wakenya.

Bunge hili lilimpatia nafasi marehemu Gachagua kujitetea hapa. Alifanya vilivyo na hatimaye akapatikana bila hatia. Hatutaki kusema tuko watakatifu ama tuna msifu kwa sababu amefariki. Ndungu yake jana alisema ya kwamba hawataki watu watakao msifu marehemu Gachagua kwa sababu ame aga dunia. Wale wapinzani wake wakome kwamba wanaweza kusema mambo mazuri wakati huu amekwenda. Alisema mambo ya mtu yasemwe akiwa hai. Kwa mfano, kama Seneta Kagwe ni mtu mzuri, sema sasa. Usingoje mtu akifa halafu uje useme baadaye.

Bw. Spika wa Muda, kwa hayo machache naungana na wakaazi wa Kaunti ya Nyeri, familia na Wakenya wote kwa ujumla kwa kumpa pole mjane, ndugu na marafiki. Tunaomba Mwenyezi Mungu airehemu roho ya marehemu Gachagua mahali pema peponi.

Sen. Karaba: Thank you, Mr. Temporary Speaker, Sir, for allowing me to send deepest condolences to the people---

The Temporary Speaker (Sen. (Dr.) Machage): I see the interest is very great. I will reduce the time to two minutes.

Sen. Karaba: After my contribution, Mr. Temporary Speaker, Sir?

The Temporary Speaker (Sen. (Dr.) Machage): Yes, after this.

Sen. Karaba: Thank you, Mr. Temporary Speaker, Sir.

I am talking as a neighbour to Nyeri County. We share a common boundary and we have a lot of things in common that we share among the two counties. The deceased was at one time a resident of Kirinyaga County because he had bought some land and put up a

hotel where we would go and meet with him and other residents of Nyeri. He was like a brother to Kirinyaga County. So, Kirinyaga County has lost one of its residents, His Excellency Governor Nderitu Gachagua.

He was able to champion various issues particularly the plight of coffee farmers not only in the Mount Kenya Region but the entire country. During his tenure as a governor, the late Gachagua was able to penetrate the coffee cartels in this country. Coffee farmers have been reduced almost to beggars by some very popular cartels overseas and international corporations which have really fleeced the farmers in the region.

We admired him as an apostle of the entire coffee growing region. He carried the mantle to tell us more about what would happen if the coffee industry was to be revamped. No wonder even the President honoured him by waiving the Ksh.2billion debt for the farmers.

Sen. Hargura: Mr. Speaker, Sir I join my colleagues in sending my sincere condolences to the family of the late Governor and the residents of Nyeri County.

I would like to bring out the issue of cancer which unfortunately was said to be the cause of his death. It is ravaging parts of this country. If an able Kenyan can struggle with this disease like this, what happens to the unfortunate Kenyans in the rural areas who cannot afford the treatment and who, like many in my county, have been suffering a lot?

Recently a study was done and it was seen that the prevalence of throat and stomach cancer in my county is more than three times the national average and nothing seems to have been done about this to date. Every month or so, we are forced into a situation where we have to raise funds to pay bills for these people, most of whom end up succumbing to this disease.

As a country, we need to learn and make sure we prioritise what is ailing our people in the health sector and have enough cancer treatment facilities in our counties and in the country. This will reduce the cost of treatment. The average Kenyan can attain proper treatment in this country. We need to learn from that.

I join my colleagues and through the Senator for Nyeri, I send my condolences to the people of Nyeri. They have lost a leader. We interacted with him when he came before this Senate.

Sen. Murungi: Mr. Temporary Speaker, Sir, I thank you for giving me this opportunity to pass my very deep and sincere condolences to the Senator for Nyeri, Sen. Kagwe, the people of Nyeri and the family of the late Gov. Nderitu Gachagua. Meru County neighbours Nyeri County. We are only separated by Mt. Kenya. The late Gov. Nderitu Gachagua was my friend. He was in Parliament with me.

He was also the Chairman of the Agriculture Committee of the Council of Governors (CoG) when I was the Chairman of the Committee on Agriculture, Livestock and Fisheries of the Senate. We worked together on coffee and tea issues. Gov. Gachagua was a gallant fighter for coffee farmers in this country. If you may recall, Gov. Gachagua was continuing with the fight for the coffee farmers in the country. He has died of a cruel disease, cancer, for which as at now there is no cure.

Mr. Temporary Speaker, Sir, you are a doctor and you know that many people are dying from the treatment of cancer as the cancer itself. Time has come for us to

challenge our scientists to come up with less cruel modes of treatment than we have currently. We also challenge them to come up with more credible preventive measures and advise us on what to do.

Sen. Ndiema: Mr. Temporary Speaker, Sir, on behalf of all the people of Trans Nzoia County and on my own behalf, I convey a message of condolences to the family of the late Gov. Gachagua, the people of Nyeri and our able Senator, Sen. Kagwe, on the passing on of the late Gov. Gachagua.

Gov. Gachagua was a committed public servant who served his people diligently. We shall always remember that at the start of devolution he was the first governor to hold the bull by the horns to promote agriculture, particularly the coffee sector. The agricultural sector had been bedeviled by middlemen who exploit farmers, particularly cash crop farmers and in the coffee sector as well. We shall all remember that the late Gov. Gachagua tried all his best to ensure proper marketing of coffee for the benefit of the people of Nyeri County.

As a Member of the Committee on Agriculture, Livestock and Fisheries in this Senate, I appreciate the role that CoG Committee on Agriculture did under his chairmanship which brought along ---

(Sen. Ndiema's microphone went off)

(An hon. Senator spoke off record)

The Temporary Speaker (Sen. (Dr.) Machage): Order! Proceed, Sen. (Dr.) G.G. Kariuki.

Sen. (Dr.) G.G. Kariuki: Mr. Temporary Speaker, Sir, first of all, I thank you for allowing me to contribute. Secondly, we all know why we are here. The late Gov. Gachagua worked with so many of the people here, especially hon. Members when he was working in Mombasa and when he became a Member of Parliament (MP).

I have never worked with him personally but I like his name. He had a very good name out there despite the problem he has been facing with the Members of the County Assembly (MCAs) just like any other county government.

Mr. Temporary Speaker, Sir, you gave us only two minutes. I accept that because maybe next time you will give me 10 minutes.

Thank you.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I to say pole to Sen. Kagwe and the people of Nyeri on behalf of the people I represent in Kakamega and on my own behalf.

I have two points. First, the late governor died because of cancer. Unknown to Kenyans, many cancer patients locally are now dying because of the doctors' strike. May it touch the hearts and souls of the CoG. They have taken our doctors to court. They should withdraw that case.

Secondly, before the late governor died, he had appeared here on charges of corruption. He was freed. I remember painfully that I am the only one who voted that he should be impeached. In this respect, I urge the new governor not to bring on board the old team. This team took advantage of the poor health of Gov. Gachagua and led to the

loss of money that caused him to come here for impeachment. They do not deserve to be in office even one more extra hour. He should look for fresh blood.

I am so sorry. May his soul rest in eternal peace.

Sen. Wangari: Asante sana, Bw. Spika wa Muda. Nachukua nafasi hii kwa niaba yangu, familia yangu na wananchi wa Gilgil na Nakuru kwa ujumla kutoa rambi rambi zangu kwa familia ya mwenda zake Gavana Gachagua na Sen. Kagwe. Tunaomboleza nao. Tunakumbuka kuwa sio muda mrefu umepita tangu tuwe naye hapa. Ingawa alikuwa anaugua, alijikakamua na kujikaza kisabuni kufika hapa kujibu maswali yaliyomkumba.

Kifo chake kimetokea wakati kuna mtafaruku na shida kuhusu madaktari nchini. Ugonjwa wa saratani umeendelea kuua watu wengi wakiwemo watoto na akina mama. Kama hakuna wauguzi watu wa hadhi ya chini wanaumia sana kwa sababu hawawezi kupata matibabu kwenye nchi za nje. Hawawezi kwenda Uingereza, India au mahospitali za kibinafsi kwa sababu ya gharama kubwa.

Kila wiki tunaalikwa kwa michango ya pesa ili kupeleka ng'ambo watu wanaougua ugonjwa wa saratani kupata matibabu. Huu ni mwaamko kwa serikali kuhakikisha kwamba tumetatua shida hii ya madaktari na wauguzi. Wasikilizane ili tuokoe maisha ya wale wanaougua na familia ambazo zimetumia pesa zao zote kutafuta matibabu.

Vile vile, naunga mkono Sen. (Dr.) Khalwale. Kulingana na kipengee cha 179 cha Katiba, Gavana aliyechukua mahali pa marehemu Gavana Gachagua ---

The Temporary Speaker (Sen. (Dr.) Machage): Order, Senator! Your time is up. Proceed, Sen. Bule.

Sen. Bule: Asante, Bw. Spika wa Muda. Nachukua fursa hii kutoa pole zangu kwa wale waliofiwa. Sisi kama Waislamu hatuongeti kuhusu matendo ya yule aliyefariki. Sisi tunamuomba Mwenyezi Mungu aiweke roho yake mahali pema. Pole kwa waliofiwa.

Asante, Bw. Spika wa Muda.

Sen. Wako: Mr. Temporary Speaker, Sir, on behalf of the people of Busia and my own behalf, I send my sincere condolences to the family of the late Governor and the people of Nyeri.

I met the late Gachagua when he was a Member of Parliament. He came to my office because there had been serious allegations against him, which was caused by the powerful figures at that time, whose path he had crossed. He did not come to say that I should terminate the case or seek help. He came to plead with me, as a professional, that when the file lands at my desk, I should look at it as a professional and the Attorney General and find out if there was any evidence. He assured me that there was no evidence. Sure enough in due course the file came and I looked at it very seriously. I found that there was absolutely no evidence against him. I recommended that the file be closed for the time being. Because of his firm stance on various issues, he crossed the paths of many powerful figures at that time. He continued to do so until his demise.

Cancer has become the disease of today. We always used to hear about HIV/AIDS but that time has gone. Nowadays whenever you go to most funerals everywhere you will hear that the cause of death was cancer. A solution has to be sought.

The Temporary Speaker (Sen. (Dr.) Machage): Order! I hope you did not look at the file as the Attorney General, because you are not.

Sen. Gwendo.

Sen. Gwendo: Mr. Temporary Speaker, Sir, I would also like to join my colleagues in sending my message of condolence to the family of the late Governor Gachagua. I pray for the family to receive comfort and peace from God that surpasses human understanding.

