

# THE SENATE



## COMMUNICATIONS AND RULINGS FROM THE CHAIR - 2016

Tuesday, 9<sup>th</sup> February, 2016

### COMMUNICATIONS FROM THE CHAIR

#### VISITING DELEGATIONS OF STAFF FROM VARIOUS COUNTY ASSEMBLIES

**The Speaker** (Hon. Ethuro): Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of visitors from Nakuru, Kilifi and Kericho county assemblies.

The County Assembly staffers are here on a four-day attachment to visit similar departments at the Senate. I request each member of the delegation to stand when called out so that they may be acknowledged in the Senate tradition.

From Nakuru County Assembly, Human Resource, Administration and Finance and Accounting Department:-

1. John Kwambai
2. Jane Wakanyi
3. Emmanuel Njuguna

From Kericho County Assembly, Sergeant-at-Arms Department:-

1. Reuben Kirui
2. Augustine Ngeno
3. Sharon Cherop
4. Scolastica Chepkemoi
5. Julius Langat
6. Joseah Langat

From Kilifi County Assembly, ICT and Research Departments:-

1. Mercy Kuria
2. Josephat Saro
3. Iha Thoya

4. Keith Kitsao.

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

I thank you.

*(Applause)*

WELCOME TO HON. SENATORS TO  
THE FOURTH SESSION OF THE 11<sup>TH</sup> PARLIAMENT

Hon. Senators, I have another communication to make on the Fourth Session. It is my pleasure to welcome you back from the long recess on this first day of the Fourth Session of the 11<sup>th</sup> Parliament. It is my sincere hope that you all had a happy holiday and are ready to begin this year on a good footing.

During the last session, the Senate conducted a substantial amount of business in line with our mandate as provided in the Constitution. Just to refresh your memories, some of the business transacted by the Senate during the Third Session was the following:-

(a) A total of 33 Bills originating from the Senate and 12 originating from the National Assembly were introduced to the Senate.

*(Applause)*

I think we need a bigger applause than that one because your first consideration is legislation.

*(Prolonged Applause)*

(b) The Senate also considered two Memoranda on Bills which had been passed by both Houses and submitted to His Excellency the President for assent. This was in respect of the Public Audit Bill (National Assembly Bill No.38 of 2014) and the Public Procurement and Asset Disposal Bill (National Assembly Bill No.40 of 2014).

(c) Ninety six Motions were tabled, 57 of which were deliberated upon and concluded;

(d) Thirty three Petitions were presented out which nine were reported on;

(e) One hundred and fifty nine Statements were requested from the Chairpersons of Committees out of which 95 were responded to.

This is just but part of what the Senate achieved in the last Session which indicates a marked improvement in volume and the quality of the business transacted over the previous Sessions. Much more, as you are undoubtedly aware, was achieved through respective committees as the House firmly and unequivocally took up its rightful place as the guardian angel of devolution.

Hon. Senators, in continuing to exercise our mandate as the House of equity, it is my expectation that we will see more business transacted by the House during this Fourth Session. This Session should see more consolidation and reflection as it is a turning point. It is actually a mark of transition to full realization of devolution. We have, therefore,

planned a series of activities to further deliberate with you on these issues and we will be calling upon you to fully participate. We will, therefore, be asking for your maximum support and cooperation at this particular fourth year of the five-year term.

Lastly, and as you are all aware, Statements and Motions lapse at the end of each Session. I, therefore, urge Senators who wish to resuscitate such Motions and Statements to proceed and re-file them with my office.

It is, therefore, my singular honour and appreciation to wish you all the best as you continue to fulfill your mandate during this Fourth Session that commences today.

I thank you.

*(Applause)*

**Tuesday, 16<sup>th</sup> February, 2016**

**COMMUNICATION FROM THE CHAIR**

PROCESSING OF THE BUDGET POLICY  
STATEMENT 2016

**The Speaker** (Hon. Ethuro): Hon. Senators, I have a Communication to make on the processing of the Budget Policy Statement 2016. As you are aware, Section 25 of the Public Finance Management Act requires the National Treasury to prepare and submit the Budget Policy Statement to Parliament by 15<sup>th</sup> of February each year. Consequently, by a letter Ref.COF83/02 dated 12<sup>th</sup> February, 2016, and received in the office of the Clerk on 15<sup>th</sup> February, 2016, the Principal Secretary for the National Treasury submitted the following documents for consideration and approval by Parliament:-

- (a) The Budget Policy Statement 2016
- (b) The Medium Term Debt Management Strategy 2016
- (c) The Draft Division of Revenue Bill 2016
- (d) The Draft County Allocation of Revenue Bill 2016

Hon. Senators, at Order No.5 in today's Order Paper, I will allow the Chairperson of the Standing Committee on Finance, Commerce and Budget to formally table these documents.

The Budget Policy Statement is an important tool as it sets out the broad strategic priorities and policy goals that will guide the national Government and county governments in preparing their budgets both for the following financial year and over the mid-term. It contains among other things:-

(1) An assessment of the current state of the economy and the financial outlook over the medium term, including the micro economic focus.

(2) The financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term.

(3) The proposed expenditure limits for the national Government, including those of Parliament and the Judiciary and indicative transfers to county governments.

(4) The fiscal responsibility principles and financial objectives over the medium term, including limits on total annual debt.

In a nutshell, it means that any proposals that Senators have regarding the Division of Revenue Bill and the County Allocation of Revenue Bill, including funds for conditional allocations to the counties, should be canvassed and forwarded to the National Treasury for possible factoring in the Budget Policy Statement, failure to which it will be difficult to be accommodated later on.

Hon. Senators, Section 25(7) of the Public Finance Management Act provides as follows:-

“Parliament shall, not later than 14 days after the Budget Policy Statement is submitted to Parliament table and discuss a report containing its recommendations and pass a resolution to adopt it with or without amendments.”

Based on the importance of the Budget Policy Statement and the above timelines, I direct that once tabled, the Budget Policy Statement be considered by all standing

committees, each concentrating on its mandate. The standing committees will then forward their recommendations to the Standing Committee on Finance, Commerce and Budget for consideration and tabling of the report not later than Thursday, 25<sup>th</sup> February, 2016. The Senate will be required to debate and approve the report by Tuesday, 1<sup>st</sup> March, 2016.

Please note that pursuant to Section 25(8) of the Public Finance Management Act, the Cabinet Secretary of the National Treasury is expected to take into account resolutions passed by Parliament in finalizing the Budget for the relevant financial year. I, therefore, wish to urge all the hon. Senators to prioritize the scrutiny of the Budget Policy Statement, taking into consideration our most important function of safeguarding devolution.

I thank you.

**Tuesday, 16<sup>th</sup> February, 2016**

VISITING DELEGATION OF STAFF FROM BOMET  
AND KERICHO COUNTY ASSEMBLIES

Hon. Senators, before I call upon on the Members to lay the Papers, let me recognize a visiting delegation from Kericho and Bomet County assemblies who are on attachment at the Senate.

*(Applause)*

I would like to acknowledge the presence in the Speaker's Gallery this afternoon of visiting staff from Kericho and Bomet County assemblies. They are here on a five day attachment to visit similar departments at the Senate. I request each Member of the delegation to stand when called out so that they may be acknowledged in the Senate tradition.

1. Kenneth Kosonoi;
2. Julius Kurgat;
3. Andrew Kipkirui;
4. Wesley Langat;
5. Sarah Maiwa;
6. Silas Rop; and
7. Stanly Maritim.

I hope that you will enjoy your programme.

On behalf of the Senate and on my own behalf, I welcome all of you to the Senate and wish you well for the remainder of your stay.

**Tuesday, 23<sup>rd</sup> February, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION OF STAFF FROM NYAMIRA  
AND KERICHO COUNTY ASSEMBLIES

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, I have a short communication to make on visiting delegations from various county assemblies on attachment at the Senate.

I would like to acknowledge the presence in the Speaker's Gallery, this afternoon, of visiting staff from Nyamira and Kericho county assemblies. The county assembly staffers are here on a five-day attachment visit in similar departments at the Senate. I request each member of the delegation to stand when called out so that they may be acknowledged in the Senate tradition. They are:-

From Nyamira County Assembly Research Department:-

1. Alloice King'ala - Principal Information and Research
2. Eveyne Kiage - Research Officer II
3. Boniface Ondieki - Research Officer II
4. Justin Ogechi - Research Officer III
5. Christopher Kinanga - Research Officer III

From Kericho County Assembly Sergeant-at-Arms Department:-

1. Justus Maritim - Commissioner
2. Benjamin Byegon - Security Warden
3. Julius Sang - Security Warden
4. Kiprono Rugut - Security Warden
5. Diana Chepkemoi - Security Warden

I hope that they have a fruitful programme. On behalf of the Senate and on my own behalf, I welcome them to the Senate and wish them well for the remainder of their stay.

I thank you.

*(Applause)*

**Tuesday, 1<sup>st</sup> March, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION OF STAFF FROM KILIFI, NYAMIRA  
AND WEST POKOT COUNTY ASSEMBLIES

**The Speaker** (Hon. Ethuro): Hon. Members, present in the Speaker's Gallery this afternoon are visiting staff from Kilifi, Nyamira and West Pokot County Assemblies. The staffers are here on a five day attachment visit to similar departments at the Senate. I request each member of the delegation to stand when called out so that they may be acknowledged by the Senators in our great usual tradition.

Kilifi County Assembly

1. Stanley Suma
2. Omar Chuvi
3. Alfred Mumba
4. Samson Katana

Nyamira County Assembly

1. George Nyamiaka
2. Geroge Bosire
3. Jacklyne Nyamboga

West Pokot County Assembly

1. Paul Kibet
2. David Ruto

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

Thank you.



**Wednesday, 2<sup>nd</sup> March, 2016**

**COMMUNICATION FROM THE CHAIR**

**STATUS OF THE SESSIONAL COMMITTEE ON COUNTY  
PUBLIC ACCOUNTS AND INVESTMENTS**

**The Speaker** (Hon. Ethuro): Hon. Senators, as you recall at the sitting of the Senate yesterday Tuesday 1<sup>st</sup> March, 2016, the Deputy Speaker, Sen. Kembi-Gitura rose under Standing Order No. 45 (2) (b) of the Senate Standing Orders, seeking a Statement from the Chairperson of the Sessional Committee on County Public Accounts and Investments regarding the report of the Special Committee on the proposed removal from office by impeachment of hon. Mwangi Wa Iria, Governor of Murang'a County, dated 6<sup>th</sup> November, 2015.

The Deputy Speaker set out a number of issues on which he sought the way forward from the Committee. Sen. Wamatangi, a Member of the Sessional Committee on the County Public Accounts and Investments then informed the House that the matter raised by Sen. Kembi-Gitura was similar to other matters that were pending before the Committee. He further stated that the Committee was in limbo and had been unable to transact business following the de-whipping of the Chairperson of the Committee, Sen. Okong'o.

Sen. Wamatangi sought the guidance of the Chair on whether a committee should be rendered dysfunctional by the de-whipping of its chairperson or whether despite the de-whipping of its chairperson, the Committee could continue to transact its business. The Senator argued that if a committee could be rendered dysfunctional by the de-whipping of its chairperson, this would create an avenue to be used by political parties to ensure that when there was business before a committee that the party did not favour, the business did not proceed.

He further expressed concern that the present status of the Sessional Committee on the Sessional Committee on County Public Accounts and Investments would set a bad precedence for the Senate. A number of Senators rose on points of order to speak to this matter including Sen. Kembi-Gitura, Sen. (Dr.) Machage, Sen. Muthama, Sen. Okong'o, Sen. Billow, Sen. Hassan, Sen. Orengo and Sen. Elachi.

On account of the gravity of the issues raised, I undertook to deliver a ruling on this matter today, Wednesday, 2<sup>nd</sup> March, 2016. From the deliberations on this matter, three issues arise that require the direction of the Chair, namely:-

- (1) The manner in which the Sessional Committee on County Public Accounts and Investments should be constituted,
- (2) The manner in which the chairperson of a committee can be de-whipped,
- (3) The effect of such de-whipping.

Hon. Senators, before I proceed to give direction on these issues, it is important that I set out the sequence of events in this matter.

- (1) Following the reconstitution of the Sessional Committee on County Public Accounts and Investments, in accordance with Standing Order No.183(1) of the Standing Orders, the Clerk of the Senate convened the first meeting of the Committee on the 16<sup>th</sup>

February, 2016 for purposes of election of the Chairperson and the Vice Chairperson of the Committee.

(2) At that meeting, Sen. Okong'o was elected the Chairperson of the Committee while Sen. (Prof.) Lonyangapuo was elected to the position of the Vice Chairperson. Thereafter, by a letter dated 17<sup>th</sup> February, 2016, the Coalition for Reforms and Democracy (CORD), through its Whip, notified the Speaker that Sen. Okong'o had, pursuant to Standing Order No. 180, been discharged from the Committee and that the Coalition would be replacing the Senator with Sen. (Dr.) Zani. By letters dated the same 17<sup>th</sup> February, 2016, Sen. (Prof.) Anyang'-Nyong'o and Sen. Khaniri informed the Speaker that they had also resigned from the Committee.

Hon. Senators, on the first issue which is how the Sessional Committee on County Public Accounts and Investments should be constituted, as you are aware, the Sessional Committee on County Public Accounts and Investments is established under Standing Order No. 212 of the Senate Standing Orders.

Standing Order No. 212 (2) provides that:-

“The County Public Accounts and Investments Committee shall consist of a Chairperson, who shall be a member of the second largest party or coalition of parties in the Senate, and not more than eleven other Senators.

It is important to observe from the Standing Order no 212 (2) that despite Standing Order No. 182 (a) of our Standing Orders which provides for the manner of elections of chairpersons of committees, special provision has been made relating to the election of the chairperson of the County Public Accounts and Investments Committee. The rationale for this is that the Committee is an oversight committee and, therefore, one which going by the practices and traditions of our Parliament and those of comparable jurisdiction cannot be chaired by a Member from the majority party.

Hon. Senators, you will, however, observe that Standing Order No. 212 of the Senate Standing Orders makes no further special provision relating to the election of the vice chairperson or the nomination of the other Members of the Committee. Therefore, although it was argued by some Senators in the various points of order on this matter that the Vice Chairperson of the Committee should be a Member of the minority party, the Standing Orders are silent on this.

Consequently, the general provisions of the Standing Orders that apply to the election of vice chairpersons and the nomination of Members to serve in committees apply to this particular Committee. The upshot of this is that the decision as to which Member of a committee shall serve as its vice chairperson is a decision only for the Members of the particular committee. Indeed, even the decision for the chairperson is still for the Members of the committee except the Standing Orders clarify where the chairperson can come from.

The second issue that requires my direction relates to the removal or de-whipping of a chairperson of a committee. As Hon. Senators are aware, political parties are a key pillar of the system of governance established in our Constitution. Political parties, therefore, play a major role in the identification and nomination of Members to serve in the committees. They are similarly bestowed with the prerogative of removing or de-whipping their Members from the committees.

In this regard, Standing Order No. 180 (1) provides that:-

“A Parliamentary Party that nominated a Senator to a Select Committee may give notice, in writing, to the Chairperson of the Rules and Business Committee that the Senator is to be discharged from a Select Committee”.

Standing Order No. 180 (2) of the Standing Orders further provides that:-

“The discharge of a Senator shall take effect upon receipt by the Chairperson of a notice under paragraph (1)”.

Therefore, you occasion the move, and your wishes are granted as they are.

In the case of the Sessional Committee on County Public Accounts and Investments, in terms of Standing order No.210(1) of the Senate Standing Orders, for purposes of the Fourth Session of the Eleventh Parliament, Sen. Okong’o was by letter dated 9<sup>th</sup> February, 2016, nominated by the CORD Coalition to serve as a Member of the Committee.

Subsequently, Sen. Okong’o was on 17<sup>th</sup> February 2016 elected to serve as the chairperson of then said committee. However, on the same day, by letter of the same date, the Senator was, pursuant to Standing Order No.180(1) discharged the same evening and, therefore, removed by the party from membership in the Committee. That is as it is.

The third question relates to the effect of the de-whipping of a chairperson of a committee on the business and affairs of the committee. The question that arose was whether in light of the de-whipping of the chairperson of the Sessional Committee on County Public Accounts and Investments, then the Committee could continue to transact its business.

On one hand there were Senators who argued that the de-whipping of a chairperson of a committee would not affect the continued transactions of the business of the committee, so long as the committee continues to retain a quorum and; further, that in the absence of the chairperson, then the vice chairperson of the committee would chair all subsequent sittings until the election of the new chairperson. It was, therefore, argued that the committee was not in limbo and could, indeed, proceed to consider matters before it. On the other hand, other Senators implied that the committee was, indeed, in limbo and could not possibly proceed to transact any business before the election of a new chairperson.

The latter position is the correct position. Standing Order No.183(2) provides as follows:

“Whenever a vacancy occurs in the office of the Chairperson or Vice-Chairperson of a Select Committee, the Clerk shall, within seven days of the vacancy arising, appoint a place, date and time for the meeting of the Committee to elect a chairperson or the vice-chairperson.”

It is evident from this Standing Order that where there is a vacancy in the office of the chairperson or the vice chairperson of a committee, then filling of the vacancy takes precedence over all other business before the committee. This is why the Standing Orders make specific provision on the timelines relating to the filling of such vacancies. This will be all the more important in the case of the Sessional Committee on County Public Accounts and Investments, which under Standing Order 212 of our Standing Orders has special requirements relating to the election of its chairperson.

Proceeding with the business of the Committee on County Public Accounts and Investments without ensuring the observance of Standing Order No.212(2) would open

the proceedings of the committee to questions as to the validity of the composition of the committee. Possibly so, it would lead to questions on the status of any business transacted by the committee in that period. It is, therefore, imperative that a chairperson of the committee be elected in accordance to Standing Order No.212(2) before further proceedings of the committee.

Although under Standing Order No.192 of the Standing Orders, the vice chairperson may act in the absence of the chairperson, a vacancy is not an absence within the meaning of that Standing Order. Consequently, it is not open to a committee, particularly one such as this that requires a chairperson to be from the minority party to proceed with business during a period of vacancy in the office of the chairperson.

It is, however, imperative to underline that contrary to the position implied by Sen. Wamatangi in his request for direction that the removal of a chairperson renders a committee dysfunctional, the position is that such removal has no effect on the validity of the committee except for the requirement that the committee first elects a chairperson before proceeding with its next business.

I note by the correspondence dated 1<sup>st</sup> March, 2016, and addressed to members of the Sessional Committee on County Public Accounts and Investments, the Clerk of the Senate has, pursuant to Standing Order No.183(2) appointed Thursday 10<sup>th</sup> March, 2016 as the date on which the election of the chairperson of the Sessional Committee on County Public Accounts and Investments shall be held.

I thank you,

*(Applause)*

**Wednesday, 2<sup>nd</sup> March, 2016**

**COMMUNICATIONS FROM THE CHAIR**

MEETING OF THE COMMITTEE ON FINANCE, COMMERCE  
AND BUDGET WITH THE GOVERNOR OF CBK

**The Speaker** (Hon. Ethuro): Hon. Senators, I have a communication to make on the meeting of the Standing Committee on Finance, Commerce and Budget with the Governor of the Central Bank of Kenya (CBK).

As you may be aware, on the 10<sup>th</sup> of February 2016, the Senate Minority Leader sought a Statement from the Chairperson of the Committee on Finance, Commerce and Budget regarding the continued editions by the CBK of currency bearing portraits of individuals in contravention of the Constitution of Kenya.

On Wednesday, 24<sup>th</sup> February 2016, the Chairperson of the Standing Committee on Finance, Commerce and Budget issued a response on the matter. However, the response was not satisfactory going by the number of interventions raised by the Senators. I, therefore, directed the Committee to convene a meeting for all interested Senators and invite the Governor of the CBK to respond to the issues raised.

Hon. Senators, I wish to inform you that the Standing Committee on Finance, Commerce and Budget has convened a meeting of all the Senators to deliberate on the matter. The Governor of the CBK, Dr. Patrick Njoroge has confirmed his attendance. The meeting will be held tomorrow, Thursday, 3<sup>rd</sup> March 2016 in the Senate Chamber, Main Parliament Building starting 10.00 a.m. I urge all hon. Senators to attend.

VISITING DELEGATION OF STAFF AND STUDENTS FROM  
TANGAZA UNIVERSITY COLLEGE

Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of visiting staff and students from Tangaza University College. The delegation is here on a benchmarking visit and attachment. I request the delegation to stand so that we acknowledge them in the Senate tradition.

*(The visiting delegation from Tangaza University College  
stood up in their places in the Speaker's Gallery)*

*(Applause)*

I hope that they will have a fruitful visit.

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

**Thursday, 3<sup>rd</sup> March, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION OF MEMBERS AND  
STAFF FROM TURKANA COUNTY ASSEMBLY

**The Speaker** (Hon. Ethuro): Order, Senators. Before I allow interventions on that particular Statement, let me acknowledge the presence, in the Speaker's Gallery this afternoon, of visiting Members and staff from Turkana County Assembly. The delegation from Turkana County Assembly Committee on Legal Affairs and Human Rights is here on a benchmarking visit and attachment.

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

- |                          |   |                  |
|--------------------------|---|------------------|
| 1. Hon. Lawrence Lotomon | - | Chairperson      |
| 2. Hon. Lillyrose Akori  | - | Vice Chairperson |
| 3. Hon. Jacob Nakuwa     | - | Member           |
| 4. Mr. Francis Ekunoit   | - | Serjeant-at-Arms |
| 5. Mr. James Kuya        | - | Research Officer |

I wish them a fruitful programme in the Senate. On behalf of the Senate and my own behalf, I welcome and wish them well.

I thank you.

**Tuesday, 8<sup>th</sup> March, 2016**

**COMMUNICATIONS FROM THE CHAIR**

ESTABLISHMENT OF PARLIAMENTARY FRIENDSHIP GROUPS  
BETWEEN PAKISTAN, CHINA, SOUTH KOREA AND THE  
SENATE OF KENYA

**The Speaker** (Hon. Ethuro): Hon. Senators, I have a brief communication to make.

I have received requests from the Parliaments of Pakistan, China and South Korea on the need to establish Parliamentary Friendship Groups between the respective institutions and the Senate of the Republic of Kenya. Parliamentary Friendship Groups are significant avenues for strengthening parliamentary diplomacy between parliaments. The registration forms have been placed at the Chamber entrance for you to register at the earliest opportunity.

I, therefore, wish to request you to join any of the proposed Parliamentary Friendship Groups as you wish.

I thank you.

RETREAT ON EQUITABLE SHARING OF REVENUE  
AMONG COUNTY GOVERNMENTS

**The Speaker** (Hon. Ethuro): Hon. Senators, I have another communication on the upcoming retreat on equitable sharing of revenue among the county governments.

As you may be aware, Article 216(1)(b) and 217(2)(b) of the Constitution provide that the Commission on Revenue Allocation (CRA) shall recommend the basis for sharing revenue among county governments to the Senate for consideration. Thereafter, in accordance with the provisions of Article 217(1) of the Constitution as read together with Section 16 of the Sixth Schedule to the Constitution, the Senate shall, by resolution, determine the basis for allocating among the counties the share of national revenue that is annually allocated to the county level of governments.

Hon. Senators, you may recall further that arising from the numerous concerns by the stakeholders, a retreat was held in Mombasa on 16<sup>th</sup> October, 2015 where the CRA presented simulations on the proposed formula and it was left to the Standing Committee on Finance, Commerce and Budget to give its final recommendations on the suggested formula as provided by the CRA. The Committee has deliberated on the matter and come up with a proposal on how the CRA should prepare the simulations.

You may also recall that this matter was brought to the attention of Senators during the *Kamukunji* held on 17<sup>th</sup> February, 2016, where it was established that a retreat be organised to deliberate further on the proposal.

Hon. Senators, I now wish to inform you that the Standing Committee on Finance, Commerce and Budget has together with the CRA organised a half day retreat to deliberate on this matter. The retreat will be held on Thursday, 10<sup>th</sup> March, 2016, from 7.30 a.m. to noon at the Raddisson Blue Hotel, Upper Hill, Nairobi. I would like to urge

all of you to attend the retreat so that you may deliberate on this very important matter where we are running behind schedule.

I thank you.

VISITING DELEGATION OF STAFF FROM  
TURKANA COUNTY ASSEMBLY

**The Speaker** (Hon. Ethuro): Hon. Senators, my final statement is to communicate on a visiting delegation from Turkana County Assembly on attachment at the Senate.

I would like to acknowledge the presence in the Speaker's Gallery this afternoon of the visiting staff from Turkana County Assembly, HANSARD Department. The county assembly staffers are here on a five-day attachment visit to the Senate.

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

May you all rise so that you are recognized by the Senate.

I thank you.



**Thursday, 10<sup>th</sup> March, 2016**

**COMMUNICATIONS FROM THE CHAIR**

VISITING DELEGATION OF TEACHERS AND STUDENTS  
FROM NGUUTANI SECONDARY SCHOOL

Order, Senators! Before we proceed to the next Order, I wish to recognise the presence for the students and teachers from Nguutani Secondary School from Kitui County. They are seated in the Public Gallery.

They have come at the right time when we are discussing about their needs or rather the earlier stage as they progress to where they have reached. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

*(The Speaker (Hon. Ethuro) posed)*

I am waiting for the applause.

*(Applause)*

I thank you.

VISITING DELEGATION OF MCAs AND  
STAFF FROM KILIFI COUNTY ASSEMBLY

Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery, this afternoon of visiting Members and staff from Kilifi County Assembly Energy Committee. The Members of the County Assembly (MCAs) and staff are here on a one-day benchmarking visit with the Committee on Energy at the Senate.

I request each Member of the delegation and staff to stand when called out so that they may be acknowledged in the Senate tradition. They are:-

- |                              |   |                  |
|------------------------------|---|------------------|
| 1. Jared Kaunda Barns Chokwe | - | Chairperson      |
| 2. Tecler Naomi Muye         | - | Vice Chairperson |
| 3. Kahindi Geofrey Muhambi   | - | Member           |
| 4. Japheth Katana Nzaro      | - | Member           |
| 5. Esther Ndidza Albert      | - | Member           |
| 6. Hamza Hamisi Hussein      | - | Member           |
| 7. Grace Kwekwe Mwangome     | - | Member           |
| 8. Charity Mnyazi Mwarumba   | - | Clerk Assistant  |
| 9. Matilda Mwendwa           | - | Hansard Reporter |
| 10. Omar Chuphi              | - | Sergeant-at-arms |

I hope that they have a fruitful programme as they sojourn at the Senate.