I would like to also reiterate what Sen. (Dr.) Khalwale said. The impeachment case against Governor Gachagua was brought before the Senate and a lot of mistakes were pointed out. It is always a blessing when somebody points the mistakes that one has made, but it is a curse when you are not able to correct those mistakes. Since the Deputy Governor has assumed the seat of Governor, we expect him to do justice to the people of Nyeri. As we bury Governor Gachagua, we hope that the people of Nyeri will---

The Temporary Speaker (Sen. (Dr.) Machage): Sen. Wamatangi, are you on a point of order? What is not in order?

Sen. Wamatangi: Mr. Temporary Speaker, Sir, I want to speak.

The Temporary Speaker (Sen. (Dr.) Machage): Order! Take your seat.

Sen. Gwendo, you have one minute.

Sen. Gwendo: Thank you, Mr. Temporary Speaker, Sir. With the guidance of my able Chairman, Sen. Kagwe and the Deputy Governor, we hope that for the remaining months to the general elections, the people of Nyeri County will see the goodness of devolution.

I continue to pray for the people of Nyeri and the family of the late Hon. Nderitu Gachagua, so that they may find peace. May God wipe their tears.

Thank you, Mr. Temporary Speaker, Sir.

Sen. Kittony: Thank you, Mr. Temporary Speaker, Sir. I also join my colleagues in sending my condolences to the family of the late Governor for Nyeri. Indeed, the death was a great shock. I remember when we were in Geneva with Sen. Kagwe, he was planning to go and see him in the London hospital. I believe that whatever has happened is beyond anybody else's wish.

I wish to say *pole* to the people of Nyeri, especially his family for the great loss. Governor Gachagua has done a lot for the people of Nyeri. The whole of Kenya is mourning the loss. Please accept our condolences. We are with you at this trying moment.

Thank you, Mr. Temporary Speaker, Sir.

Sen. Lesuuda: Mr. Temporary Speaker, Sir, I also want to pass my condolences, together with the people Samburu County, to the immediate family, relatives and friends of the late Governor Gachagua. We pray that God gives them strength to continue to steer the county to greatness.

My colleagues have talked about the aspect of healthcare in our country. I hope that those who are involved in the discussions towards the doctors returning back to work will expedite them. We need to deal with it as an urgent matter, because we know that many Kenyans are really suffering. I know of many cancer patients who need radiotherapy and chemotherapy. They are suffering out there. Those who are involved in negotiations should think about the lives of Kenyans and resolve this issue as soon as possible.

Thank you, Mr. Temporary Speaker, Sir.

Sen. Wamatangi: Mr. Temporary Speaker, Sir, I wish to join my colleagues and send my condolences to the family of the late Governor for Nyeri and the people of Nyeri, including the Senator for Nyeri.

I want to acknowledge three quick issues. First, at the inception of devolution in Kenya we had a big problem of the working relationship between Governors and Senators. However, the Governor for Nyeri showed an exceptional example by having one of the most cordial and notable working relationships with the Senator for Nyeri. That was an exceptional show of leadership.

Secondly, let me also acknowledge that, exceptionally, the Governor for Nyeri stood very firm. I remember when his impeachment case was brought here, he stated clearly to this House that the reason he was here was because he said in public that he would not bow to pressure to bribe Members of the County Assembly (MCA). He was even offered another olive branch to avoid impeachment, but he refused and said that he would not bribe. He stood as an exemplary leader.

Lastly, I wish to acknowledge that this is a leader who has set a unique pace for the people of Nyeri. He is a landmark in devolution.

The Temporary Speaker (Sen. (Dr.) Machage): Your time is up.

Sen. Chelule.

Sen. Chelule: Thank you, Mr. Temporary Speaker, Sir. I also stand to give a message of condolence on my behalf and on behalf of Nakuru County. It is our prayers that God is going to stand with them---

The Temporary Speaker (Sen. (Dr.) Machage): The Chairperson, Committee on Finance, Commerce and Budget, can you approach the Chair, please?

Sen. Chelule: The Temporary Speaker, Sir, it is my humble prayer that God will stand with the people of Nyeri County during this time of tears and pain. I remember when he was summoned by the Senate on issues affecting his county, he was so patient and he looked committed. I believe the incoming Governor will also be committed. It is our humble prayer that God will stand with them.

Thank you.

The Temporary Speaker (Sen. (Dr.) Machage): On behalf of the Speaker's Chair, our condolences have been heard by the people of Nyeri. May God rest the soul of the late Governor in eternal peace.

We are going to go back to Order No.5.

PAPERS LAID

REPORT ON THE DIVISION OF REVENUE BILL, 2017

Sen. Billow: Thank you, Mr. Speaker, Sir. I beg to lay the following Paper on the Table of the Senate today, 28th February 2017.

Report of the Standing Committee on Finance, Commerce and Budget on the Division of Revenue Bill (National Assembly Bill No.2 of 2017).

Thank you.

(Sen. Billow laid the document on the Table)

The Temporary Speaker (Sen. (Dr.) Machage): The next order.

BILL

Second Reading

THE DIVISION OF REVENUE BILL
(NATIONAL ASSEMBLY BILL NO.2 OF 2017)

(By Sen. (Prof.) Kindiki on 23.02.2017)

(Resumption of Debate interrupted on 23.02.2017)

The Temporary Speaker (Sen. (Dr.) Machage): The Bill was set for a Division today. I order that the Division Bell be rung.

(The Division Bell was rung)

Sen. Billow: On a point of order, Mr. Temporary Speaker, Sir. I know that the Division Bell has been rung. However, I can see that we may not have the numbers for the Division and this Bill is very important. It deals with division of revenue between the two levels of government. I appeal to you to exercise your discretion in the Standing Orders to defer voting on this Bill to tomorrow because of its significance. This is about taking resources to the counties and this is one of the significant roles that this House plays; to ensure there is equitable distribution of revenue between the two levels of government.

Sen. Mutula Kilonzo Jnr.: On a point of order, Mr. Temporary Speaker, Sir. Allow me to agree with the proposal made by the Chair of the Committee on Finance, Commerce and Budget, Sen. Billow. In 2013, this Senate spent a lot of time seeking an advisory opinion of the Supreme Court. To be specific, it is Advisory Opinion No.2 of 2013 which gave us the mandate of participating and determining allocation of the national revenue.

Mr. Temporary Speaker, Sir, it will be a tragedy of great monumental proportions and to an extent it will be an abdication of constitutional responsibilities by this Senate if we do not raise the appropriate numbers to pass this Bill at the Second and Third Reading

As a Member of the Committee on Finance, Commerce and Budget where you also sit with us, I am aware that we have made substantial proposals to deal with the Division of Revenue Bill. This is the last Division of Revenue Bill before the next general elections.

Mr. Temporary Speaker, Sir, the public will judge us harshly---

The Temporary Speaker (Sen. (Dr.) Machage): Which Act are you referring to?

Sen. Mutula Kilonzo Jnr.: I am referring to Article 96(3) of the Constitution. If there is one role that distinguishes the Senate from the rest of the world, it is Article 96(3)

of the Constitution over which we have received a lot of flak. Again, the Supreme Court has agreed that this mandate lies squarely with us.

Mr. Temporary Speaker, Sir, although the period prescribed under the Standing Orders is 10 days, the Constitution does not have that period. Therefore, I urge you to exercise discretion under Standing Order No.1 read together with Standing Order No.54(3) to defer the voting to tomorrow Wednesday, 1st March. In the usual manner, a communication should be made to the Whips of this House to be present tomorrow. Otherwise, if we do not do what we are supposed to do, we will face the consequences as a legislative House. I thank you.

The Temporary Speaker (Sen. (Dr.) Machage): Order Members. Notwithstanding what is provided in our own Standing Orders No.160 and No.1 and, considering what the Constitution says, in my own discretion, I think Sen. Mutula Kilonzo Jnr.'s argument holds water. I will therefore defer this Order to tomorrow.

(Bill deferred)

Sen. Wako: Mr. Temporary Speaker, Sir, I just want to thank you for the discretion you have rightly exercised this afternoon particularly in light of the importance of this Bill. You will recall that this is the Bill where this Senate was denied participation until we had to go to the Supreme Court to assert our role. It will be a tragedy, having successfully asserted our role in and participation in this Bill, being the last Bill of its kind for this Senate, to now fail to discharge our mandate. In fact, we should not participate at all by the virtue of our own conduct.

Mr. Temporary Speaker, Sir, this was placed on the Order Paper and I must say it is very embarrassing. We do not have the Senate Majority Leader, the Senate Minority Leader, their deputies and the Chief Whips in this House.

Mr. Temporary Speaker, Sir, your wise decision in postponing it will give the opportunity to the leadership of the Senate to wake up to its role and ensure that we are all here tomorrow to vote on this Bill. Those Senators who are here today should undertake to bring 10 other Senators each, to ensure that we are a full House.

The Temporary Speaker (Sen. (Dr.) Machage): I would like to quote Sen. Wako. The leadership of this House should wake up to its role. That is the newsbyte. The leadership should work hard to make sure that this House is ready to pass or not pass this Bill tomorrow.

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. With your indulgence, allow me to correct the Senator for Busia that the Senate Minority Leader, who is the national party leader of FORD-Kenya and a presidential candidate, has an able deputy---

The Temporary Speaker (Sen. (Dr.) Machage): Order! You are correcting him as who? I am the only one who can correct him in this House.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, point of correction. I am correcting him because he is misleading the House and the country.

The Temporary Speaker (Sen. (Dr.) Machage): Order! We do not have point of correction in our Standing Orders. Have you seen any? What Standing Order are you referring to?

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker. I rise to correct---

The Temporary Speaker (Sen. (Dr.) Machage): Why do you not start like this; is Sen. Wako in order to---

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, is the Senator for Busia, Amos Sitswila Wako, in order to mislead the House that the Senate Minority Leader who is also the party leader of FORD-Kenya and president in waiting for 2017 is not up to it when he has delegated to me as his able deputy? He is away this afternoon because he is in Tharaka-Nithi for a national rally of the National Super Alliance (NASA) with Baba and Kalonzo. Is he in order to---

The Temporary Speaker (Sen. (Dr.) Machage): Order! Now you have “spoiled”. To the knowledge of this Chair, I have no written document that indicates delegation of authority of the Senate Minority Leader to you. I do not have that document here.

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, with due respect, when you look around on the Opposition side, I am the senior-most Member on this side by virtue of being a deputy party leader. I know Sen. (Prof.) Anyang'-Nyong'o is here but---

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. (Dr.) Khalwale! Again, that is another false move. You cannot be more senior than Sen. (Prof.) Anyang'-Nyong'o in this House.

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

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

Sen. Mositet: Asante, Bw. Spika wa Muda. Nasimama kwa hoja ya nidhamu kwa sababu ni mshangao mkubwa kuona Bw. Mwenyekiti wetu akisimama na kuuliza kama hoja hii inaweze kupigiwa kura kesho na tayari Bw. Spika mwenyewe aliweza kutangazia Maseneta wote wiki iliyopita ya kwamba ni lazima siku ya Jumanne, ambayo ni leo, tukamilishe jambo hilil.

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. Mositet! I am the Speaker on the Chair today.

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

The Temporary Speaker (Sen. (Dr.) Machage): What is your point of order, Sen. Billow?

Sen. Billow: Mr. Temporary Speaker, Sir, was the Senator for Kakamega County in order to belittle the Senate Deputy Minority Leader's office by claiming that he can deputise for him by virtue of being his deputy of something outside there in Western Kenya? Is he in order to belittle the office of the Senate Deputy Minority Leader?

The Temporary Speaker (Sen. (Dr.) Machage): Of course, he is completely out of order. However, there is a saying which says: “If all wishes were horses, even beggars would ride.” He is just expressing his wish.

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

The Temporary Speaker (Sen. (Dr.) Machage): What is your point of order, Sen. Wako?

Sen. Wako: Mr. Temporary Speaker, Sir, is the Senator for Kakamega County in order on two points? One, to say that I misled this House when the HANSARD will confirm that all I said is that the Senate Majority Leader, the Senate Minority Leader, their

deputies and the Chief Whips are not in this House. I did not mislead. He can see the empty seats that are there.

Secondly, is he in order to be bigger than his boots by claiming to be the Senate Deputy Minority Leader?

Sen. Mutula Kilonzo Jnr.: Mr. Temporary Speaker, Sir, is Sen. (Dr.) Khalwale, Senator for Kakamega County, in order to suggest or infer, innuendo or imagine that the power to vote for a Bill can be delegated? Is he in order to mislead Kenyans that the power of Bungoma County in terms of voting and not the Senate Minority Leadership can be delegated to him.

The Temporary Speaker (Sen. (Dr.) Machage): Sen. (Dr.) Khalwale has found me in a good mood. Otherwise, I would have evoked Standing Order No.110.

You have heard all the points of orders that have been raised. They are all correct. Keep your cool. I know you usually think and look over issues before you comment. Go back to your old person before you make further comments on any other issues.

That is put to rest. The next three Orders are deferred.

BILLS

Second Readings

THE DIVISION OF REVENUE BILL
(NATIONAL ASSEMBLY BILL NO. 2 OF 2017)

THE KENYA ROADS BILL
(NATIONAL ASSEMBLY BILL NO. 26 OF 2015)

(Bills deferred)

COMMITTEE OF THE WHOLE

THE DIVISION OF REVENUE BILL
(NATIONAL ASSEMBLY BILL NO. 2 OF 2017)

(Committee of the Whole deferred)

The Temporary Speaker (Sen. (Dr.) Machage): Next order.

MOTION

ADOPTION OF REPORT OF CPAIC ON FINANCIAL OPERATIONS
OF VARIOUS COUNTIES FOR FY 2013/2014

The Temporary Speaker (Sen. (Dr.) Machage): Could we hear from the Chairperson of the County Public Accounts and Investments Committee (CPAIC)?

Sen. (Prof.) Anyang'-Nyong'o: Mr. Temporary Speaker, Sir, I would like to move the following Motion:-

THAT, the Senate adopts the Report of the Sessional Committee on County Public Accounts and Investments on the inquiry into the financial operations of Kiambu, Busia, Tana River, Trans Nzoia, Nyandarua, Migori, Kwale, Kisumu, Samburu and Kericho County Executives for the Financial Year 2013/2014 (1st July, 2013 to 30th June, 2014) laid on the Table of the Senate on Thursday, 23rd February, 2017.

I would like to request Sen. (Dr.) Khalwale, Senator for Kakamega County, to second this Motion.

Before I move the Motion, I would like to clarify to Kenyans and to those in doubt that these are just the first Reports of ten county governments. There are 47 county governments in the Republic of Kenya. Therefore, 10 out of 47 leave 37, except for a few counties like Embu and Kirinyaga counties. In the case of Kirinyaga County, we requested a special audit from the Auditor-General. The special audit report will be brought to this House before the life of this House ends. We shall debate it once it passes through our Committee.

With regard to Embu County, we have to decide as a Committee what to do with it since the Governor never appeared before us. Nonetheless, there are audited accounts of Embu County that we shall deal with.

I, therefore, must assure the nation that all other reports of the executive governments of the other counties will be laid on this Table and we shall debate them. You also remember we examined reports of county assemblies. I want to remind the House that among the county executives, some have already been laid here earlier, like Homa Bay County and they were debated. This is because they were ready then before we were taken to court.

Let nobody imagine out there or believe that they are off the hook. The Committee is seized of those deliberations. In fact, we have discussed all the audited accounts of all the counties, except those I have mentioned. We have our own draft report which the committee must approve. The committee is working very hard. When we go on recess, the committee will still sit. I want to assure you that when we come back from recess, all those reports will be laid on this Table for discussion.

Having said that, let me go through the summary of this particular report. I want to thank the newspapers that have paid specific attention to this report and have made some useful comments in the media. The comments have also been editorialized in an extremely productive fashion. Nonetheless, I will highlight those issues that may not have been covered by the newspapers for the edification of the nation.

[The Temporary Speaker (Sen. (Dr.)Machage) left the Chair]

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

First, let me remind the nation and the House, the Committee is a creation of the Constitution through Article 124(1). It says:-

“Each House of Parliament may establish committees, and shall

make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its committees.”

The Senate Sessional Committee on County Public Accounts and Investments (CPAIC) is established by the Senate pursuant to Standing Order No. 212 (3) and is mandated to do the following:-

(a) Pursuant to Article 96(3) of the Constitution, to exercise oversight over national revenue allocated to the county governments.

(b) Pursuant to Article 228(6) of the Constitution, to examine the report of the Controller of Budget on the implementation of the budget of county governments.

(c) Pursuant to Article 229(7) and 8 of the Constitution, to examine the reports of the Auditor-General on the annual accounts of the county governments.

(d) To examine special reports, if any, of the Auditor-General on county government funds for example, special audit of Kirinyaga County that we requested.

(e) To examine the reports if any, of the Auditor-General of the County Public Accounts and Investments.

(f) To exercise oversight over county public accounts and investments.

Mr. Speaker, Sir the Membership of the Committee comprises of the following Senators:

- | | | |
|------------------------------------|---|----------------|
| (1) Sen. (Prof.) Anyang' Nyong'o | - | Chairman |
| (2) Sen. (Prof.) John Lonyangapuo | - | Vice-Chairman. |
| (3) Sen. Henry Ndiema | | |
| (4) Sen. Wamatangi Kimani. | | |
| (5) Sen. (Eng.) Karue Muriuki. | | |
| (6) Sen. Hassan Omar Hassan. | | |
| (7) Sen. Wangari Martha. | | |
| (8) Sen. George Khaniri. | | |
| (9) Sen. Wako. | | |
| (10) Sen. (Dr.) Boni Khalwale. | | |
| (11) Sen. Kennedy Mong'are Okong'o | | |
| (12) Sen. Stephen Ole Ntutu. | | |

The Committee was first constituted on the 27th March, 2014, pursuant to Senate Standing Order No.181, following a resolution of the House on Thursday 27th February 2014 to amend the Senate Standing Orders.

The Committee was subsequently reconstituted on 17th February 2015, pursuant to Standing Order No. 2010 (1) which requires Sessional Committees to be reconstituted at the commencement of every Session. The Committee has just been reconstituted anew and that report will come to this House.

Mr. Speaker, Sir, the Senate Sessional Committee on County Public Accounts and Investments is an avenue through which the Senate, under the provisions of Article 96(3) of the Constitution, carries out the exposed scrutiny of county governments budget.

The Committee largely relies on the report of the Auditor-General and the Controller of Budget as key instruments for its exposed scrutiny of county governments and accounts.

I must say the report of the Controller of Budget reveals an extremely unfortunate situation as we shall see in the reports presently that there are rather insubstantial

investments in development in the counties and too much money is going to Recurrent Expenditure.

The office of the Auditor General on various dates from June 2015 forwarded reports on the financial operations of the county governments for the Financial Year 2013/2014 to the Senate, pursuant to the provisions of Article 229(7). The reports, once tabled, stand committed to the Sessional Committee on CPAIC.

It should be very clear that the mandate of the CPAIC is first and foremost to discuss the Auditor-General's reports and interrogate the county executives on the basis of that report. From that report however, issues always arise that may require supplementary information which again is within the mandate of the Committee and the House within the perimeter and framework of Article 96 of the Constitution.

The Committee held several meetings with the county government executives on various dates during the 4th Session where it considered the reports of the Auditor General under review. The Committee was not able to visit any of the counties due to their enormous work and busy schedule and a huge backlog of business before it, mainly because we had been held back from working for ten months due to a case that the governors took to court to stop our work.

We, therefore, decided to do our work and sacrifice visiting counties which was necessary, given the fact that sometimes it is important to see with the eye what you read by the eye. The sittings were primarily investigatory and the Committee received evidence from the governors of counties as chief executive officers to the county government, pursuant to Article 179 (4) of the Constitution.

The members of the county executive committee and other county officials also attended the meetings of the Committee. The main issues for determination and investigation were the various audit queries contained in the report of the Auditor-General on the financial operations of the various counties for the Financial Year 2013/2014 for the period 1st July, 2013 to 30th June, 2014. This report is issued pursuant to requirements of Article 96(3) and 229(8) of the Constitution of Kenya and the Senate Standing Order No.203.

Mr. Speaker, Sir, the Committee, in arriving at particular recommendations in this particular report of the Auditor-General on the financial operations of the counties under review, took into account the challenges faced by counties at their nascent days particularly the Financial Year 2013/2014.

Therefore, contrary to public belief or some beliefs from certain quarters, we were very understanding in terms of difficulties during the early years of devolution. However, two or three years after you have been born, you must be walking and we are going to be much tougher during the financial year 2014/2015.

The Committee was further guided by the mandate of the Senate pursuant to the provisions of Article 96 (1) of the Constitution, particularly, the need to strike a balance between protection of the counties *vis-à-vis* the oversight role of the Senate over counties in accordance with the provisions of Article 96(1) and 96(3) of the Constitution, respectively. Where any breach of law has an attendant remedy consequence or penalty in law, recommendations of this report do not preclude any liability that may arise as a result of any legal action within the breach of the prescribed law.