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

## COMMUNICATIONS FROM THE CHAIR

### VISITING DELEGATION OF TEACHERS AND STUDENTS FROM NGUUTANI SECONDARY SCHOOL

**The Speaker** (Hon. Ethuro): Order, Senators! Before we proceed to the next Order, I wish to recognise the presence for the students and teachers from Nguutani Secondary School from Kitui County. They are seated in the Public Gallery.

They have come at the right time when we are discussing about their needs or rather the earlier stage as they progress to where they have reached. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

*(The Speaker (Hon. Ethuro) posed)*

I am waiting for the applause.

*(Applause)*

I thank you.

### VISITING DELEGATION OF MCAs AND STAFF FROM KILIFI COUNTY ASSEMBLY

**The Speaker** (Hon. Ethuro): Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery, this afternoon of visiting Members and staff from Kilifi County Assembly Energy Committee. The Members of the County Assembly (MCAs) and staff are here on a one-day benchmarking visit with the Committee on Energy at the Senate.

I request each Member of the delegation and staff to stand when called out so that they may be acknowledged in the Senate tradition. They are:-

- |                               |   |                  |
|-------------------------------|---|------------------|
| 11. Jared Kaunda Barns Chokwe | - | Chairperson      |
| 12. Tecler Naomi Muye         | - | Vice Chairperson |
| 13. Kahindi Geofrey Muhambi   | - | Member           |
| 14. Japheth Katana Nzaro      | - | Member           |
| 15. Esther Ndidza Albert      | - | Member           |
| 16. Hamza Hamisi Hussein      | - | Member           |
| 17. Grace Kwekwe Mwangome     | - | Member           |
| 18. Charity Mnyazi Mwarumba   | - | Clerk Assistant  |
| 19. Matilda Mwendwa           | - | Hansard Reporter |
| 20. Omar Chuphi               | - | Sergeant-at-arms |

I hope that they have a fruitful programme as they sojourn at the Senate.

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

I thank you.

## **COMMUNICATION FROM THE CHAIR**

### **WORKSHOP ON THE COUNTY MONITORING, EVALUATION AND IMPACT ASSESSMENT FUND**

**The Speaker** (Hon. Ethuro): Hon. Senators, as you are aware, on Wednesday, 2<sup>nd</sup> December, 2015, the Senate established a Sessional Committee on County Monetary and Impact Assessment Fund. Subsequently, the Parliamentary Service Commission prepared and gazetted the regulations governing the County Monetary and Impact Assessment Fund via Legal Notice No. 251 of 3<sup>rd</sup> December, 2015.

The regulations among others mandate the Committee to:-

1. Consider the bi-annual disbursements out of the Fund.
2. Receive reports on the performance of the Fund from the administrator.
3. Examine the monitoring programmes being undertaken by the recipients of the Fund.
4. Prepare and submit to the Senate an annual Report on the operations and performance of the Fund.
5. Perform any other function as the Senate may approve.

On 10<sup>th</sup> February, 2016 the Committee held its first sitting and elected its leadership.

The Committee has convened a half a day workshop to sensitise all the Senators on the operationalisation and implementation of the regulations of the Fund. The workshop will be held on Thursday, 17<sup>th</sup> March, 2016 at the Hotel Intercontinental, Nairobi starting at 8. 30 a.m. Therefore, I take this opportunity to urge all of you to attend to this important workshop to deliberate on this important matter.

Thank you.

**Wednesday, 16<sup>th</sup> March, 2016**

CHANGE OF VENUE FOR WORKSHOP ON THE COUNTY  
MONITORING, EVALUATION AND IMPACT  
ASSESSMENT FUND

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, I would like to communicate the following:-

Further to my earlier Communication from the Chair on Thursday, 10<sup>th</sup> March, 2016 about the workshop on operationalization and implementation of the Senate County Monitoring and Evaluation Fund and my subsequent letter on the same dated 15<sup>th</sup> March, 2016, I am pleased to inform you that the Senators briefing is still on as scheduled on Thursday, 17<sup>th</sup> March, 2016 from 8.30 a.m.

However, please note that the venue has been changed from the earlier communicated venue to the Senate Chamber.

VISITING DELEGATIONS OF MEMBERS AND STAFF FROM  
KILIFI, NYAMIRA AND VIHIGA COUNTY ASSEMBLIES

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of visiting Members and staff from Kilifi, Nyamira and Vihiga county assemblies.

The county assembly Members and staff are here on attachment with their counterpart committees and departments at the Senate. I request each Member of the delegation to stand when called out so that they may be acknowledged in the Senate tradition. They are as follows:-

From Vihiga County Assembly, Finance Committee:-

1. Hon. Zacharia Murefu - Chairperson
2. Hon. Dorcas Anupi - Vice Chairperson
3. Hon. Joshua Olao - Member
4. Hon. Jennipher Ekhuya - Member
5. Hon. Clyde Kweya - Member
6. Hon. Vincent Atsiaya - Member
7. Hon. Benedict Kiwanuka - Member
8. Hon. Elizabeth Muhonja - Member
9. Hon. Adalla Chogo - Member
10. Mr. Nahashon Kusina - Deputy Clerk
11. Ms. Peris Odari - Senior Accountant
12. Mr. George Kibisu - Serjeant-At-Arms
13. Mr. Ken Okanga - Senior Clerk.

From Kilifi County Assembly Human Resource Department we have the following:-

1. Samson Makazi - Human Resource Officer II
2. Gabriel Charo - Office Assistant

3. Faima Mohamed - Office Assistant
4. Innocent Ngumbao - Office Assistant
5. Hastings Mrisa - Office Assistant
6. Esther Kadzo - Office Assistant
7. Moses Karema - Office Assistant

From Nyamira County Assembly Human Resource Department:-

1. Joshua Kerandi - Administrative Assistant
2. Linet Nyang'au - Librarian

I hope that they have a fruitful programme. On behalf of the Senate and on my own behalf, I welcome them to the Senate and wish them well for the remainder of their stay.

### **COMMUNICATION FROM THE CHAIR**

#### **VISITING DELEGATION OF STUDENTS AND TEACHERS FROM ALLIANCE HIGH SCHOOL**

**The Temporary Speaker** (Sen. Mositet): Hon. Senators, I have a communication to make on visiting students and teachers from Alliance Boys' High School.

Hon. Senators, I wish to recognise the presence of visiting students and teachers from Alliance Boys' High School in Kiambu County. They are seated in the Public Gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

*(Applause)*

**Thursday, 17<sup>th</sup> March, 2016**

**COMMUNICATION FROM THE CHAIR**

THIRD ANNUAL DEVOLUTION CONFERENCE

**The Temporary Speaker** (Sen. Ongoro): Hon. Senators, as you are aware, the Annual Devolution Conference is an event which brings together all implementers of devolved governance including representatives from both levels of Government, independent commissions, academia, policy practitioners, civil society and the media.

The Conference presents an opportunity for the participants to celebrate the gains that have been made in devolution, to deliberate on how to optimize on the emerging opportunities presented by devolution and to identify challenges that can be addressed collaboratively amongst stakeholders for the welfare of our country.

The inaugural Devolution Conference was held in Kwale County in April, 2014 and the second was held in Kisumu County in April, 2015. The Third Annual Devolution Conference is now set to be hosted in Meru County from 19<sup>th</sup> to 23<sup>rd</sup> April, 2016 at the Meru Technical Training Institute.

Hon. Senators, the overall theme of this year's Devolution Conference is "*Celebrating Devolution*" while the guiding theme is: "*The Promise of Devolution: Consolidating the Gains After Transition and Looking into the Future.*"

A total of ten sub-themes have been selected to guide deliberations over the three-day period. These themes are as follows:-

- (1) Strengthening county governments, competence and capacity for sustainability of devolution;
- (2) Civic education and its role in effective public participation;
- (3) ICT as an enabler for economic growth and development;
- (4) Localization of Sustainable Development Goals (SDGs);
- (5) Regional cooperation for sustained economic development;
- (6) Conflict management and mitigation;
- (7) Electoral integrity in a devolved system;
- (8) Sustainable urbanization for transformative development;
- (9) Unity of objective; diversity of approach; and
- (10) Achievements made by the Constitutional Commissions and other implementing statutory bodies in realizing the devolution process.

In this regard, I request all Senators to attend and participate in this important Conference, which goes to the core of our mandate as the Senate.

Additional information on the arrangements for this event will be provided through the Office of the Clerk of the Senate. Senators who intend to participate in the Conference are requested to give their confirmation, in writing, to the office of the Clerk for purposes of planning.

**Tuesday, 22<sup>nd</sup> March, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION OF STAFF FROM  
KILIFI COUNTY ASSEMBLY

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon Senators, before we go to the next order, I have a short communication to make.

Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of visiting staff from Kilifi County Assembly, Human Resource Department. The County Assembly staff are here on a five-day attachment with their counterpart department at the Senate.

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

1. Damaris Bakari, Senior Human Resource Officer.
2. Velda Gwiyo, Clerical Officer.
3. Margaret Pendo, Registry Clerk.
4. Agnes Kazungu, Office Assistant.
5. Penina Yeri, Office Assistant.
6. Joyce Pendo, Office Assistant.
7. Eunice Kibibi, Office Assistant.

**Wednesday, 23<sup>rd</sup> March, 2016**

**COMMUNICATIONS FROM THE CHAIR**

**CONSULTATIVE FORUM WITH THE CS, HEALTH,  
ON STATUS OF LEASED MEDICAL EQUIPMENT**

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, I have short communications to make. The first one relates to a consultative forum with the Cabinet Secretary for Health regarding the status of leased medical equipment service project by the national Government to county governments.

As you may recall, the issue of the status of leased medical equipment service project by the national Government to county governments has generated a lot of interest in this House with several concerns being raised on the status of its implementation.

Following several clarifications requested by Senators through supplementary statements, I directed on 3<sup>rd</sup> March, 2016, that the Standing Committee on Health convenes a meeting of all Senators and the Cabinet Secretary for Health to deliberate on this important matter.

In this regard, the Standing Committee has invited the Cabinet Secretary to address Senators on Thursday, 24<sup>th</sup> March, 2016. The meeting will be held in this Senate Chamber from 10.00 a.m.

I would like to urge and commend all Senators to plan to attend the consultative meeting to deliberate on this very important matter.

I thank you.

**PENDING BILLS FOR COUNTY GOVERNMENTS**

The second communication is on pending bills for county governments.

Hon. Senators, as you may recall, during the sitting of the Senate on Thursday, 17<sup>th</sup> March, 2016, the Chairperson of the Standing Committee on Finance, Commerce and Budget issued a statement regarding pending bills for county governments following which many Senators sought further clarifications from the Chairperson.

The following are some of the suggestions made by Senators on the way forward in resolving the matter of pending bills:-

- (a) Establishing a select committee on pending bills to look into the matter;
- (b) Referring the matter to the Standing Committee on Finance, Commerce and Budget jointly with the Sessional Committee on County Public Accounts and Investments to investigate and submit a report to the Senate;
- (c) Asking the Auditor-General to conduct a special audit into the matter and submit a report for consideration by the Sessional Committee on County Public Accounts and Investments following which the committee would prepare a report and submit to the Senate for consideration.

You will further recall that the presiding officer at that time directed that the Rules and Business Committee (RBC) deliberates on the matter during the next meeting with a view to providing direction on how to proceed.

Hon. Senators, the RBC considered the matter during its sitting yesterday, 22<sup>nd</sup>



March, 2016 and resolved that this matter be taken up by the County Public Accounts and Investments Committee. In so doing, the Committee shall request the Auditor-General to conduct a special audit on all pending bills for county governments and submit a report to the Committee for consideration. The audit exercise should be completed within three months. Upon consideration of the report of the Auditor-General, the Committee will then submit its report together with recommendations for consideration by the House.

The RBC further resolved that in requesting the Auditor-General, the Committee ensures that the audit is carried out in clusters of ten counties starting with the most critical cases. By critical cases we mean those with the highest pending bills.

I now direct that the Sessional Committee on County Public Accounts and Investments proceeds as per the resolution of the Rules and Business Committee.

I thank you.

#### VISITING DELEGATION FROM KITUI COUNTY ASSEMBLY

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, I would like to acknowledge the presence in the Speaker's gallery this afternoon of visiting Members and staff from Kitui County Assembly House Business and Rules Committee. The County Assembly Members and staff are here on a one day visit at the Senate. I dare say that I was privileged to have a meeting with them earlier in the morning.

I request each member of the delegation to stand when called out so that they may be acknowledged in the Senate tradition. They are as follows:-

- |                             |   |                                   |
|-----------------------------|---|-----------------------------------|
| 1. Hon. George Mutua Ndotto | - | Chairperson (Speaker)             |
| 2. Hon. Titus N. Mbiti      | - | Vice Chairperson (Deputy Speaker) |
| 3. Hon. Jacob K. Maundu     | - | Member                            |
| 4. Hon. Alex M. Nganga      | - | Member                            |
| 5. Hon. Alex M. Mwendwa     | - | Member                            |
| 6. Hon. Johnray N. Ngava    | - | Member                            |
| 7. Hon. Peter Mutemi        | - | Member                            |
| 8. Hon. Patricia K. Kimanzi | - | Member                            |
| 9. Hon. Patrick Mutua       | - | Member                            |
| 10. Hon. Samuel M. Ikunga   | - | Member                            |
| 11. Hon. Jennifer Munuve    | - | Member                            |
| 12. Hon. Nzuki Wambua       | - | Member                            |
| 13. Hon. Stephen Wambua     | - | Member                            |
| 14. Hon. Jackson Mwanduka   | - | Member                            |
| 15. Hon. Jane Mutua         | - | Member                            |
| 16. Hon. Ruth Kinyumu       | - | Member                            |
| 17. Mr. Jacob K. Kimanzi    | - | Committee Clerk                   |

I hope that they are having a fruitful programme. On behalf of the Senate, and on my own behalf, I welcome them to the Senate and wish them well for the remainder of their stay.

I thank you.

*(Applause)*

**Thursday, 24<sup>th</sup> March, 2016**

**CONSIDERED RULING**

THE PROCESSING OF THE PHYSICAL PLANNING BILL  
(NATIONAL ASSEMBLY BILL NO. 46 OF 2015)

**The Speaker** (Hon. Ethuro): Hon. Senators, I have a Communication to make on the processing of the Physical Planning Bill, National Assembly Bill No.46 of 2015.

Hon. Senators, as you will recall, at the sitting of the Senate held on 16<sup>th</sup> February, 2016, I issued a Communication delivering a Message from the National Assembly regarding the passage of the Physical Planning Bill, National Assembly Bill No. 46 of 2015, by the National Assembly. In the Communication, I informed hon. Senators that the Speaker of the National Assembly did not seek the concurrence of the Senate as contemplated under Article 110(3) of the Constitution on whether the Physical Planning Bill concerns counties and if it does, whether it is a special or ordinary Bill.

Hon. Senators, Article 110(3) of the Constitution provides as follows, and I quote:-

“Before either House considers a Bill, the Speakers of the National Assembly and the Senate shall jointly resolve any question as to whether it is a Bill concerning counties and, if it is, whether it is a special or an ordinary Bill”.

Upon delivering the Communication, the Senate Minority Leader, Sen. Moses Wetangula, rose on a point of order and sought the guidance of the Chair on the effect of Article 110(3) of the Constitution and, in particular, whether this provision could apply retrospectively where a Bill, for which concurrence was not sought, is processed in one House and submitted to the other House for processing. Sen. Wetangula argued that if this was allowed, and in particular, if the Physical Planning Bill was allowed to proceed despite the violation of Article 110(3) of the Constitution, the Senate would undermine its own authority and that of the Speaker of the Senate. The Senator, therefore, took the view that the provision could not apply retrospectively.

A number of hon. Senators rose on points of order to speak to this matter including Sen. Ong’era, Sen. (Prof.) Lonyangapuo, Sen. Njoroje, Sen. (Dr.) Machage, Sen. Okong’o, Sen. Khaniri, Sen. (Dr.) Zani, Sen. Mutula Kilonzo Jr., Sen. Ongoro, Sen. Abdirahman, Sen. Orenge and Sen. Elachi. In their submissions, all the Senators took the view that Article 110(3) of the Constitution ought to be adhered to and concluded before a Bill is proceeded with in either House. Consequently, in respect of the Physical Planning Bill, some Senators urged the Speaker to find that the Bill could not be proceeded with until corrective measures were taken.

Having heard the submissions of the hon. Senators, on account of the gravity of the issues raised, I undertook to deliver a ruling on the matter before the Bill is scheduled for Second Reading.

Hon. Senators, the issues arising, requiring the direction of the Chair are as follows –

(a) Whether or not Article 110(3) of the Constitution can be applied retrospectively; and

(b) The manner in which a House should proceed with a Bill in respect of which Article 110(3) of the Constitution was not complied with.

I will sit to allow hon. Senators to enter the Chamber.

*(Several hon. Senators entered the Chamber)*

Hon. Senators, when the Chair allows you to enter, you must do it with speed; otherwise, you will remain waiting there forever.

Hon. Senators, these issues have continued to recur in respect of the processing of legislation as between the two Houses in our bicameral Parliament. These questions have, however, not been restricted to the Legislature. It is important that I state that the compliance or otherwise by Parliament, and in particular the National Assembly, with Article 110(3) of the Constitution has arisen in various cases before the Courts.

It has, therefore, become necessary that the Speaker of the Senate gives guidance on these matters for the general guidance of the Senate of the Eleventh Parliament and for posterity. Posterity will judge the Office of the Speaker of the Senate and the Senate as a whole harshly if these matters are not put on record at this early stage in the life of the Senate.

Hon. Senators, the first issue relates to “whether or not Article 110(3) of the Constitution can be applied retrospectively. This, hon. Senators, is a straight forward matter. Article 110(3) of the Constitution is required to precede the introduction of a Bill in either House of Parliament. It must therefore, for all Bills, be complied with before a Bill is read a First Time in either House. It is not an optional or discretionary provision. The Supreme Court in Supreme Court Advisory Opinion No. 2 of 2013 had opportunity to pronounce itself on this matter as follows, and I quote –

“The requirement for a joint resolution of the question whether a Bill is one concerning counties, is a mandatory one; and the legislative path is well laid out: it starts with a determination of the question by either Speaker – depending on the origin of the Bill; such a determination is communicated to the other Speaker, with a view to obtaining concurrence; failing a concurrence, the two Speakers are to jointly resolve the question. The legislative path thus laid out should apply to each and every Bill coming up before either Chamber of Parliament; and it is the constitutional task of the two Speakers to jointly determine the route to be followed by legislative proposals.”

I will sit to allow the other two Senators to get into the Chamber.

*(Hon. Senators entered the Chamber)*

Hon. Senators, despite the express provisions of Article 110(3) of the Constitution and the pronouncement of the Supreme Court, the National Assembly has, on almost every occasion, failed to observe Article 110(3) of the Constitution. The upshot of all this, hon. Senators, is that Article 110(3) of the Constitution cannot be applied retrospectively; it must be conclusively observed before a Bill is introduced in either House of Parliament

Hon. Senators, the second issue requiring my direction is the manner in which a House should proceed with a Bill in respect of which Article 110(3) of the Constitution was not complied with. In order to comprehensively address this issue, it is important that

I set out various scenarios that have confronted the Senate with respect to the processing of Bills and the manner in which the Senate has and should proceed in each of the scenarios.

The first scenario is where, in respect of a Bill originating in the Senate, the Speaker of the Senate, in terms of Article 110(3) of the Constitution seeks the concurrence of the Speaker of the National Assembly on the nature of the Bill and the Speaker of the National Assembly concurs with the Speaker of the Senate. In this case, the legislative process would proceed as anticipated in Part Four of Chapter Eight of the Constitution.

The second scenario, which has also presented itself is where, in respect of a Bill originating in the Senate, the Speaker of the Senate, in terms of Article 110(3) of the Constitution, seeks the concurrence of the Speaker of the National Assembly on the nature of the Bill and the Speaker of the National Assembly fails to respond within a period of seven days as contemplated under Standing Order 118(4) of the Senate Standing Orders.

Standing order 118(4) of the Senate Standing Orders provides that:-

“Where, upon the expiry of seven days from the day of the communication under paragraph (1) or such further time as the Speaker of the Senate may in any particular case determine, no communication has been received from the Speaker of the National Assembly as to either concur or differ that the Bill is a Bill concerning counties and, if it is, whether it is a special or an ordinary Bill, the Speaker of the Senate shall direct that the Bill may be read a first time in accordance with these Standing Orders”.

Consequently, in accordance with this Standing Order, the Senate would proceed to process the Bill in accordance with Part 4 of Chapter Eight of the Constitution, and the Speakers of the Houses and the Houses themselves would be estopped from subsequently raising any question regarding the nature of the Bill in terms of Article 110(3) of the Constitution.

The third scenario is where, in respect of a Bill originating in the Senate, the Speaker of the Senate, in terms of Article 110(3) of the Constitution seeks the concurrence of the Speaker of the National Assembly on the nature of the Bill and the Speaker of the National Assembly does not concur with the Speaker of the Senate on the nature of the Bill.

Although Article 110(3) of the Constitution requires the Speakers of the Houses of Parliament to jointly resolve any question on the nature of a Bill, Standing Order No.126(1) of the Senate Standing Orders provides an additional mechanism by which “for the purpose of making a determination whether or not a Bill concerns county governments, the Speakers may appoint a joint committee to advise them in resolving any question on such a Bill”.

The Supreme Court also further stated as follows, with respect to the formation of a joint committee –

“It is clear to us, from a broad purposive view of the Constitution, that the intent of the drafters, as regards the exercise of legislative powers, was that any disagreement as to the nature of a Bill should be harmoniously settled through mediation. An obligation is thus placed on the two Speakers, where they cannot agree between themselves, to engage the mediation mechanism. They would each be required to appoint an equal number of members, who would deliberate upon the question, and file their report within a specified

period of time. It is also possible for the two Chambers to establish a standing mediation committee, to deliberate upon and to resolve any disputes regarding the path of legislation to be adopted for different subject matter. Had such an approach to the dispute been adopted, it is our opinion this court would, probably, not have been asked to give such an advisory opinion as a fitting solution would most likely have been found.”

Where, as has been the case, all efforts are made by the Senate towards the establishment of the joint committee with no action or response from the National Assembly, Standing Order No.118(4) of the Senate Standing Orders would then apply. The Senate would be entitled to proceed with the processing of the Bill in accordance with part two of Chapter Eight of the Constitution. Thereafter, neither the Houses nor the Speakers can raise an issue regarding the nature of the Bill.

Hon. Senators, the fourth scenario is where in respect of a Bill originating in the National Assembly, the Speaker of the National Assembly in terms of Article 110(3) of the Constitution seeks the concurrence of the Speaker of the Senate on the nature of the Bill and the Speaker of the Senate concurs with the Speaker of the National Assembly on the nature of the Bill. In this case, no further issue arises as to concurrence and the legislative process would proceed as anticipated in Part four of Chapter Eight of the Constitution.

The fifth scenario is where in respect of a Bill originating in the National Assembly, the Speaker of the National Assembly in terms of Article 110(3) of the Constitution seeks the concurrence of the Speaker of the Senate on the nature of the Bill. The speaker of the Senate does not concur with the Speaker of the National Assembly on the nature of the Bill. But the National Assembly, nonetheless, without further reference to the Senate, proceeds to consider the Bill only in the National Assembly and to presented it for assent.

There is no doubt, Senators, that such process contravenes Article 110(3) of the Constitution. You will recall that the Senate was in November 2014 confronted with this issue with respect to 46 Acts of Parliament that had been processed and assented to, in contravention of Article 110(3) of the Constitution.

The Senators by a resolution adopted by this House on 11<sup>th</sup> November, 2014 resolved to seek an advisory opinion from the Supreme Court on, among others, the constitutional status of Acts of Parliament which had been passed by one House of Parliament and assented to in contravention of Article 110(3) of the Constitution.

In accordance with that resolution, for every Bill processed by the National Assembly in violation of Article 110(3) of the Constitution, the Senate reserves the right to challenge the legislation on account of such violation.

The sixth scenario is where in respect of a Bill originating in the National Assembly, the Speaker of the National Assembly does not seek the concurrence of the Speaker of the Senate in terms of Article 110(3) of the Constitution and the National Assembly proceeds to consider the Bill only in the National Assembly and subsequently processes it for assent. This clearly violates Article 110(3) of the Constitution. As is the case in the fifth scenario, it will be open to the Senate to challenge the legislation on account of such violation.

The seventh scenario is where, in respect of a Bill originating in the National Assembly, the Speaker of the National Assembly in terms of Article 110(3) of the Constitution seeks the concurrence of the Speaker of the Senate on the nature of the Bill.

The Speaker of the Senate does not concur with the Speaker of the National Assembly the nature of the Bill. However, despite this, the National Assembly proceeds to consider the Bill and subsequently refers it to the Senate for consideration.

This has happened in a number of instances and has presented challenges in the manner in which the Senate is to proceed. The first and, perhaps, more natural option would be to do nothing on the legislation. That is; to take no action whatsoever, on account of the legislation having been processed in violation of Article 110(3) of the Constitution, thus leading to a deadlock.

In the process, key legislation, including legislation required for the implementation and strengthening of devolution and for the implementation of the Constitution, which is time barred, would stall. Taking into account the Senate's role under Article 96 of the Constitution, relating to the protection of the counties and their interests, this would not augur well for our country.

The Senate has, therefore, in the light of the fact that the legislation forwarded by the National Assembly nonetheless concern counties and is required to be processed through the Senate, has chosen the route always of mitigating the harm that would otherwise be caused if the legislative process were to stall on such crucial legislation.

As your Speaker, however, in all circumstances, I put on record for posterity our reservations concerning the lack of compliance with Article 110(3) of the Constitution. While noting that despite the mitigating actions taken by the Speaker, the legislation may still be challenged on account of its constitutionality.