As far as understanding the nascence of devolution, we cannot by dint of that fact excuse breach of law, neglect or any other act committed contrary to the prescribed law of the land. Therefore, we are held responsible for making appropriate recommendations to that effect.

Let me just go through certain general observations that this Committee made through all the reports of the ten counties that we have tabled today. However, this observation will apply to other counties *mutatis mutandis* because the cases are very similar.

1. Many counties did not cooperate with the office of the Auditor-General and the Committee in provision of documents in good time.

Some counties completely withheld the provision of documents from the Committee, contrary to the Public Audit Act.

Mr. Speaker, Sir, many counties are not aware of the importance of this act which requires counties to make sure that at the time of audit, they present documents to the Auditor-General without failure. We do realize that not long ago, we met with the Auditor-General and the other agencies of law enforcement and all government agencies including the Auditor-General emphasized this importance of availing information for audit which is one of the reasons why counties have internal audit departments to prepare proper books of account for auditing by the Auditor-General.

2. Recruitment of staff in certain counties was done haphazardly and I dare say, in many cases, rather “nepotistically”.

The idea of trying to use counties as an employment bureau for friends, relatives and clansmen is something that is contrary to the Constitution and must be stopped.

3. Mr. Temporary Speaker, Sir, most of the counties covered in this report allege not to have had technical capacity in terms of professional human resource during the period under review. Under the County Governments Act as well as the Constitution, the national Government is duty-bound to help counties in capacity building. From the Committee on Finance and Commerce, we are glad to report that the donor agencies have made funds available for capacity building and human resource development in counties. We shall discuss this when discussing the Division of Revenue Bill. This is especially after the first four years of devolution. In order for counties to perform well, not just in terms of financial management, capacity building and appropriate human resources development is vital.
4. Generally, the technical staff carrying out various duties during the Financial Year 2013/14 were not competent enough to perform their duties.
5. Most of the counties had excessive expenditure on foreign travel. This is a big area of hemorrhage in counties. It is something that county governments should develop internal discipline to ensure that it is not used as a way of rent-seeking. In Parliament there is very good control on foreign travel. Budgets are strictly adhered to. Reporting systems are there; when parliamentarians or committees go abroad they bring reports back to the Senate. Accountability has been established. However, in counties this does not seem to be the case.
6. Abuse and misuse of imprest. Untimely surrender of imprests and poor imprest management was a recurring issue in most counties. Imprests are

being used more as loans rather than imprests. The law dictates that when one is given an imprest, they should surrender it within 48 hours from the time you were meant to have used it. One should not go longer than that. This is a very big travesty in counties.

7. Procurement laws and regulations were not being strictly adhered to by the counties.
8. Failure to adhere to the Public Financial Management Act, the Public Procurement and Disposal Act, The Public Audit Act and Government financial regulations and procedures was rampant.
9. Poor record keeping made accountability and audit difficult.
10. The issue of assets and liabilities inherited from defunct local authorities remained outstanding. This was supposed to have been done by the Transition Authority (TA). There is a body that has succeeded the TA; the Intergovernmental Relations Technical Committee (IGRTC) headed by Prof. Mutahi. I hope this committee will give its report to this House in March as reported to us. We, as a Committee, will handle that report and bring it to this House. That way, the issues of assets and liabilities of former defunct authorities will finally be put to rest.
11. Mr. Temporary Speaker, Sir, county assemblies did not have the capacities to oversight the county executives during the 2013/14 Financial Year. The practice of county assemblies playing poodle to county governments is not only unconstitutional but leads to very poor governance in counties. We hope that as we go to election, people who are elected as Members of County Assemblies (MCAs) will be much more responsible and will not go to the county assemblies looking for goodies from the Executive but to do the role of oversight as the Senate is doing at the national level.
12. There was reluctance by some governors to appear before the Committee. This forced the Committee, in many instances to issue summons to compel their appearance. Those who have not appeared should not think that we are not going to make recommendations to those governments. We are duty-bound by the Constitution and the Standing Orders to confirm the audit queries if one does not appear. Therefore, one will have to appear before the relevant agencies for investigation.

It could have been much better to appear before the Committee so that they have the advantage of being interrogated by a much more fair body and get more hearing time. This, though, does not mean that the agencies are not fair. Now that they have not done so, we have no other alternative but to confirm those charges by the Auditor-General and hand such governments over to the responsible agencies.
13. During the Financial Year under review, monies allocated to the county assemblies were disbursed to counties through the county executives.
14. Most counties remitted funds to the Council of Governors (CoG), outside the realm of the law. This is very important. During the first year, we in the Committee kind of understood. However, the law says the CoG should be supported by national Government revenue. That is the law. There is no law that gives county governments the powers to support the CoG. Until such a time that the law is changed, the hands of the Committee are tied. We must observe the law. The CoG should, through the Summit or IBEC, seek changes in law to make it possible for county governments to finance the

CoG, lawfully. During the 2013/14 Financial Year, it was done unlawfully and the Committee has made such observation.

15. The Internal audit was ineffective in most counties hence allowing financial mismanagement which could have been avoided. There are instances where governors deliberately weakened internal audit systems or sack internal auditors when they do their work properly or influence them through underhand means. This undermines accountability and proper financial management in counties. A wise governor should have a strong internal audit team to make it possible that when the Auditor-General comes, the books of the county are in proper order. However, they think that they can cut corners with a weak internal audit and they are digging themselves a deep grave.

16. Mr. Temporary Speaker, Sir, the Senate has not been facilitated to perform its oversight role effectively. This is true and it is unfortunate. If we had oversight funds, the work of the committee would have been much easier. However, as it were, we had to do the work of the Senate oversight as well as our work as a Committee which is double jeopardy.

17. There is need to have an oversight structure to enable individual Senators to carry out effective oversight roles in their counties. This cannot be overemphasized.

18. The Office of the Auditor-General is not adequately funded to carry out its mandate. Rather than financing the Auditor-General effectively, he is currently being hounded from office by the Jubilee Regime. This is travesty of the constitutional provisions. This undermines accountability in the whole system of government. It increases rent-seeking if the office of the Auditor-General is not capable of auditing government documents and instead is being hounded for doing the right things; trying to go overseas to audit government's unlawful expenditure.

I hope those trying to hound the Auditor-General from office will wake up and realize that this is a very important institution and it does not matter who occupies it. That institution should be respected and defended and not interpreted as a political office. That is not what the framers of the Constitution intended and is not what a democratic system of government intends the office of the Auditor-General to be.

19. The efficacy of the Integrated Financial Management Information System (IFMIS) is questionable. The current form captures revenue but not expenditure. There are many modules in IFMIS. Unfortunately, not all of those modules are operational, particularly, the modules for operation of both the revenue and expenditure. For accountability in government to work properly, those modules must work in tandem, effectively and efficiently.

20. The work of the committee was delayed for over ten months due to numerous court cases instituted by governors barring the Committee's power to summon witnesses.

21. Many Governors failed to instill financial management discipline in their officers. Even where financial laws and regulations were contravened by officers, they took no corrective measures including prosecution or disciplinary action that is appropriate on those culpable. By such omission they could become complacent. In one of the instances we realized that a governor never took action, our recommendation was that, that governor should face the law.

22. The governors of Kakamega and Embu counties failed to appear before the committee due to cases in court. We shall make recommendations according to this

House. If they do not appear before us, our constitutional responsibility is simply to confirm the audit charges and leave those governors to face the other agencies of Government.

23. Finally, Mr. Temporary Speaker, Sir, the Committee requested the Office of the Auditor-General to carry out a special audit on Kirinyaga County Executive.

Mr. Temporary Speaker, Sir, having made those general observations, I would like to go to the Committee's recommendations. The recommendations are limited to our observations of these 10 counties. These recommendations may extend as we give reports from the other counties that we shall table here in a matter of weeks.

(1) The Committee recommends that county governments should strive to submit documents to the Auditor-General at the time of audit in accordance with the Public Audit Act, 2015.

(2) All recruitment of county government staff should be done in accordance with the law.

(3) Staff rationalization should be undertaken as a matter of priority to ensure prudent use of resources.

(4) County governments should recruit competent staff and ensure that they are continuously trained for better work output. This will be aided by the human resources development and capacity building initiatives that we will pass in the current Division of Revenue Bill.

(5) Mr. Temporary Speaker, Sir, the capacity of county assembly should be built for oversight purposes. Quite a number of county assemblies have been compromised by the executive not to perform their oversight function.

(6) County governments should adopt proper record keeping mechanisms in order to enhance accountability.

(7) County governments should exercise prudence in the monies used for foreign travel.

(8) If county governments should continue to remit funds to the CoG, an appropriate law should be put in place to deal with the shortcomings of the existing law. Failure to that, there should be strict compliance to the Intergovernmental Act.

(9) Adequate funds should be allocated to the office of the Auditor-General in order to perform its functions adequately.

(10) Professional running of the county governments should be observed by all governors. I insist "professional running of county governments." There are sad cases where governors who should be provided security by the state and where possible, County Service Boards should employ security for them, governors employ goons who they pay from dubious sources. These goons terrorize people. On one case in my county, goons had the temerity to climb 10 floors to frog march a county officer out of his office because of the non-payment of their dues. Their dues are not budgeted for.

This is not professional running of a county; it is a mafia-style of running an organization. It is not based on law or any other proper procedure passed by legislative institutions of a nation. I request law-enforcement agencies to take this matter very seriously. We cannot begin devolution on a wrong footing of turning counties into mafia-run entities. Governors, through ill-gotten wealth, are using this kind of thing.

(11) The IFMIS system should be fully implemented to ensure all the modules are operational and all loopholes sealed. This will avoid hampering financial operations in counties.

(12) Mr. Temporary Speaker, Sir, a special audit should be done by the Auditor-General on the IFMIS system to determine the viability of the system. There has been a merry-go-round debate about IFMIS. This debate will not end until the office of the Auditor-General, which is a body that audits government institutions carries out a special audit on IFMIS.

The National Treasury cannot choose an auditor by themselves because we do not know the extent to which the chosen auditor is complicit in the malfunctioning of IFMIS like we saw in the National Youth Service (NYS) case. There must be a transparent way by which we can do an audit and find out whether or not IFMIS is a right accounting instrument. If it is malfunctioning beyond repair, we should have another system to use to make sure the Government's finances are properly managed and transparently accounted for.

The Temporary Speaker (Sen. Mositet): Order, Sen. (Prof.) Anyang'-Nyong'o! It is exactly 5.00p.m. You still have 30 minutes to move your Motion. However, there is an adjournment Motion by Sen. (Prof.) Lonyangapuo on the status of security in Baringo County. Therefore, when we resume debate on your Motion, you will have 30 minutes.

(Motion interrupted)

Please proceed, Sen. (Prof.) Lonyangapuo.

MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.33

INSECURITY IN BARINGO COUNTY

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, I beg to move that the Senate do now adjourn.

News has been rife in the media as late as yesterday about the intense insecurity in Baringo County which has now spilled over to part of my County of West Pokot. For nearly six months now, we have been hearing of insecurity along the Kerio Valley which is shared by three counties; West Pokot, Elgeyo-Marakwet and Baringo counties.

I would like to shed more light on this problem that has been going on. The insecurity issue has been ongoing for about six months between the Marakwets, Pokots, Tugen and Ilchamus of Baringo County. This is majorly as a result of the drought. Whenever there is drought, East Pokot which is also called Tiaty Constituency becomes very dry. The residents are livestock-keepers and from time immemorial, whenever there is drought, they move to where the neighbours are; the Tugen along the Arabal. There, there is a permanent river that always has water and pasture. Before the colonial period, during the colonial period, Mzee Jomo Kenyatta's, President Moi's and President Kibaki's eras, it was understood that whenever drought came, the neighbours would go

there to graze their livestock in that area and would move back to their areas when the rains came.

The Temporary Speaker (Sen. Mositet): Order, Sen. (Prof.) Lonyangapuo. I would like to inform you that you only have ten minutes to move the Motion.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, I thought that I would be given equivalent time to that of Sen. (Prof.) Anyang'-Nyong'o.

The Kerio Valley has a river that has rich grass and pasture that is shared by the Pokots and Marakwets. However, due to insecurity and banditry that began along the border of Pokot and Turkana for a long time ago, it spilled over to the other communities. Instead of the Government addressing these issues by giving the Kenya Police Reservists (KPR) to both sides, there is not a single KPR in Baringo County. However, in the other communities, they have been armed to shocking levels. We all saw when the Deputy President went to Baringo County and gave 600 guns to civilians who were collected the previous Friday, 25th February, 2017 and they were asked to come on Monday where they were given uniforms and guns.

It shocked all of us because we have the Kenya Police, Administration Police and Anti-Stock Theft Police who would normally---

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. I am sorry to interrupt Sen. (Prof.) Lonyangapuo. However, because of the rules of debate in this House, I have two points of order. The Professor should be compelled to substantiate his allegations that the Deputy President distributed firearms to youth which were to be used to destabilize the local community.

Secondly, where do we draw the line between, this Adjournment Motion on insecurity and the motion that we seem to be discussing now on the conduct of the Deputy President where he allowed himself to distribute firearms. I would like to know how to debate this matter. It is very serious.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, I do not understand what Sen. (Dr.) Khalwale is saying. I am only giving you facts. Facts do not lie. Go and watch your television, and you are a social media expert, you will see him addressing the KPR or civilians who have been given brand new uniforms.

Hon. Members: Shame!

Sen. (Prof.) Lonyangapuo: When you isolate leaders from a community, it shocks everybody. He should have gone with Sen. Murkomen, who should be here, Sen. Moi and I. He was also to be accompanied by the Members of Parliament (MPs) who are in charge of those constituencies where the illegal activities have been ongoing. Why did he selectively go with those that he loves and likes? There will be no solution if that is the approach we are taking.

Civilians are now armed with guns and they have been given orders to shoot to kill by the Deputy President. That is a very dangerous statement because the new recruits have not been trained. They were recruited on Friday and armed on Monday. These recruits will wipe out the entire community.

Mr. Temporary Speaker, Sir, how then do you want us to keep quiet? I have personally urged Sen. Murkomen to go and talk to our people. Before he could give me response, I saw him on the television talking to his people by himself and taking a lot of resources to one side such as schools as well as over 600 policemen guarding one

community. If the problem is from the Pokot side, do you not think that it is better to have 'askaris' on that side so that they can assist to track the bandits? It now looks like the narrative is that the entire Pokot community is comprised of bandits. That is the conclusion of the matter. They are trying to protect one community.

We are reading a lot of political motives in that because why are they isolating Sen. Moi or I? If they really want a solution, they should call us. We need to address this matter. When the problem among the Pokots and Turkanas, Samburu and Turkanas, Pokots and Samburus became intense, President Uhuru Kenyatta called all the leadership. Sen. Leshore and Sen. Lesuuda who are here were also in attendance. He told us to talk to our communities. He gave us sufficient support such as helicopters.

We were there for two weeks and the issue was solved. Since then, we have not had any major eruptions between the Pokots and the Turkanas. My brother, Sen. Munyes can confirm. Why are we then isolated in this issue that we can solve if we are united? If I went alone, I would have been called a trouble maker and that is why I wanted us to go as a team. Since they chose to go it alone, I call them problem makers.

We are in Government together but I do not care. He has to know how to behave when in Government. It does not matter. He is not a god. All of us are supposed to be serving our people together. Why make me look like I am an enemy to the Tugen or Marakwet yet I am a leader, a professor? I was in charge of all their students when I was the Principal at the university and employed so many of them yet all of a sudden, I am the number one enemy.

Mr. Temporary Speaker, Sir, when they saw the incoming Senator, Mr. Kimaiyo, associating himself with Sen. Moi and I, there has been an eruption of activities around Sen. Murkomen daily. Is it not a pointer that these problems are associated and they know what they are doing? We need this matter to be solved.

The Temporary Speaker (Sen. Mositet): I will give you five more minutes to express yourself.

Sen. (Prof.) Lonyangapuo: I have been following what is happening keenly. I have been keeping quiet. Yesterday, we buried two people at Cheraptak, who were murdered by the Marakwet. Have you heard me in the media shouting and condemning leaders from Marakwet? No! We agreed using the local leadership and structures that we all ---

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

Sen. Sang: On a point of order, Mr. Temporary Speaker, Sir. I have been engaged in these things. We know what is happening. Is it in order for a Member to give an impression that an entire community is involved when he says "the Marakwet killed"? It is important that you do not condemn an entire community. Is Sen. (Prof.) Lonyangapuo in order to say that "the Marakwets killed"? I heard it very clearly

The Temporary Speaker (Sen. Mositet): Sen. Sang, I appreciate that you have come late. You must have picked some few words before you came. The matter is quite weighty. First of all, we must allow the Senator to express himself without interruption. Let us not try to politicize it across the divide. Let us just allow the Senator to express himself. Let us discuss the Motion soberly so that the country can see that the Senate is a House of wisdom.

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

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. Under Standing Order No.90(1), a Senator shall be grossly out of order if he raises false and frivolous points of order. A Senator has just walked in; he had hardly listened to Sen. (Prof.) Lonyangapuo and rose on a frivolous point of order.

Mr. Temporary Speaker, Sir, I invite you to invoke Standing Order No.90 and discipline him, owing to the seriousness of this matter and deaths of our people.

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

Sen. Sang: On a point of order, Mr. Temporary Speaker, Sir. It is important for Members to appreciate that these proceedings are being aired live. The fact that a Member is not in this House does not mean that he has not followed what is going on. I was in a vehicle and heard what was going on. I raised the point of order based on what I heard in here but I have been following the entire debate.

So, Mr. Temporary Speaker, Sir, as you ably guided us that this is a weighty matter; even in the process of prosecuting it, it is important that we carry out this matter soberly. The statements and utterances in this House today might worsen the situation or bring it to manageable level. Therefore, I was entitled to raise that point of order. That cannot be frivolous.

The Temporary Speaker (Sen. Mositet): I had already ruled on Sen. Sang's point of order. Sen. (Dr.) Khalwale, you are completely out of order.

What is your point of order, Sen. Murkomen?

Sen. Murkomen: Mr. Temporary Speaker, Sir, I was in my office. I have been following this debate. It is completely irresponsible and out of order. First of all, is it in order for any Member of this House to mislead this House and this House to continue with a debate on the wrong line?

Secondly, is it in order for him to lie to the country that the national police reservists – even the word connotes that they are civilians – when we know that Sen. (Prof.) Lonyangapuo brought the law to be amended for their allowance? The National Police Act which was amended in this House provides for the establishment of the National Police Reservists. So, is it in order for us to carry out a debate erroneously in law to say that this country has armed civilians to fight other civilians?

Thirdly, is it in order for Sen. (Prof.) Lonyangapuo to mislead this House that the fight in Kerio Valley is about Pokots and other communities yet we have remained consistent that Kenyans are suffering because of bandits who have not been proven whether they are Pokots or not? Is he confirming that those people come from his place?

Lastly, is it in order for a debate to go on with mentions of my name, Sen. Moi and the Deputy President without a substantive Motion and substantiating what he is saying?

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

Sen. Madzayo: On a point of order, Mr. Temporary Speaker, Sir. You have made your ruling on this matter. You have basically become *functus officio* on this issue because you have made a ruling. Can Sen. (Prof.) Lonyangapuo proceed on the lines you have ruled?

The Temporary Speaker (Sen. Mositet): Let me allow Sen. (Dr.) Khalwale.

Sen. (Dr.) Khalwale: On a point of order, Mr. Temporary Speaker, Sir. With all due respect, these proceedings are being transacted in public. Under our Standing Orders, on matters *sub judice* and secret, we have room for an emotive issue like this to be held in camera because even as people are killed in Baringo, Members of Parliament (MPs) in the National Assembly have been mentioned. It is not helping matters that we are now mentioning Sen. Murkomen and the Deputy President – even if I do not support them. We do not want by dint of mentioning them, more people to be killed. Could you please direct that we hold this matter in camera? It is very serious. *Watu watauana usiku.*

The Temporary Speaker (Sen. Mositet): Proceed, Sen. (Prof.) Lonyangapuo.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, I was giving you a candid example; that, even the Pokots have been murdered by bandits from Marakwet but have you heard us dramatizing it? If it is true that the Government wants to assist, why not take the National Police Service on the other side as well? This Monday, my neighbour who is now a noise maker in this House, was parading himself as a warlord.

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

Sen. Murkomen: On a point of order, Mr. Temporary Speaker, Sir. Sen. (Prof.) Lonyangapuo is on record on a video tape that is circulating all over, inciting young men in Tiaty Constituency where he does not even come from - He is not even a Senator for Baringo – telling them that Samburu and Marakwet land is their land. That is on record. I am willing to provide evidence to substantiate. I have the record.