The eighth scenario is where in respect of a Bill originating in the National Assembly, the Speaker of the National Assembly does not seek the concurrence of the Speaker of the Senate in terms of Article 110(3) of the Constitution and the National Assembly proceeds to consider the Bill and, subsequently, despite the lack of observance of Article 110(3) of the Constitution, proceeds to refer the Bill to the Senate for consideration. The action to be taken by the Senate would be the same as that in the previous scenario. That is exactly where we are.

Hon. Senators, having set out the different scenarios, it is important that I give directions on the manner in which we shall proceed with the Physical Planning Bill (National Assembly Bill No. 46 2015). As indicated in the last communication on this matter, the National Assembly did not observe the concurrence process under Article 110(3) of the Constitution before the introduction of the Bill to the National Assembly. The National Assembly has, however, found it fit to forward the Bill to the Senate.

In light of the matters that I have set out in this Communication, I direct that the Senate shall proceed with consideration of the Physical Planning Bill (National Assembly Bill No. 46 of 2015) at the Second Reading of the Bill at the appropriate time.

I thank you.

## **COMMUNICATION FROM THE CHAIR**

### **VISITING DELEGATION OF STUDENTS AND TEACHERS FROM MOGOTIO GIRLS HIGH SCHOOL**

**The Temporary Speaker** (Sen. Sang): Hon. Members, I wish to recognize the presence of visiting students and teachers from Mogotio Girls High School in Baringo

County who are seated in the Public Gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them.

On behalf of the Senate, and on my own behalf, I wish them a fruitful visit.

I thank you.

*(Applause)*

**Tuesday, 29<sup>th</sup> March, 2016**

**COMMUNICATION FROM THE CHAIR**

ANNUAL STATE OF THE NATION ADDRESS BY  
HIS EXCELLENCY THE PRESIDENT

**The Speaker** (Hon. Ethuro): Hon. Senators, before we proceed to the next Order, I have a Communication to make on the Special Sitting of Parliament and State of the Nation Address by His Excellency the President of the Republic of Kenya.

Hon. Senators, as you may be aware Article 132 (1) (b) of the Constitution and Standing Order No. 22 (1) of the Senate Standing Orders require the President to address a Special Sitting of Parliament once every year and at any other time. By letter referenced OP/CAB.1/40 of 7<sup>th</sup> March, 2016, addressed to the Clerks of Parliament, the Office of the President requested Parliament to set a date for the Presidential Address to Parliament. Upon receiving the Communication, it was resolved that His Excellency the President addresses Parliament on Thursday, 31<sup>st</sup> March, 2016. I subsequently issued a Gazette Notice No.2039 of 21<sup>st</sup> March 2016 convening the Special Sitting.

Hon. Senators, this is, therefore, to inform you that the Special Sitting of Parliament will be held on Thursday, 31<sup>st</sup> March, 2016 at 2.30 p.m. in the National Assembly Chamber. His Excellency the President will also use the occasion, pursuant to Article 132(1)(c)(i) of the Constitution to report on all the measures taken and the progress achieved in the realization of the national values set out in Article 10 of the Constitution. Further, pursuant to Article 240(7) of the Constitution, His Excellency the President will also report on the state of security in the country.

Hon. Senators, this is an important occasion in the calendar of Parliament that provides the opportunity for His Excellency the President to deliver the State of the Nation Address and to address the Legislature and the people of Kenya on critical matters concerning the country. I, therefore, urge all of you to attend the Special Sitting.

Hon. Senators, due to limited sitting space, Senators and Members of the National Assembly will be at liberty to invite one guest each to the occasion. In this regard, you are hereby requested to provide the names of such guests at the Senate reception to facilitate the preparation of formal invitation cards. The names should be submitted by midday tomorrow, Wednesday, 30<sup>th</sup> March 2016.

The Special Sitting has also necessitated the rearrangement of parking. Consequently, the current Senator's parking area at the Main Parliament Building will not be available for parking by Senators on Thursday, 31<sup>st</sup> March 2016. Alternative arrangements have been made for parking at the COMESA Grounds at the Kenyatta International Convention Centre (KICC).

Please do also note that access to Parliament through the parking area formally known as the Minister's gate, will remain restricted from tomorrow, 30<sup>th</sup> March, 2016 to facilitate the pitching of tents for refreshments for that particular date.

Thank you.



**Wednesday, 30<sup>th</sup> March, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM BARINGO  
COUNTY ASSEMBLY

**The Speaker** (Hon. Ethuro): Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of visiting Members and Staff from Baringo County Assembly Powers and Privileges Committee. The County Assembly Members and staff are here on a two-day visit at the Senate. I request each member of the delegation to stand when called out so that they may be acknowledged in the great usual Senate tradition.

1. Hon. Elijah Toroitich
2. Hon. Lina Sote
3. Hon. Risper Kimaiyo
4. Hon. James Cheptoo
5. Hon. Richard Kitilit
6. Hon. Wesley Lekakimon
7. Hon. Solomon Makal
8. Hon. Kibiwot Munge
9. Ms. Betty Toroitich
10. Mr. David Ngeno

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

I thank you.

**Thursday, 31<sup>st</sup> March, 2016 – Joint Sitting**

**COMMUNICATION FROM THE CHAIR**

CONVENING OF SPECIAL SITTING OF PARLIAMENT  
FOR ANNUAL STATE OF THE NATION ADDRESS BY  
HIS EXCELLENCY THE PRESIDENT

**The Speaker of the National Assembly** (Hon. Muturi): Your Excellency, Hon. Uhuru Kenyatta, President of the Republic of Kenya and Commander-in-Chief of the Kenya Defence Forces, the hon. Speaker of the Senate, hon. Ekwe Ethuro, hon. Members of Parliament, Article 132(1)(b) of the Constitution of Kenya requires the President to address a Special Sitting of the Parliament of Kenya once every year and at any other time.

Further, Article 132(1)(c) requires the President to, among others:-

“once every year-

(i) report, in an address to the nation, on all the measures taken and the progress achieved in the realisation of the national values, referred to in Article 10;

(iii) submit a report for debate to the National Assembly on the progress made in fulfilling the international obligations of the Republic.”

In addition, Article 240(7) of the Constitution requires that the National Security Council whose chairman is His Excellency the President to report to Parliament annually on the state of the security of the Republic.

In this regard, hon. Members, following a request from His Excellency the President and pursuant to Article 132(1)(b) and (c)(i) and (iii) of the Constitution and the provisions of Standing Order No.22(1) and (2) of the National Assembly Standing Orders, by Gazette Notice No.2038, which was published in a Special Issue of the Kenya Gazette on 24<sup>th</sup> March, 2016, I gave notice of this Special Sitting to the Members of the National Assembly.

Similarly, pursuant to Article 132(1)(b) and (c)(i) and (iii) of the Constitution and the provisions of Standing Order No.22(1) and (2) of the Senate Standing Orders, by Gazette Notice No.2039, which was published in a Special Issue of the Kenya Gazette on 24<sup>th</sup> March, 2015, the Speaker of the Senate gave notice of this Special Sitting to the Senators.

Accordingly, hon. Members, this Special Sitting is properly convened.

It is now my singular honour and privilege to invite His Excellency the President of the Republic of Kenya to address this Special Sitting of Parliament.

I thank you.

**Tuesday, 12<sup>th</sup> April, 2016**

**COMMUNICATION FROM THE CHAIR**

MEETING OF STANDING COMMITTEE ON LABOUR AND SOCIAL  
WELFARE WITH CABINET SECRETARY

**The Speaker** (Hon. Ethuro): Hon. Senators, I have a Communication to make on the meeting of the Standing Committee on Labour and Social Welfare with the Cabinet Secretary, Ministry of Labour and East African Affairs.

On Thursday, 18<sup>th</sup> February, 2016, Sen. Musila sought a statement from the Chairperson of the Standing Committee on Labour and Social Welfare regarding the Government's cash transfers to the elderly.

Further, on Tuesday, 8<sup>th</sup> March, 2016, Sen. George Khaniri sought a statement regarding registration of persons with disabilities.

The issue of cash transfers for the elderly is an issue that has continuously been raised in this House. On many occasions, it has been responded to unsatisfactorily. Consequently, the Chairperson of the Standing Committee on Labour and Social Welfare deemed it necessary to convene a meeting of all interested Senators and invite the Cabinet Secretary (CS), Ministry of Labour and East African Affairs.

Hon. Senators, I, therefore, inform you that the committee has convened a meeting with the CS for all Senators to deliberate on the matter of cash transfer programme for the elderly as well as the registration of persons with disabilities; these issues fall under the docket of the said Ministry. The meeting will be held tomorrow, Wednesday 13<sup>th</sup> April, 2016, in the Senate Chamber, ground floor, Main Parliament Building starting at 11 a.m. I, therefore, urge all hon. Senators to attend.

I thank you.

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION OF STAFF FROM  
VARIOUS COUNTY ASSEMBLIES

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of visiting staff from Siaya, Murang'a and Nakuru county assemblies. The county assembly staff are here on a five-day attachment visit at the Senate. I request each of them to stand when called out, so that they may be acknowledged in the usual Senate tradition.

They are:

**Siaya County Assembly:**

- |                       |   |  |
|-----------------------|---|--|
| 1. Jacqueline Omwohah | - | Principal Clerk Assistant,<br>Procedural and Legislative<br>Services |
| 2. Salome Sijenyi     | - | Clerk Assistant II, Procedural<br>and Legislative Services           |

3. Sylvester Douglas Agola - Clerk Assistant II, Committee Services
4. Elijah Misolo - Clerk Assistant I, Committee Services.

**Nakuru County Assembly:**

1. Mr. Solomon Mutai - Senior Serjeant-at-Arms.

**Murang'a County Assembly:**

1. Maj. (Rtd) Esau Otengo Shilako - Chief Serjeant-at-Arms
2. David Waithira - Serjeant-at-Arms
3. Joseph Nguyo - Serjeant-at-Arms
4. Zachary Waithaka - Serjeant-at-Arms

I hope they will have a fruitful programme.

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

I thank you.

*(Applause)*

**Tuesday, 26<sup>th</sup> April, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION OF STAFF FROM SAMBURU  
COUNTY ASSEMBLY

**The Speaker** (Hon. Ethuro): Before we proceed, I would like to acknowledge the presence in the Speaker's Gallery of visiting staff from Samburu County Assembly. The County Assembly staff are here on a five-day attachment visit to the Senate. I request each member of the delegation to stand when called out so that they may be acknowledged in the great Senate tradition. They are:-

1. Augustine Lenkupae
2. Agnes Learat
3. Catherine Jollina Lorriakwe

I hope that they will have a fruitful programme.

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

I thank you.

**Wednesday, 27<sup>th</sup> April, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATIONS FROM SIAYA  
AND VIHIGA COUNTY ASSEMBLIES

**The Speaker** (Hon. Ethuro): Hon. Members, before we proceed, I would like to acknowledge the presence in the Speaker's Gallery this afternoon, of visiting Members and staff from Siaya and Vihiga County Assemblies. The County Assembly Members (MCAs) and staff are here on a bench marking visit at the Senate.

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

From Siaya County Assembly:-

1. Hon. Leonard Oriaro
2. Hon. Peter Muhula
3. Hon. Pius Ombiyo
4. Hon. Rose Okite
5. Hon. Anjeline Odhiambo
6. Hon. Walter Okello

They are accompanied by the following staff:-

1. Mr. Agola Sylvester
2. Mr. Kennedy Opiyo
3. Mr. David Owino

From Vihiga County Assembly, we have:-

1. Hon. Khalid Khamisi - Chairperson
2. Hon. Zakayo Manyasa - Vice Chairperson
3. Hon. Reuben Ombima - Member
4. Hon. Elizabeth Anaya
5. Hon. Dorcas Anupi
6. Hon. Maureen Ambasa
7. Hon. Wycliffe Masini
8. Hon. David Ogova
9. Hon. Wilberforce Kitiezo

They are accompanied by the following staff:-

1. Ms. Josephine Evelia
2. Ms. Jemimah Seredi
3. Ms. Damary Litabas
4. Mr. Rodgers Obuhuma
5. Mr. Stephen Otenda
6. Mr. Vincent Muhando

I hope that they have a fruitful programme. On behalf of the Senate and my own behalf, I welcome you to the Senate and wish you well for the remainder of your stay here.

I thank you.

**Thursday, 28<sup>th</sup> April, 2016**

**COMMUNICATION FROM THE CHAIR**

APPEARANCE BY THE CS, TRANSPORT AND INFRASTRUCTURE  
BEFORE THE STANDING COMMITTEE ON ROADS  
AND TRANSPORTATION

**The Speaker** (Hon. Ethuro): Hon. Senators, as you are aware, on Tuesday 19<sup>th</sup> April, 2016, I directed that the Cabinet Secretary, Ministry of Transport and Infrastructure should appear before the Senate to respond to the Statement sought by Sen. (Prof.) Anyang’-Nyong’o on the operations of Kenya Airways Limited. The Cabinet Secretary has since confirmed his availability on Tuesday 3<sup>rd</sup> May, 2016.

This is, therefore, to invite you to the said meeting between the Standing Committee on Roads and Transportation and the Cabinet Secretary, Ministry of Transport and Infrastructure, which will be held on Tuesday 3<sup>rd</sup> May, 2016, at 10.30 a.m. in the Senate Chamber, on the Ground Floor, Main Parliament Buildings.