Secondly, is it in order for Sen. (Prof.) Lonyangapuo to mislead this House on a clear matter that we all know?

The Temporary Speaker (Sen. Mositet): Order, hon. Senators. This is a very weighty matter in the country. Since the Senate is known in the country as a House of wisdom, I would plead with Senators not to mention names when debating. Considering the issue at hand, if we continue that way this country will burn. I would plead with Sen. Murkomen and Sen. (Prof.) Lonyangapuo to debate without mentioning names. If there is particular action you would like the police to take, you would rather go and record a statement with them.

Proceed, Sen. (Prof.) Lonyangapuo.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, you can see the narrative that is being played and meticulously executed by a wing of the Government led by Sen. Murkomen. It is good to listen. We also feel the pinch.

(Sen. Murkomen spoke off record)

My people died yesterday. People have died!

Sen. Lesuuda: On a point of order, Mr. Temporary Speaker, Sir. You have just ruled on this matter. I urge you to be firm for the same reason that you have stated; that this is a very emotive issue. It is a matter of life and death. Is it in order for two Senators in this House to engage each other, instead of giving us solutions on how we can stop the killings in that region?

In view of the fact that you have made a ruling that we should stop mentioning names, is it in order for Members to continue in that same line without giving solutions regarding this issue?

The Temporary Speaker (Sen. Mositet): Sen. (Prof.) Lonyangapuo, you are completely out of order by continuing to mention the name of your colleague. Let us try to get a solution. Let us make the nation know that the Senate is a House of reflection.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, when people keep quiet it does not mean that they are not suffering. The national Government enabled the Turkana, Pokot and Samburu to come together and live peacefully through an engagement of two months, and it worked. We have never had any problem with the Marakwet and Tugen community. Even our dialects are almost similar.

If the Government engaged leadership from all the communities involved at that time, why are we only seeing a few people being involved? My brother can confirm that we talked as late as Thursday last week. I asked that we should go there together because if either of us goes alone they will be misunderstood. Let us go there as the leadership, so that when---

Sen. Murkomen: On a point of order, Mr. Temporary Speaker, Sir. Is it in order for my colleague to actually mislead the House? We had an engagement with him and our people not more than two months ago. Other elected leaders and I had the same engagement in Pokot. Is it in order for the Senator to create an impression that we have not done something as leaders, when as a matter of fact, when the negotiations were going on, civilians were being killed?

The Temporary Speaker (Sen. Mositet): Order! The Senator is saying that a day or two ago we saw a few leaders and others were not there. He is pointing to the lack of inclusivity. Maybe you should do what you had done earlier. Let us try to get a solution.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, I am being honest and candid. I talked to my brother here last week and he can swear by the Bible. We need to deal with the issue of Kerio Valley, just as we dealt with it two months ago in the highlands – Kalamalokon and Lelan – where I called him. I spent three days and by the grace of God we have peace there. The problem is now active in a different place. I wonder why they did not call us to go there, unless they are playing politics.

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

Sen. (Prof.) Lonyangapuo: You will have your time.

The Temporary Speaker (Sen. Mositet): Just finish, Professor.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, my conclusion is as follows. The shoot-to-kill order should be withdrawn with immediate effect.

An. hon. Member: Oh my God!

Sen. (Prof.) Lonyangapuo: Which God do you believe in? If that order continues to be in place, the new ‘army’ that has just been recruited without training will shoot everybody dead. That will not augur well for the Government.

Lastly, we need to go to the beacons we have been depending on. We need to enable the peace committees that we have to be active, instead of going there in the morning and coming back in the evening. You do not have a house in that place. I have told you to always sleep there and you do not. We must always go there and stay with our people. Even if they look primitive, they are still our people.

If the recruitment of the Kenya Police Reservists (KPRs) goes on, we should also do the same in the neighbouring Tiaty and Sigor constituencies. Why are we deploying many policemen in one place? They will not vote for you.

We have been quiet because we agreed not to elevate this problem. Whenever we agree that we should solve this problem the way we have been doing it, they chicken out and fly all over in Government helicopters, as if we do not belong to the same Government.

There is no development in Tiaty Constituency. What do you expect of people who are in the bush? We should assist them by providing water pans so that their animals can have water to drink. If this is done, they will not go all the way to disturb the Marakwet and Tugen. Can we not construct dams?

These are simple things that need to be done. Instead, a narrative is being created that the Pokot are hostile and bad. They are even being called bandits. If our people were that bad there would be war. Who killed the Member of the County Assembly (MCA) and the aspiring Member of Parliament? Why have the killers not been arrested up to now? Why is the Government asleep?

The Temporary Speaker (Sen. Mositet): Who is seconding your Motion?

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, I request Sen. (Prof.) Anyang-Nyong'o to second.

Sen. (Prof.) Lonyangapuo: Mr. Temporary Speaker, Sir, I rise to second this serious Motion. It reminds me of Shakespeare's play '*Julius Caesar*,' when somebody told Brutus:

"The fault, dear Brutus, is not in our stars, but in ourselves."

It would have been good contribution if we handled these very serious issues with less emotion and boisterousness, because that does not help. If we are looking for a solution, the method by which we look for that solution is in itself very important. This is a House of debate and records. We should leave emotions to the gladiators rather than the debaters.

Having said that, I want to make another point. I have seen a nation – South Sudan - burn by wantonly giving guns to people.

When South Sudan had its recent crisis in 2013, some Kenyans were imprisoned there for working for a company whose Chief Executive Officer (CEO) was accused of having committed corruption in the President's Office. That story was in *The Star* today. One day, the people who were detained in this security office - not even in a prison or a police cell - were released and given guns to go and fight because they were on the right side of the ethnic equation.

Mr. Temporary Speaker, Sir, when I listen to the stories being told and I watch the Television and read the newspapers, I do not want to doubt what Sen. (Prof.) Lonyangapuo is saying. It may be wrong in certain details but as they say in French, *grosso modo*. It is generally right that we are trying to settle a security crisis by using the wrong methods. I would expect the Cabinet Secretary of Interior and Coordination of National Government, the Inspector General, the head of the Administration Police (AP) and the Army, not the politicians, to go to that region to investigate and find out the solution. By their very nature, politicians carry partisan labels and partisan points of

view as you can see demonstrated in this House this afternoon which inhibits proper debate.

I am accusing the agencies of Government responsible for peace and security for not rising up to their constitutional responsibility and carrying out the purpose that will guarantee Kenyans in that part of the world, be they Pokots, Samburus, Njemps or Marakwets, that they must have security. As one writer said, “All God’s children must have shoes to walk in this world.” That journey must not be interrupted by the selfishness of politicians and the immediacy of political ambitions. It must not be interrupted. All God’s children must have shoes to walk on the earth until God do them take.

I was shocked beyond my wits when I heard the word “shoot to kill” directive because that reminds me of dictators Iddi Amin, Mobutu SeseS eko and the recent crisis in South Sudan which has claimed two million lives. By uttering those words, I do not care whether it was justified or not, it cannot be justified. That is a kind of word that makes God’s children not have shoes to walk through this earth with security and equality.

Mr. Temporary, Sir, I would think that the security committee of Government should have sat down on a daily basis and released communiqués. Do not leave it to Sen. (Prof.) Lonyangapuo or to Sen. Murkomen. They have zero knowledge of security. It is like this last registration of voters. Senators and Members of Parliament (MPs) have no constitutional responsibility to go to the country side and give people Identity Cards (IDs); there are agencies of government to do that.

The Government cannot outsource its responsibilities to politicians. That is gross constitutional irresponsibility. What is happening in that region makes a mockery of this nation which has prided itself to be an oasis of peace in a disturbed neighbourhood. They cannot be an oasis of peace with such things like those. As we begin that kind of things towards the elections, I assure you the worst is going to happen.

Rather than watch this political pantomime I am seeing this afternoon of justifying one’s position, we should bend down to reason and good counsel and appeal to the proper Government agencies to rise up to the occasion and solve the security problem in that part of the world. That is what Kenyans are looking for. The Constitution gives the Government that responsibility. We do vote money here to the National Intelligence Service (NSIS) and other agencies in this House which we do not even audit. Let them use the money responsibly.

(Question proposed)

Sen. Murkomen: Mr. Temporary Speaker, Sir, I would like to thank my colleague Sen. Lonyangapuo for bringing this very important Motion to discuss a matter that has really bedeviled Kerio Valley. It particularly affects a triangle of West Pokot, Baringo and Elgeyo-Marakwet Counties. It is a very sad situation. Less than a week ago, Kenyans watched a mother who was shot in Baringo South who had a three months baby. They shot the mother dead and came back later to shoot the baby. A teacher who was teaching in Muchongoi was shot barely a week ago. You saw teachers demonstrating and the only weapon that teachers have is a chalk.

Disclaimer: *The electronic version of the Senate Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor, Senate*

A driver who was driving from Eldoret to Tot was killed by bandits in a place called Kapkomin and the car was left rolling. Fortunately, the police were not very far from there that evening. They saved the other passengers and took them to hospital. I have attended more than 15 funerals in the last one year in my constituency, Marakwet East Constituency, and about five in Marakwet West Constituency. We have lost over 20 people. In a place called Mon, an old man, a *mzee*, was killed two weeks ago by bandits. They chopped off his head and they went away with it. We spent more than a week to go and look for the head of that *mzee* who was killed and maimed by the bandits.

More than 1,000 livestock have been driven away within a span of six months from Elgeyo Marakwet County. Countless number of livestock have been taken from Baringo South and Baringo North.

While we visited a place called Bartabwa with the Deputy President, a chief was killed less than five kilometers from where we were. In fact, at some point while we were still addressing the meeting, there were gun shots and people left us. There are a number of Internally Displaced Persons (IDP) camps in Baringo, in a place called Kipsaraman, Bartabwa and others.

When we talk about insecurity and the fact that those bandits are ruthless, we know what we are talking about. I have held more than 30 meetings along Kerio Valley with my constituents, the Pokots, the Chairman of the National Cohesion and Integration Commission, Hon. Francis Ole Kaparo and the Deputy President, His Excellency William Ruto. We have held so many meetings; not just this weekend. We have held so many meetings in the last two years with Hon. Kamama and Hon. Rotino. Sadly, we have not been able to hold the same meetings in my county like in Baringo. In fact, while we were in Baringo mourning with those people, they were having a rally in Narok celebrating how they are going to bring down the Deputy President. So, when we discuss the matter of security in this country, you do not need prompting to be invited to come---

Sen. (Prof.) Lonyangapuo: Mr. Temporary, Sir, on a point of order. Is Sen. Murkomen in order to mislead this House that the Senator for Baringo was in Narok? He needs to confirm to this House whether he invited him or not. Lastly, if it is naming the people who were killed he should not be looking for sympathy. There were 22 people who were killed. You want us to table their names and where they come from? We need to see how we can go forward instead of raising emotions here.