I thank you.

**COMMUNICATIONS FROM THE CHAIR**

SENATORS’ *KAMUKUNJI* TO BE HELD ON  
THURSDAY, 5<sup>TH</sup> MAY, 2016

**The Speaker** (Hon. Ethuro): Following the request by Members yesterday regarding issues canvassed by Sen. Kagwe, we have convened a *kamukunji* next week on Thursday, 5<sup>th</sup> May, at 11.00 a.m. I urge all Senators to be present.

CONSULTATIVE FORUM WITH THE CS, DEVOLUTION  
AND PLANNING ON COMPENSATION OF IDPS

Hon. Senators, as you may recall, the Cabinet Secretary for Devolution and Planning was scheduled to meet with the hon. Senators this morning, 28<sup>th</sup> April, 2016, to respond to a request for a Statement and issues that were being clarified thereon regarding the status of compensation of Internally Displaced Persons (IDPs), including the integrated IDPs across the country. The Cabinet Secretary was unable to attend the said meeting due to a Cabinet engagement and has sent his apologies. The meeting with the Cabinet Secretary has now been re-scheduled to next week on Wednesday, 4<sup>th</sup> May, 2016, at 11.30 a.m. in the Senate Chambers. I urge all of you to plan to attend the consultative meeting to deliberate on this important matter.

I thank you.

**Tuesday, 3<sup>rd</sup> May, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION OF STAFF FROM HOMA BAY  
COUNTY ASSEMBLY

**The Speaker** (Hon. Ethuro): Order, Members. I have a communication on the visiting delegation from Homa Bay County Assembly on attachment at the Senate.

Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of visiting staff from Homa Bay County Assembly. The County Assembly staff is here on a four-day attachment visit to the Senate. I request each member of the delegation to stand when called out, so that they may be acknowledged in the usual Senate tradition.

They are:-

- |                   |   |  |
|-------------------|---|--|
| (1) David Gor     | - | Deputy Clerk                                 |
| (2) Sharon Oranga | - | Director, Legislative and Committee Services |
| (3) Stephen Ojako | - | Principal Clerk Assistant                    |
| (4) Vera Ateng    | - | Second Clerk Assistant                       |

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

I thank you.

**COMMUNICATION FROM THE CHAIR**

CONSULTATIVE FORUM WITH THE CS, DEVOLUTION  
AND PLANNING, ON COMPENSATION OF IDPs

**The Temporary Speaker** (Sen. Madzayo): Hon. Senators, as you may be aware, on Wednesday 4<sup>th</sup> May, 2016, Sen. Wetangula sought a Statement from the Senate Majority Leader regarding the compensation of Internally Displaced Persons (IDPs). Further, on Thursday, 21<sup>st</sup> April 2016, the House resolved to invite the Cabinet Secretary for Devolution and Planning through the Sessional Committee on Devolved Government to address the matter.

Hon. Senators, I wish to inform you that the Cabinet Secretary for Devolution and Planning has requested to come and address the matter on 25<sup>th</sup> May, 2016 and not tomorrow as earlier communicated.

Thank you.



**Wednesday, 4<sup>th</sup> May, 2016**

**COMMUNICATION FROM THE CHAIR**

INVITATION TO THE ANNUAL NATIONAL  
PRAYER BREAKFAST

**The Speaker** (Hon. Ethuro): Hon. Senators, I have a communication to make.

The Kenya Parliamentary Prayer Fellowship Group (KPPFG) shall host the Annual National Prayer Breakfast on Thursday, 26<sup>th</sup> May, 2016, at the Safari Park Hotel in Nairobi. It is expected that over 2,000 guests will be in attendance.

This prayer breakfast is an interdenominational prayer meeting sponsored by MPs, both Senators and Members of the National Assembly. Senators are requested to confirm attendance by 15<sup>th</sup> May, 2016 in order to facilitate sitting arrangements. You are also requested to make contributions towards this noble course. The contribution form is available at the Serjeant-at-arms desk, at the entrance of the Chamber.

Invitation cards to all MPs will be distributed in due course. Sen. Beatrice Elachi is coordinating on behalf of the Senate and you may contact her for further clarification. You may also wish to get in touch with the Chairman of the Kenya National Prayer Breakfast group, the Hon. (Capt.) Clement Wambugu.

**Tuesday, 7<sup>th</sup> June, 2016**

**COMMUNICATIONS FROM THE CHAIR**

VISITING DELEGATION OF STAFF FROM  
THE PARLIAMENT OF UGANDA

Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of visiting staff from the Parliament of Uganda. I request each member of staff to stand, when called out, so that they may be acknowledged in the usual Senate tradition.

They are:-

Ms. Irene W. Timugiibwa;  
Ms. Grace Rushota; and,  
Ms. Margaret Kimono.

On behalf of the Senate and my own behalf, I welcome them to the Senate. I wish them a fruitful stay at the Senate.

I thank you.

*(Applause)*

VISITING DELEGATION FROM THE SMITH  
COLLEGE, MASSACHUSETTS, USA

Hon. Senators, I am pleased to also acknowledge the presence, in the Speaker's Gallery this afternoon, of visiting teachers and students from the Smith College, Massachusetts, USA. I request each student and teacher to stand, when called out, so that we may acknowledge them in the usual Senate tradition.

They are:-

Sarah Muhoya	-	Leader of delegation;
Prof. Lucy Mule	-	Lecturer;
Prof. Katwiwa Mule	-	Lecturer;
Kandice Jones;		
Kinyaa Luka;		
Kathryn Maurer;		
April Monelal;		
Joanna Okondo;		
Sara Ramasastry;		
Nichole Rondon;		
Laura Sheedy;		
Anita Too;		
Isabelle Fitzpatrick;		
Lisa Guido; and		
Meseret Haile.		

On behalf of the Senate and my own behalf, I welcome them to the Senate. I wish them a fruitful stay in the Senate.

I thank you.

*(Applause)*

**Thursday, 9<sup>th</sup> June, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM KENYATTA UNIVERSITY

**The Speaker** (Hon. Ethuro): Let me acknowledge the presence of a delegation from Kenyatta University in the Speaker's Gallery. I request each member of the delegation to stand when called out so that they may be acknowledged as per the Senate tradition.

Prof. Paul K. Wainaina, Acting Vice-Chancellor,  
Mr. Stephen M. Mboroki and Mr. Charles Musyimi.

On behalf of the Senate and on my own behalf, I welcome you to the Senate and wish you well.

*(Applause)*

**Tuesday, 14<sup>th</sup> June, 2016**

**COMMUNICATIONS FROM THE CHAIR**

**VISITING DELEGATION OF STAFF FROM SIAYA AND  
KAKAMEGA COUNTY ASSEMBLIES**

Hon. Members, I wish to acknowledge the presence in the Speaker's Gallery of visiting staff from Siaya and Kakamega County Assemblies. The County Assembly staffers are here on a five day attachment to the Senate. I request each member of the delegation to stand out when called out so that they may be acknowledged in the usual Senate tradition.

From Siaya County Assembly:-

1. Eric Ogenga
2. Charles Ochieng Onyango
3. Martin Kissinger Sumba
4. Regina Akoth
5. Gloria Miganda
6. Raphael Juma Akeyo

From Kakamega County Assembly:-

1. John Simwa
2. Kultum Atemba
3. Tracy Florence
4. Felix Barasa
5. John Ambunya
6. Phyllivane Inziani
7. Titus Osundwa

I hope you have a fruitful programme in the Senate. On my own behalf and on behalf of the Senate, I welcome you to the Senate and wish you well for the remainder of your stay.

**VISITING DELEGATION FROM ST. AUGUSTINE  
MLOLONGO SECONDARY SCHOOL, MACHAKOS COUNTY**

Hon. Members, I wish to recognize the presence of visiting students and teachers from St. Augustine Mlolongo Secondary school, Mavoko Constituency, Machakos County. They are seated in the Public Gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and on my own behalf, wish them a fruitful visit.

*(Applause)*

**Thursday, 16<sup>th</sup> June, 2016**

**COMMUNICATIONS FROM THE CHAIR**

**VISITING DELEGATION OF MCAS AND STAFF  
FROM VARIOUS COUNTIES**

**The Speaker** (Hon. Ethuro): Hon. Senators, before we move on to the next Order which is Statements, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of visiting Members of the County Assemblies (MCA) and staff from Nairobi, Bomet and Wajir County Assemblies.

The MCAs who are members of the Committee on Delegated Legislation in their respective Assemblies are here on a one day benchmarking visit at the Senate.

I request each Member of the delegation to stand when called out so that he or she may be acknowledged in the usual Senate tradition.

Nairobi County Assembly:-

- |                             |   |                  |
|-----------------------------|---|------------------|
| 1. Hon. Pius Otieno         | - | Chairperson      |
| 2. Hon. Shadrack Juma       | - | Vice Chairperson |
| 3. Hon. Kennedy Oduro       | - | Member           |
| 4. Hon. Fredrick Njogu      | - | Member           |
| 5. Hon. Samuel Njoroge      | - | Member           |
| 6. Hon. Daniel Mari         | - | Member           |
| 7. Hon. Samuel Mwangi       | - | Member           |
| 8. Hon. Jaffer Kassam       | - | Member           |
| 9. Hon. Elkana Mauti        | - | Member           |
| 10. Hon. Wilfred Odalo      | - | Member           |
| 11. Hon. Erastus Mburu      | - | Member           |
| 12. Hon. Alexina Mudi       | - | Member           |
| 13. Hon. Joyce Bocha        | - | Member           |
| 14. Hon. Hawa Dafala        | - | Member           |
| 15. Hon. Petronilla Achieng | - | Member           |
| 16. Hon. Martin Karanja     | - | Member           |
| 17. Hon. Christine Abuto    | - | Member           |
| 18. Hon. Monica Ndegwa      | - | Member           |
| 19. Hon. Amina Mohammed     | - | Member           |
| 20. Ms. Cammelyne Anguche   | - | Staff            |
| 21. Abdi Mohamed            | - | Staff            |

Bomet County Assembly:-

- |                           |   |                  |
|---------------------------|---|------------------|
| 1. Hon. Beatrice Chebomui | - | Chairperson      |
| 2. Hon. Patrick Chepkwony | - | Vice Chairperson |
| 3. Hon. Nancy Chepkirui   | - | Member           |
| 4. Hon. Robert Bett       | - | Member           |
| 5. Hon. John Molel        | - | Member           |
| 6. Hon. Robert Metet      | - | Member           |

- 7. Hon. Josphine Rotich - Member
- 8. Calvin Kitur - Staff
- 9. Joan Chemutai - Staff

Wajir County Assembly:-

- 1. Hon. Mulki Daud Sheikh - Chairperson
- 2. Hon. Katra Adawe - Vice Chairperson
- 3. Hon. Ousman Kuresh - Member
- 4. Hon. Aden Duale Khalid - Member
- 5. Hon. Abdi Kunow Hassan - Member
- 6. Hon. Zeinab Saney - Member
- 7. Hon. Aden Ibrahim - Member
- 8. Mr. Siyad Osman - Clerk

I hope that they have a fruitful programme. On behalf of the Senate, and on my own behalf, I welcome all of you to the Senate and wish you well for the remainder of your stay.

Thank you.

**Tuesday, 28<sup>th</sup> June, 2016**

**COMMUNICATIONS FROM THE CHAIR**

**The Speaker** (Sen. Ethuro): Order, Members. Before we proceed to the next order, allow me to make a few communications.

VISITING DELEGATION OF STAFF FROM NANDI AND  
KAKAMEGA COUNTY ASSEMBLIES

The first one is to acknowledge the presence in the Speaker's Gallery of visiting staff from Kakamega and Nandi County Assemblies. The County Assembly staffers are here on a five day attachment visit to the Senate. I request each member of the delegation to stand when called out so that he or she may be acknowledged in the Senate tradition.

Nandi County Assembly

- |                    |   |                  |
|--------------------|---|------------------|
| 1. Isabella Maiyo  | - | Deputy Clerk     |
| 2. Sammy Yego      | - | Committee Clerk, |
| 3. Justice Kirui   | - | Legal Counsel    |
| 4. Abraham Leitich | - | Hansard          |
| 5. Frank Korir     | - | ICT Officer      |
| 6. Jason Korir     | - | Librarian        |
| 7. Lucy Jemasunde  | - | Secretary        |

Kakamega County Assembly

- |                       |   |   |
|-----------------------|---|---|
| 1. Diana Otoko        | - | Executive Secretary, Office of the Clerk) |
| 2. Ruth Shikamai      | - | Clerk Assistant                           |
| 3. Emily Muthoni      | - | Clerk Assistant                           |
| 4. Timothy Ngome      | - | Clerk Assistant,                          |
| 5. Linet Odunga       | - | Clerk Assistant                           |
| 6. Esther Ariko       | - | Senior Administrative Officer             |
| 7. Christopher Oshuli | - | Commissionaire                            |
| 8. Josek Onyango      | - | Commissionaire                            |

I hope that they will have a fruitful programme in the Senate. On behalf of the Senate and on my own behalf, I welcome all of them to the Senate and wish them well for the remainder of their stay.

HALF-DAY WORKSHOP FOR SENATORS ON STATUS  
OF CONSTITUTIONAL BILLS

Hon. Members, the second Communication is on the half-day workshop for all Senators on the status of constitutional Bills.