Sen. Murkomen: Mr. Temporary, Sir, let me save time. To the contrary, I was in Baringo and it is the Senator for Baringo who should be inviting me. I have held more than 30 meetings alone with my people. Actually, I am supposed to be invited. I have held more than five meetings in Baringo just looking for peace.

So, this matter is extremely emotional for me. I have gone for funerals and seen people and no single Marakwet has been killed in another county. Not a single Marakwet to show that there has been invasion in another county, not at all, and there has never been. There has never been a single Marakwet killed in another county. So, we should not stand here and lie. These are facts and I can table them if you give me time. There are 649 police reservists.

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Temporary Speaker, Sir. Is my neighbour in order to mislead this House that nobody from his county has ever been killed in a different place? Could he confirm that a Marakwet was killed at Chepkoko

carrying guns and bullets in a sack? Is he saying that was not his person? For what purpose were those weapons?

Sen. Madzayo: Hoja ya nidhamu! Bw. Spika wa Muda, hapo awali ulikuwa umetoa uamuzi. Sheria inahitaji kwamba ukishatoa uamuzi, Seneta anayeongea anafaa kupewa nafasi ya kuongea na hivyo ndivyo ulivyokuwa umeamua. Sasa kuna mchezo wa paka na panya. Hawa watu wawili hawataki tuendelee. Kwa nini Sen. (Prof.) Lonyangapuo anaingilia? Anafaa kugonja Sen. Murkomen analize halafu atapata wakati wake ili ajibu.

Sen. Murkomen: Mr. Temporary Speaker, Sir, I come from the affected area. There are 649 police reservists in West Pokot County. For the first time, there are only just 200 police reservists in Elgeyo-Marakwet County. In fact, it will still need other 400 police reservists.

The reason why Sen. (Prof.) Lonyangapuo brought a Motion here last time on payment of reservists and we passed it was because he knew there were more in his county and Turkana County. For the first time, we have 200 police reservists in Elgeyo-Marakwet County.

It is also a lie to say that police reservists are civilians because they are not. They are given Government guns and regulated Government bullets and they must account for all of them. They also operate under the command of the police and that is why they are called the national police reservists. So, it will be a lie to the nation to say it is a group of civilians. There is a reason why because this happens in Samburu, Turkana and north eastern because of the challenges and we have appreciated about the terrain and so forth.

Mr. Temporary Speaker, Sir, think about a woman who was killed in Kipsaraman plus a baby who was three months old. Do you want to say that you will not give a shoot to kill order on such a bandit? Do you want to tell me that you will talk to that bandit just like that when all the Tugens and the Njemps have moved and are now in Mochongoi and in a short while they will be in Nyandarua?

We are not saying that these are ordinary Pokots. I have Pokot blood because my grandmother is Pokot. We are not saying that all Pokots are bandits. What we are saying is that there are bandits who come from certain counties. They could be Pokots or they could be having support from another county but we do not know that. However, those bandits must be shot and killed to protect civilians. What is the role of the Government and why do they have arms if they are not going to shoot and kill characters? Are you going to tell me that an Al Shabaab who takes hostage a building in Nairobi will be left to go and then people say we should negotiate? Whom will you be negotiating with?

Mr. Temporary Speaker, Sir, if you give me another three minutes because you gave my colleague five, I will appreciate because this is really emotive.

The Temporary Speaker (Sen. Mositet): Of course the Mover was entitled to that but since you are also from the same area, I will give you three minutes.

Sen. Murkomen: Thank you Mr. Temporary Speaker, Sir. I appreciate and I will remain responsible.

Mr. Temporary Speaker, Sir, this is not an act that happened just like that. As I told you, there are 649 police reservists in West Pokot. That has helped to bring peace between West Pokot and Turkana. Part of Marakwet will now get the first 200 police

reservists. We have told them that they must be trained jointly plus the reservists who were taken to Tiaty Constituency. It is a lie that Tiaty does not have reservists.

The Government said that there will be one command for all the police and national police reservists operating in Turkana, Samburu, Baringo and Elgeyo-Marakwet counties. The idea is that when bandits run from one corner to another county, there must be a response under one command in different corners of the region. That is why you saw the Inspector-General of Police say that this exercise involves the whole of Kerio Valley but not just confined to one county.

Secondly, the measure to ensure the long-term development of that region is that Aror and Embubut dams in Elgeyo-Marakwet are now being developed to provide water for irrigation for both Elgeyo-Marakwet and Baringo counties. There is also a plan by the Government to expand the Turkwel Irrigation Scheme by putting more money because there will be excess water. If you go to Wei Wei, you will see fantastic irrigation taking place there. That expansion close to Turkana will also foster peace.

So, as we work on the long-term measures, we have to have in place short-term measures such as protecting civilians from bandits. That is why the police are giving aerial support and they will be doing that along the Kerio Valley.

I urge my colleagues that we depoliticize the question of peace. I will not force Sen. Moi to come for meetings even if he does not want to come. I will not force him to come but it would have been nice if he and I went for meetings the way we went with Sen. (Prof.) Lonyangapuo. It would have been fantastic if Sen. Moi was here to move this Motion but at least he is being assisted by Sen. (Prof.) Lonyangapuo.

When we talk here about leaders' response, all the leaders of Baringo have come for meetings. I know there is a challenge on the part of Hon. Kamama but we have had about four or five meetings with him in his constituency and in our county to try to find a solution to this matter. As Sen. (Prof.) Anyang'-Nyong'o said, it is our responsibility.

Mr. Temporary Speaker, Sir my colleagues were in a county campaigning for their candidate whom I heard him praising here that he will make it to Parliament. By God's grace I will be back here this August. What I found funny is that other Senators were prophesying publicly that Murkomen should be removed because he has been unable to contain insecurity yet the people who attack my people come from their counties. What an irony that they were campaigning for a candidate to compete with me in order to solve security problem yet they were having rallies when there was insecurity in their county?

As Senators, Members of the National Assembly and even MCAs, we should depoliticize the question of security. Let us allow the President and his Government to find the best possible solution. Let us also complement by going to speak to our people in a language that will foster unity for this Republic.

Mr. Temporary Speaker, Sir, I beg to support.

Sen. Lesuuda: Mr. Temporary Speaker, Sir, I take this opportunity to thank Sen. (Prof.) Lonyangapuo for bringing this Adjournment Motion. This is a very important Motion for us as a Senate and also as a country.

It is very unfortunate when you read in the newspapers and watch the television and see the suffering on the ground especially of women and children. This is something that we have talked about over and over again as a country among pastoralist

communities on what should be done to end this menace once and for all. There are some basic things that we all have to agree. I agree with Sen. Sang said that it is not good to generalise communities such as Pokots, Marakwets, Samburus or Turkanas. In every other community and even in this town, there are thugs who kill and rob people every day but we have never called them by their names or accused a whole community to be made of thieves or bandits. So, as a nation, we should call bandits, thugs or criminals as such but not by their communities.

Mr. Temporary Speaker, Sir, I want to go straight to the point. Political leadership has a key role to play in the wellbeing of the people. I have witnessed and I have been involved in peace processes. You can talk about peace committees, grazing communities or everything but political leadership is very vital in the whole aspect of ensuring that communities live in peace.

There is also the aspect of quick response even in the things that we are trying to do now. The Government agencies should not wait until the issue has escalated to a point where communities move so far from their areas and they cannot access any amenities such as water, education and anything, let alone even voting. Politicians need to ask themselves who will vote for them if their people will not be in the polling stations. I do not know if stones will vote for them. Why is it that they are not putting as much energy to ensure that their people are safe?

I want my colleagues and other leaders in those counties where peace is under threat to know that our people desperately need us to provide effective leadership. If one Senator for one reason or another is not aware of the meetings that are going on, then the top leadership of this country led by His Excellency the President, should call for a peace meeting of all elected leaders of those counties. This issue should be dealt with in the same way as it was dealt with in Pokot and Turkana counties. For a long time, I thought that the Turkana and Pokot issue could not be dealt with because it was politically instigated. Therefore, the solution to this problem lies with political leadership in all those counties.

We can take all the reservists there and give them shoot-to-kill orders, but we will achieve very little in term of pacifying those areas. Let us understand the dynamics of those people and their communities. It is important to deploy the army and other security apparatus to beef up the security, but it is equally critical to involve the political leadership so that we get everlasting solution to this problem. We should strive to work for all communities in order to maintain law and order in those counties.

It is very unfortunate, especially now that we are getting into general elections. Right now, there is a lot of tension in Samburu, Laikipia and Pokot counties. Some people attribute it to drought. Drought has always been with us in the past. However, this time round it is so severe that many people are suffering. Why is it that conflict escalates every time we are approaching a general election? We will always have excuses of drought and water.

The aspect of generalizing leaders by calling them warlords is not good. It is ridiculous to see a person in charge of security sending warnings. They should do their job. They should take action. They escalate tension in other areas when they call another leader a warlord. If you are the boss of the security team---

The Temporary Speaker (Sen. Mositet): You have two minutes to wind up.

Sen. Lesuuda: Thank you, Mr. Temporary Speaker, Sir. If someone is in charge of security in a county and has intelligence information which he can use to gauge the situation, he should take the necessary action even if it is arresting people or leaders who incite others to violence. They should desist from playing politics with matters of security in their jurisdictions. The inflammatory sentiments we keep on uttering continue to build the mistrust and tension among our people.

We keep singing of developing a particular area or opening up the areas. We need to have leaders who seriously understand the things that need to be done in these areas. When you go down there, you get to understand why some of those young men want to get into conflict. To them, life is meaningless. They do not see the reason why they should continue living. There is no development in those areas. It is time for us to have genuine conversations of development and opening up those areas.

I hope that we can get a solution, once and for all, for the sake of those mothers and children. We should ensure that our people are peaceful wherever they are. We should also ensure that they access basic needs and live decently.

Sen. Madzayo: Mr. Temporary Speaker, Sir, first, I would like to convey my heartfelt condolences to the residents of Baringo County who have lost their dear ones. This Motion is very important. Any life that is lost is very important to this country. Article 26(3) of our Constitution on Right to Life says:-

“A person shall not be deprived of life intentionally, except to the extent authorised by this Constitution or other written law.”