Hon. Senators, following the meeting of the Senate Liaison Committee held on Thursday, June 16, 2016 it was resolved that a half-day workshop be convened for all Senators on Wednesday 29<sup>th</sup> June, 2016 to appraise Senators on the current status of critical Bills and how the Senate intends to proceed with their consideration. The Bills are as follows:-

1. The Community Land Bill (National Assembly Bill No.45 of 2015)



2. The Physical Planning Bill (National Assembly Bill No.46 of 2015)
3. The Land Laws (Amendment) Bill (National Assembly Bill No.55 of 2015)
4. The Health Bill (National Assembly Bill No.14 of 2015)

Hon. Senators, you may recall that on 15<sup>th</sup> June, 2016, the Motion for Second Reading of the Community Land Bill and the Land Laws (Amendment) Bill were both negatived by the House and the two Bills are therefore now a subject of mediation committees. Similarly, the Physical Planning Bill was read a First Time on 17<sup>th</sup> February, 2016 and is yet to be listed for Second Reading in the House for consideration. The Health Bill is now due for the Committee of the Whole.

The half-day workshop has offered all of us an opportunity to put forward proposals on how the Senate shall proceed in the consideration of these important Bills realising that the extension was made for one year and the deadline is 27<sup>th</sup> August, 2016. There is no provision for another extension. The half-day workshop will be held at the Crown Plaza Hotel, Upper Hill, Nairobi starting at 8.00 a.m. in the morning. I urge you all to purpose to attend the workshop in order that we all contribute and shape up in the manner in which we proceed with this critical business as we go forward.

I thank you.

#### PROCEDURE FOR CONSIDERATION OF THE CONSTITUTIONAL OF KENYA (AMENDMENT) BILL

Hon. Senators, the final Communication is on the procedure for consideration of the Constitution of Kenya (Amendment) Bill, Senate Bill No.16 of 2015).

Hon. Senators, as you will recall, at the sitting of the Senate held on 10<sup>th</sup> February, 2016 the Constitution of Kenya (Amendment) Bill No.16 of 2015 which appeared as Order No.12 on the Order Paper of that day was called for Second Reading. Thereafter, the Motion for the Second Reading of the Bill was moved by the sponsor of the Bill, Sen. Sijeny who was seconded by Sen. (Prof.) Anyang' -Nyong'o.

Hon. Senators, you will also recall that after the Motion was moved and seconded and subsequently proposed, the Senator for Kakamega County, Sen. (Dr.) Khalwale, rose on a point of order and sought the direction of the Chair as to whether the Bill was one that would require a referendum in terms of Article 255(1) of the Constitution. Article 255(1) provides that a proposed amendment to the Constitution shall be enacted in accordance with Article 256 or 257 of the Constitution and shall be approved in a referendum in accordance with Article 255(2) if it concerns any of the matters set out in paragraphs (a) to (j).

Sen. (Dr.) Khalwale argued that the amendments proposed in the Bill extended to the sovereignty of the people as set out in Article 1(2) of the Constitution. Therefore, in accordance with Article 255(1)(c) of the Constitution, the Bill was one that required to be approved in a referendum. Sen. (Dr.) Khalwale stated that it was important that guidance be given by the Chair as to whether the Bill was one that fell within the ambit of Article 255(1) of the Constitution before further proceedings on the Bill.

There were some interventions on this issue from various Senators including Sen. Nabwala, Sen. Muthama and Sen. (Dr.) Zani. In the end, the Chair observed that Sen. (Dr.) Khalwale raised a fundamental issue that would require determination before proceeding with the consideration of the Bill.

From the deliberations, two issues arose for the direction of the Chair:-

- (i) Who is to determine whether a Bill is one that falls within the provision of Article 255(1) of the Constitution and therefore one that requires a referendum?
- (ii) At what point, in the consideration of the Bill should such determination be made?

As hon. Senators are aware, Chapter 16 of the Constitution provides for amendment of the Constitution. In this regard, Article 256 of the Constitution provides for amendment by way parliamentary initiative while Article 257 of the Constitution makes provision for amendment by way of popular initiative. Either way, whether a constitutional amendment Bill proposes amendment by parliamentary or by popular initiative, if the Bill provides for any of the matters set out in Article 255(1) in terms of Article 256(5) and Article 257(10) respectively, the Bill would require to be submitted to the people for ratification by way of a referendum.

It is however noteworthy that the Constitution does not provide details as to when or by whom the determination as to the applicability or otherwise of Article 255 of the Constitution to a Bill for the amendment to the Constitution is to be made. Our Standing Orders also do not contain provisions on this matter.

Hon. Senators, there is no doubt that for good order and in order to provide guidance to Senators as they consider no less than a Bill for the amendment of the Constitution, a determination would require to be made in the Senate as to the nature of a Bill to amend the Constitution and in particular whether the Bill falls within the ambit of Article 255 of the Constitution. It cannot be the case that this determination would be reserved to be made after the Senate has concluded its consideration of a Bill. This cannot have been the intention of the Constitution and would certainly not be useful to the process of consideration of the Bill.

I therefore find and rule that the determination as to whether a Bill is one that falls within the province of Article 255(1) of the Constitution and therefore one that requires referendum ought to be made by the Speaker of the Senate whenever the Senate is to consider a Bill for the amendment of the Constitution.

As to the point at which such determination is to be made our procedure regarding voting on a matter other than a Bill provides useful lessons. Standing Order No.72(1) requires that:-

“where the Senate is to Vote on any matter other than a Bill, the Speaker shall rule on whether the matter affects or does not affect counties.”

Standing Order No.72(2) further provides as follows:-

“that the Speaker’s ruling under paragraph (1) shall be made after conclusion of debate on the matter but before the Question is put.”

Hon. Senators, this would similarly be an appropriate point at which to make a determination as to whether Article 251(1) of the Constitution applies to a Bill proposing amendments to the Constitution. Prior to such determination, Senators in the Committee and in the Plenary as well as the public, would have an opportunity, in the course of deliberation on the Bill, to ventilate on this matter before the final determination by the Speaker.

In light of these directions, the Senate, therefore shall proceed with debate on the Second Reading of the Constitution of Kenya (Amendment) Bill, (Senate Bill No.16 of

2015). After the conclusion of the debate on the Bill and before the Question for Second Reading of the Bill is put in terms of Standing Order No.131 (1) of the Senate Standing Orders, the Speaker shall make a ruling as to whether the Bill falls within the ambit of Article 255(1) of the Constitution, and therefore, whether it is one that would require ratification by the people of Kenya in a referendum.

Finally, it is evident that there is need in the future to set out this procedure in our Standing Orders. I therefore, direct that the Rules and Business Committee at the appropriate time consider this matter and propose suitable amendments to the Standing Orders.

I thank you.

**Wednesday, 29<sup>th</sup> June, 2016**

**COMMUNICATIONS FROM THE CHAIR**

SUBMISSION OF MEMORANDA ON BILLS REFERRED TO  
MEDIATION COMMITTEE

**The Speaker** (Hon. Ethuro): Hon. Senators, as you recall, at the sitting of the Senate yesterday, 28<sup>th</sup> June, 2016, I invited Senators to a half a day workshop to consider various crucial Bills that are subject to the Constitutional deadline of 27<sup>th</sup> August, 2016. The workshop was successfully held this morning as scheduled. The Bills considered at the workshop include the Community Land Bill (National Assembly Bill No. 45 of 2015) and the Land Laws (Amendment Bill) National Assembly Bill No.55 of 2015, The Health Bill (National Assembly Bill No.14 of 2015) and the Physical Planning Bill (National Assembly Bill No.46 of 2015).

As you are aware, hon. Senators, the two Bills, pursuant to Articles 112(1)(a) and 113 of the Constitution have been referred to mediation. On account of the critical importance of the two Bills to our country as a whole and to the system of devolved governance in particular, it was resolved that a further opportunity is accorded to the Senators to submit written memoranda on the said Bills.

In this regard, I hereby direct that Senators who may wish to give further submissions do so, particularly on the Community Land Bill (National Assembly Bill No. 45 of 2015) and the Land Laws (Amendment Bill) National Assembly Bill No.55 of 2015 and submit such comments to the Office of the Clerk of the Senate through delivery of a hard copy or through email on [csenate@parliament.go.ke](mailto:csenate@parliament.go.ke). by mid-day of Saturday, 2<sup>nd</sup> July, 2016 for onward transmission to the Senate Members of the Mediation Committee.

We considered all those. We are running late. The Committee starts its work on Monday. I am sure if we appreciate the importance of this, we have been more than generous with that additional time.

For ease of reference, the two Bills and their digest on the said Bills by our legal department are available on the Senate's website of the Parliament of Kenya.

I thank you.

VISITING DELEGATION OF TEACHERS AND STUDENTS FROM  
PRECIOUS BLOOD SECONDARY, RIRUTA, NAIROBI

Hon. Senators, I wish to recognise the presence of students and teachers from Precious Blood Secondary School, Riruta, Nairobi County. They are seated at the public gallery.

In our usual tradition of receiving and welcoming our visitors, I extend a warm welcome to them. On your behalf and my own behalf, I wish them a fruitful visit to the Senate.

Thank you.

*(Applause)*

**Thursday, 30<sup>th</sup> June, 2016**

**COMMUNICATIONS FROM THE CHAIR**

VISITING DELEGATION OF TEACHERS AND STUDENTS  
FROM KAWAIDA PRIMARY SCHOOL, KIAMBU COUNTY

**The Speaker** (Hon. Ethuro): Hon. Senators, before we proceed to the next Order, I wish to recognise the presence of visiting students and teachers from Kawaida Primary School, Kiambu County. They are seated at the Public Gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

I thank you.

*(Applause)*

INVITATION TO MEMBERS TO PARTICIPATE DURING  
THE UNCTAD 14 AND TICAD VI CONFERENCES

**The Speaker** (Hon. Ethuro): Hon. Members, before we move on to the next order, I want to make a communication. This is to invite Members of the Senate to express interest to participate in the conference sessions during the United Nations Conference on Trade and Development (UNCTAD14) and the Tokyo International Conference on African Development (TICAD VI).

Pursuant to Standing Order No.45(2)(a), I wish to inform to this House that Kenya will be hosting two international conferences in July and August 2016; the 14<sup>th</sup> UNCTAD and the TICAD VI in Nairobi at the Kenyatta International Convention Centre (KICC) from 17<sup>th</sup> -22<sup>nd</sup> July, 2016, and 27<sup>th</sup> - 28<sup>th</sup> August, 2016, respectively.

This will be the second time the UNCTAD Conference is being held in Nairobi since 1976 and the first time that the TICAD conference is being held out of Tokyo, Japan, since its inception in 1993.

Hon. Senators, UNCTAD is the principal organ of the United Nations General Assembly dealing with trade, investment and development issues while TICAD aims at drawing international attention and urgency to African development issues while paying attention to Africa's ownership of the process.

On 21<sup>st</sup> June, 2016, the Ministry of Foreign Affairs and International Trade briefed a joint Committee of the Senate on Foreign Relations and Finance on the state of preparation towards the hosting of the said conferences.

As the country prepares to host the UNCTAD 14 and TICAD VI conferences, it will be important for Parliament and in particular the Senate to actively participate and contribute to the key thematic areas of UNCTAD 14; the World Investment Forum, Global Commodities Forum and the World Youth Forum and TICAD VI; Industrialisation, Health and Social Stability that have a vast array of topics lined up for discussions.

In this regard, that I invite Senators who wish to participate in the UNCTAD 14 and TICAD VI Conferences to express interest and indicate which thematic areas they may wish to be part of. This is important because participants at this conference will need to be fully accredited.

This is, therefore, to request you to submit your names and the thematic areas of interest in both conferences to Mr. Boniface L. Lenairoshi, Principal Clerk, Finance, Budget and Commerce Committee on cellphone No.0722258582 by 5.00 p.m today 30<sup>th</sup> June, 2016.

I thank you.

## **COMMUNICATION FROM THE CHAIR**

### **APPEARANCE BY GOVERNORS BEFORE THE SENATE AND ITS COMMITTEES**

Hon. Senators, I have a Communication on the appearance by Governors before the Senate and its committees.

I wish to inform you that I am in receipt of a letter dated 17<sup>th</sup> June, 2016 from the Chairman of the Council of Governors, the hon. Peter Munya, in which he raises concerns about the alleged harassment of Governors appearing before the Senate and its committees. The Chairman states that Governors appearing before the County Public Accounts and Investments Committee of the Senate have complained about the manner in which they have been treated, which he states has been in total disregard of the Senate Standing Orders and the Constitution.

The Chairman cites the alleged mistreatment of Gov. (Dr.) Evans Kidero in his appearance before the Committee on 15<sup>th</sup> March, 2016. In this regard, the Chairman attaches a letter dated 17<sup>th</sup> June, 2016 from Gov. (Dr.) Kidero addressed to the Speaker of the Senate titled “Complaint against Undignified Treatment during the Senate Public Accounts and Investment Committee Presentation by Nairobi City County.”