It is unfortunate that some people are issuing shoot to kill orders. This Constitution does not give anybody that power. We know the gravity of the matter. We understand the situation that is currently prevailing. However, we should try to avoid a situation where somebody will take advantage and take out the life of another person simply because they have been told to shoot and kill.

It is a pity to see Governor of Mombasa, Gov. Joho continuing to live a very frustrated life. His bodyguards, the people who guard his house have been suddenly withdrawn and he has been left helpless. The same thing happened to the Governor of Kilifi County. It is very unfortunate. This kind of situation can catapult Mombasa County into another situation like Baringo County where people are losing their loved ones. If the Governor of Mombasa County would lose his life, then Mombasa would not be the same. It will not be the way it is. Life is very important and the State has a duty to protect it.

The same thing might happen to the Governor of Kilifi County. Recently---

The Temporary Speaker (Sen. Mositet): Hon. Senator, restrict yourself to the Motion. The Motion is about Baringo County not Mombasa or Kilifi County.

Sen. Madzayo: Mr. Temporary Speaker, Sir, any life is very important to this country. Therefore, nobody should lose life intentionally.

Recently the residence of the Governor of Kilifi County was broken into and thugs entered one of the rooms. Fortunately, the Governor was not hurt. If he had been attacked, there could be a lot of bloodshed in Kilifi that would have led to a similar ethnic strife situation as in Baringo County.

We want to know what is happening in Baringo County. There are tensions in Eleyo-Marakwet, Turkana and Pokot counties. We want our army to move in and restore order. People should live in peace as they used to live. People who have intermarried

should find their relatives safe wherever they have been married. This is the Kenya that we want. We do not want a Kenya where communities are divided along tribal lines. What is being witnessed right now is very sad. We are now in a situation where we are now losing some of our children in Somali. These are our soldiers. Last week or two weeks ago, we buried some soldiers who lost their lives in Somali. It is unfortunate---

The Temporary Speaker (Sen. Mositet): Hon. Senator, I want to restrict you to the Motion. Somali has nothing to do with Baringo County. Stick to the Motion.

Sen. Madzayo: Mr. Temporary Speaker, Sir, all I am saying is that we have our boys there. These soldiers would be very useful to us.

I am saying this with all sincerity. It would be very useful to us if these boys would be brought back home and be taken to that area to protect our communities and make them live in peace instead of dying in a foreign land.

Sen. Sang: Mr. Speaker, Sir, I rise to support this Motion. The situation at the border of West Pokot, Elgeyo-Marakwet and Baringo and the challenges that we have seen in that region in the last one year or so are disturbing.

It is even shocking when you have a situation where leaders from both sides are unable to sit down and engage. I would have been more excited if this discussion and the altercation between Sen. Murkomen and Sen.(Prof.) Lonyangapuo was happening on the ground as they try to find a solution. To have them come and engage in Nairobi while things are happening in their counties is unfortunate.

It is even more disturbing when you hear leaders saying: "You did not inform me." What kind of invitation do you need when you are elected by the same people you are supposed to engage? When you have a situation of this kind there is no room for protocol that a letter has to be written to invite you. This does not help. Let us not politicize this matter. Politicians must appreciate that even as we get to the elections, the lives of these innocent people in the border of Pokot, Marakwet and Baringo matters to this country.

When you hear of the description given by Sen. (Prof.) Lonyangapuo on the number of lives that have been lost and by Sen. Murkomen on the manner in which the executions are being done by these bandits they do not require any consideration. They have already waived their right to life by taking innocent lives including the life of a three months old baby.

A bandit sometimes is carrying even a more dangerous weapon than the Kenya police themselves. How do you tell the police that they need to look for them, chase them, arrest them and take them to the High Court in Baringo or Nakuru? How do you do that when these are bandits on the rampage, killing every person on sight? So, when you hear a politician or a leader saying that the shoot-to-kill order is illegal, you are left wondering whether they are interested in solving the situation.

Mr. Temporary Speaker, Sir what we have seen from most of these leaders is lip service and Sen.(Prof.) Lonyangapuo should be spending more time listening on this one--

The Temporary Speaker (Sen. Mositet): Order Sen. Sang. I had ruled that I do not want name-calling. Withdraw that and stick to the Motion.

Sen. Sang: Mr. Temporary Speaker, Sir, I was just making reference to presentations made here. I withdraw the name of Sen. (Prof.) Lonyangapuo and say that

leaders must go beyond lip service. It is their people that are being killed. It is important that they engage and they should not wait for anybody to write them invitation letters to peace meetings.

When we had issues within the border of Nandi and Kisumu, I and Sen. (Prof.) Anyang'-Nyong'o invited ourselves to minister Nkaiisery's office and all manner of offices because we were interested and genuinely so to resolve the problem.

However, in the case of Baringo, Pokot and Marakwet, leaders are asking why no one has invited them and they want to use that as a way of politicking ahead of 2017. I want to tell them that there will be nobody to vote for you if you do not stop these kinds of killings.

The Temporary Speaker (Sen. Mositet): Let us not politicize this matter.

Sen. Sang: Mr. Temporary Speaker, Sir, I now want to ask the Government to take charge of the situation. I am very happy when I hear that the Government is engaging more police reservists. When you see the government getting the armoured personnel carrier, this is sorting out the mess---

The Temporary Speaker (Sen. Mositet): Add him one minute.

Sen. Sang: Mr. Temporary Speaker, Sir, I want to encourage all the leaders around this border to put their political affiliations and ambitions aside and genuinely focus on sorting out this mess. Avoid the lip service that we continue to see from politicians. Let them go to the ground and genuinely address their people. Let them forget about the protocol of being invited. You are already an elected leader, go and sort out the problem in this border so that our innocent mothers, children and old men can enjoy and live in this country in peace.

I call upon the leaders and more so your committee. You sit in the Committee on National Cohesion and Integration. I want to plead with you to invite those leaders, get them together in Nairobi, take them to the ground, let them engage and find a lasting solution to the problem at that border and region.

Sen. (Dr.) G. G.Kariuki:Mr. Temporary Speaker, Sir. I want to thank Sen. (Prof.) Lonyangapuo for being very courageous to bring this Motion here today because touching those areas is like you are touching something that you have never heard.

Since we do not have enough time, this matter cannot be solved by the sitting Senate or by any Government unless there is a change of their conduct. West Pokot, Samburu and Laikipia are now in trouble, and nobody wants to touch Laikipia.

All the tribes you have just mentioned come to steal livestock from Laikipia after they finish theirs. Let me come to an issue more serious than that. Supposing the four tribes join together and defy the system of government; who is going to change it? You call them Al-Qaida or any names but they will still be there.

It is high time the Government of Kenya and other intelligent men and women started thinking whether we are not sitting on fire because this will happen and it is going to erupt. If the Pokot get armed to the teeth and other people do the same and they are encouraging Laikipia people to get involved, who is going to bring order in that area?

We have problems in the north eastern areas such as Mandera and others. If we get another Mandera in Pokot, Samburu and Laikipia, how will we solve that problem?

I can hear people being very happy to hear that even armoured cars are being bought to go and fight that war. I would rather not have something like that unless people

want something else with the vehicles. This is because it is a guerrilla war. It is not people who can stand here and others there to start fighting the Government.

They fight and run away and no machines will stop them, provided they are getting guns from our neighbours. This war is extending to the Turkanas in Isiolo. The people in Isiolo are arming themselves to the teeth. The Samburus are doing the same. They are encouraging the Dorobos in Laikipia to behave in a similar manner. That small thing called power is misleading everyone. Nobody is willing to give up his or her seat and deal with the problem in order to restore peace in the country.

When I look at Sen. (Prof.) Lonyangapuo and my friend staring at each other because they are so bitter that five people have been killed; they should know that in Laikipia, people are being killed almost every day. We have nowhere to report. If you touch these people, these other tribes incite their people too. I would like to advise the House that unless we decide – I do not know where we will get the decision without support of the system – we have to have free and fair elections in those areas. If they are not free and fair, it is better to postpone them. The war will continue especially ---

(Sen. G.G. Kariuki's microphone went off)

The Temporary Speaker (Sen. Mositet): Please add him two more minutes. Continue Senator.

Sen. (Dr.) G.G. Kariuki: Mr. Temporary Speaker, Sir, anybody who has influence in this, any other system or even in international governments should offer solutions. Let us show ourselves as a free country that can do things on its own. We have a small problem between the Pokots and Samburus. We cannot solve it yet we are just buying armored vehicles. If I had to support these people with the equipment, I could not buy those kinds of things. These bandits get equipment from our neighbours. They get the best.

Of course, the Government is trying to get the best. We must know that criminals are ready to die. They do not come to relief anybody. Our people go there to fight. They can run away and drop the guns but these criminals come with a purpose; they want to take away animals. They say they do so because of drought and famine but it is not true. They are my neighbours. It is a deliberate move. They fight there and then shift to Laikipia. They want to push Laikipia to somewhere else. They are even talking about moving Laikipia to Nyandarua.

Mr. Temporary Speaker, Sir, I beg to support this Motion. I wish we could have a serious meeting of a few intelligent and knowledgeable people to give this system some food for thought.

The Temporary Speaker (Sen. Mositet): Hon. Senators, fortunately, this Motion does not allow the Mover to reply. Sen. (Prof.) Lonyangapuo, I am sure you must have heard what other Senators were proposing.

I believe the Government did well when they decided to add more reservists. I also recommend that it would be much better if the entire leadership in those counties meet with the Committee on National Cohesion.

It would help if the entire leadership of those counties could meet with the Committee on National Cohesion and the Commission headed by Hon. ole Kaparo. If the

leadership could sit together and find a solution instead of blaming one another, the situation would get better. If leaders continue to shout at one another, the situation will get worse.

Sen. (Prof.) Lonyangapuo: On a point of order, Mr. Temporary Speaker, Sir. I acknowledge what my colleagues have said. I also wish to bring to your attention the fact that Sen. Gideon Moi, the Senator for Baringo was supposed to be here, but he fell sick and is at the Aga Khan Hospital. It is, therefore, not true to say that Sen. Gideon Moi has been absent everywhere.

This situation has intensified since we last met with President Uhuru Kenyatta, two weeks ago. We are, therefore, wondering why after we met with the President, the rest have gone haywire.

The Temporary Speaker (Sen. Mositet): As I said earlier, let us not politicise the issue. The situation could have escalated, but we never know what the bandits were planning.

ADJOURNMENT

The Temporary Speaker (Sen. Mositet): Hon. Senators, the Senate now stands adjourned until tomorrow, Wednesday, 1st March, 2017, at 2.30 p.m.

The Senate rose at 6.20 p.m.