The Chairman goes ahead to state that based on the alleged experience of Gov. (Dr.) Kidero in his appearance before the Committee and the experience of other governors, it was apparent that the safety and security of governors appearing before the Senate Committee was not guaranteed. He also goes further to state that there is a clear conflict of interest and I quote:-

“Senators sit over their own cause since they have declared openly that they will be vying for the position of governors at the next general elections.”

It is the view of the Chairman that the Standing Orders and rules of natural justice require that any interested party should declare their interest and should not preside in a matter in which there are indications that there will be a conflict of interest.

I will stop to allow Members at the Bar to enter.

*(Several Senators entered the Chamber)*

Order, Sen. Murungi. When you have been favoured, you do not walk in that manner.

The Chairman concludes by stating that, and I quote:-

“Due to the manner in which the governors have been mishandled as they appeared before the Senate Committee purporting to provide oversight, the Council of Governors (CoG) has henceforth considered and advised its members to desist from appearing before the Senate until the issues raised are satisfactorily addressed.”

The Chairman further states that:-

“If the harassment continues, even the Executive Committee Members will also be advised not to appear before the Senate Committee.”

The CoG reiterates that the governors are no longer willing to respond to any summonses that are made by the Senate and any of its committees until the Senate puts in place mechanisms to address the serious constitutional and statutory issues raised.

Hon. Senators, the Chairman of the CoGs, the Hon. Peter Munya, in his letter refers to the complaint by Gov. (Dr.) Evans Kidero, Nairobi County Governor, relating to his appearance before the County Public Accounts and Investment Committee (CPAIC) on 15<sup>th</sup> June, 2016. It is important that I state from the outset that pursuant to Section 10 of the National Assembly (Powers and Privileges) Act, Cap.6, Section 7 of the Sixth Schedule to the Constitution and Standing Order 176(5)(b), (c) and (g) of the Senate Standing Orders, I referred the complaint by Governor (Dr.) Kidero to the Senate’s Rules and Business Committee for its consideration and appropriate action. In the circumstances, and on the account of the fact that the matter is pending before the Senate’s Rules and Business Committee, I shall say no more on this matter at this particular stage.

I will only make the observation that Gov. (Dr.) Kidero has appeared before the Committee of the Senate yesterday after the incident.

On the position taken by the CoGs to the effect that they shall not honour any summonses by the Senate and its Committees until the issues that they have raised in the letter dated 17<sup>th</sup> June, 2016 are addressed, as this purported action would affect all committees of the Senate, it is important that I state that the power of the Senate and, indeed, of the entire Parliament, to require the attendance of any person is a constitutional obligation. It is a power provided for under Article 125(1) of the Constitution. This Article provides as follows:-

“Either House of Parliament, and any of its committees, has power to summon any person to appear before it for the purpose of giving evidence or providing information.

(2) For the purposes of Clause (1), a House of Parliament and any of its committees has the same power as a High Court-

(a) To enforce the attendance of witnesses and examine them on oath, affirmation or otherwise;

(b) to compel the production of documents; and

(c) to issue a commission or request to examine witnesses abroad.”

In addition, Section 14 of the National Assembly (Powers and Privileges) Act further provides as follows:-

“(1) The Assembly or any standing committee thereof may, subject to the provisions of Sections 18 and 20, order any person to attend before it and to give evidence or to produce any paper, book, record or document in the possession or under the control of that person.

(2) The powers conferred by subsection (1) on a standing committee may be exercised by any other committee which is specially authorised by resolution of the Assembly to exercise those powers in respect of any matter or question specified in the resolution.”

Appearance before the Senate and its Committees, is, therefore, not optional and cannot be pegged to the fulfilment of any pre-conditions set by the CoGs as it seems to be suggested by the Chair of the Council of Governors. Appearance before the Senate and its Committees is a constitutional and a non-negotiable obligation.

In reference to Article 179(4), Governors get invited by virtue of position.

Article 179(1) states;-

“The executive authority at the county is vested in, and exercised by, a county executive committee.

(2) The County executive committee consists of

(a) the county governor and the deputy county governor.

So, the letter itself has a contradiction that you may wish to allow the executive and not the Governor and the provisions of that constitution are expressively clear.

Article 179(4) is even more compelling to me. It states:-

“The county governor and the deputy county governor are the chief executive and the deputy chief executive of the county, respectively”.

Therefore, they cannot decide to be the chief executive of the county when it is convenient to them.

Hon. Senators, as I have previously stated in this House, the Courts have settled the question of the appearance by governors before the Senate and its Committees, in the matter of the International Legal Consultancy Group versus the Senate and the Clerk of the Senate, High Court of Kenya at Kerugoya, Constitutional Petition No.8 of 2014 in which I mastered the Senate was not even represented. The petitioner filed a petition challenging the decision of the Senate to summon nine Governors and County Executive Committee Members responsible for finance to appear before the Senate and produce various documents and to respond to various issues with regard to county finance and fiscal management within their counties.

The Court held that the Senate can summon Governors, County Executive Members for Finance and County accounting officers to appear before it and answer to questions on County Government finances in so far as the National revenue allocated to the respective county is concerned. This is a duty that the Constitution has assigned to the Senate under Article 96(3).

Hon. Senators, in the circumstances, on account of the provisions of Article 125 of the Constitution, Section 14 of the National Assembly (Powers and Privileges) Act and the decision of the High Court in Constitutional Petition No.8 of 2014 and Article 179 of the Constitution, the position taken by the CoGs not to respond to summonses of the Senate and its Committees is not tenable. It contravenes and would violate the Constitution and the National Assembly (Powers and Privileges) Act and would be contrary to the judgement of the High Court of Kenya on this matter.



Hon. Senators, in the light of the above, I have responded to the letter from the Chairman of the CoG setting out this position as I have given to you. I have also encouraged him that he has a constitutional duty just like me, to ensure that there exist cordial relations between our two institutions. Let me, therefore, emphasise that despite this, the business of all Senate Committees should proceed in the usual manner in accordance with the Constitution and our Standing Orders.

I thank you.

**Tuesday, 5<sup>th</sup> July, 2016**

**COMMUNICATION FROM THE CHAIR**

DEMISE OF MR. LEONARD PATAI NDIEMA;  
SON OF SEN. NDIEMA

**The Temporary Speaker** (Sen. (Dr.) Machage): Order, Senators, I have this important communication to make.

Hon. Senators, it is with a heavy heart that I bring to your attention the demise of the late Leonard Patai Ndiema, the firstborn son of hon. Henry Tiolo Ndiema, Senator for Trans Nzoia County. The late Leonard Patai was born in 1985 and prior to his death, he had engaged in agribusiness. The late died on 27<sup>th</sup> June, 2016, after a short illness.

The requiem mass for the late will be held on Thursday, 7<sup>th</sup> July, 2016, at AIC Milimani Church, Nairobi, starting at 10.00 a.m. He will be buried on Saturday, 9<sup>th</sup> July, 2016, at his father's farm in Sholim, Endebess, Trans Nzoia County.

Hon. Senators, I request you to stand with our colleague at this trying moment. On your behalf, allow me to pass our condolences.

Thank you Senators.

**Tuesday, 12<sup>th</sup> July, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION OF TEACHERS AND  
STUDENTS FROM RIARA SECONDARY SCHOOL

**The Speaker** (Hon. Ethuro): Hon. Senators, I wish to recognise the presence of visiting students and teachers from Riara Secondary School, Nairobi County. They are seated in the public gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them.

On behalf of the Senate and on my own behalf, I wish them a fruitful visit. Thank you.

**COMMUNICATIN FROM THE CHAIR**

CONSIDERATION OF BILLS WITH A CONSTITUTIONAL  
DEADLINE OF 27<sup>TH</sup> AUGUST, 2016

**The Speaker** (Hon. Ethuro): Order Members. I have a Communication on the consideration of Bills with a constitutional deadline of 27<sup>th</sup> August, 2016.

Hon Senators, as you are aware, the Senate is in the process of considering various Bills which are subject to the constitutional deadline of 27<sup>th</sup> August, 2016.

These are:-

- (1) The Natural Resources (Classes of Transactions Subject to Ratification) Bill (National Assembly Bill No. 54 of 2015).
- (2) The Forests Conservation and Management Bill (National Assembly Bill No.49 of 2015).
- (3) The Protection of Traditional Knowledge and Cultural Expressions Bill (National Assembly Bill No.48 of 2015).
- (4) The Health Bill (National Assembly Bill No.14 of 2015).
- (5) The Energy Bill (National Assembly Bill No.50 of 2015)
- (6) The Access to Information Bill (National Assembly Bill No.36 of 2015)
- (7) The Seeds and Plant Varieties (Amendment) Bill (National Assembly Bill No.43 of 2015)
- (8) The Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No.44 of 2015)

The following two others Bills are subject to the same constitutional deadline of 27<sup>th</sup> August, 2016:-

- (1) The Community Land Bill (National Assembly Bill No.45 of 2015)
- (2) The Land Laws (Amendment) Bill (National Assembly Bill No.55 of 2015).

These Bills were negatived at the Second Reading stage in the Senate and are, therefore, presently undergoing mediation.

Hon Senators, as I had previously communicated, it is important that the Senate considers and disposes of these important Bills well before the said deadline of 27<sup>th</sup>

August, 2016. This is to allow, in the event that not all the Senate amendments are agreed to by the National Assembly, for the process of the mediation to take place and be concluded by the said deadline.

Accordingly, to enable consideration of the Bills yet to be considered at the Committee Stage, I direct all Committees responsible for considering any of the said Bills to table their reports thereon without further delay and definitely, not later than tomorrow afternoon.

I also direct that all Senators create time to be in the House from tomorrow afternoon. I further direct that there will be a morning sitting on Thursday this week in order to ensure that all legislations that need to be voted on will be voted on by the end of the week.

It is, therefore, ordered that the Whips rally Senators to attend all the sittings of tomorrow, Thursday morning and afternoon in order to vote on the said Bills.

I thank you.

**Thursday, 14<sup>th</sup> July, 2016 - Morning**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION OF TEACHERS  
AND PUPILS IN THE PUBLIC GALLERY

**The Temporary Speaker** (Sen. (Dr.) Machage): I have not been given information by the Serjeant-At-Arms but on behalf of the Senate, may I take the opportunity to welcome our visitors at the Public Gallery. I am told they are pupils from a primary school. You are welcome any time to observe what happens in the Senate.

**Thursday, 14<sup>th</sup> July, 2016 – Afternoon**

## **COMMUNICATIONS FROM THE CHAIR**

### **IMPLEMENTATION OF SECURITY CONTROLS WITHIN PARLIAMENT PRECINCTS**

**The Speaker** (Hon. Ethuro): Hon Members, you will recall that yesterday, Wednesday 13<sup>th</sup> July, 2016, the Deputy Speaker who is also the distinguished Senator for Murang'a County, Sen. Kembi-Gitura, rose on a point of order and raised concerns on the existing security system within Parliament Buildings. The matter was also spoken to by several other Senators, including the Senate Minority Leader, Sen. Kagwe, Sen. (Eng.) Muriuki, Sen. (Dr.) Machage, Sen. Ong'era, Sen. Hassan, Sen. Okong'o, Sen. (Prof.) Anyang'-Nyong'o and Sen. Haji.

You will also recall that I undertook to issue a communication on the matter given that the concerns raised have far reaching consequences if not addressed promptly.

Hon. Senators, Parliament is a vital installation with high profile occupants and visitors, including a large number of members of the public, college students and school pupils, apart from suppliers and contractors who visit the precincts for various reasons on daily basis. We routinely also get international visitors, especially hon. Members from other parliaments.

To safeguard Members, staff, visitors and property of Parliament, Parliament security which is provided by Serjeant-at-Arms and agencies responsible for protection of Parliament, including the Kenya Police, have been directed to implement the following security controls at all access points into and within the precincts of Parliament:-

1. Only vehicles bearing valid security car stickers issued by Parliament security will be allowed access into the precincts of Parliament. Vehicles without valid car stickers shall be denied entry.
2. All vehicles will, at all times, be subjected to security search before entry into Parliament and drivers are required to fill the vehicle register at the entrance before entry. Any driver or owner of a car who declines to have the vehicle searched shall be denied entry.
3. Upon the screening, only a Member of Parliament and his/her driver may proceed to the parking area within Parliament buildings, while bodyguards, visitors and passengers will be required to disembark and will be directed to the security screening booth at the gate for screening before being allowed entry. Any person who declines to be subjected to screening shall be denied entry.
4. In case of a vehicle with no Member of Parliament on board, only the driver shall proceed to the parking area after body search while all passengers, dignitaries, visitors and bodyguards will be required to disembark for appropriate screening.
5. All persons seeking entry into the buildings shall be subjected to body and baggage screening at the gates and control points and issued with visitors' passes which must be worn all the time and surrendered on leaving Parliament. Anyone with a permanent pass issued by the Chief Security Officer of Parliament must produce the pass to be allowed entry. Members of Parliament are informed that their spouses are entitled to permanent pass on application.

6. Persons who declare or are found in possession of firearms shall be required to show proof of authorised ownership. The firearm shall, thereafter, be surrendered for safe custody by the Serjeant-at-Arms and returned to the owner on exit.

7. The Serjeant-at-Arms shall screen all Members before entry into the Senate Chamber. All visitors, school pupils, dignitaries seeking access into the galleries shall be subjected to security screening by the Serjeant-at-Arms before entry. Any person who declines to be screened shall be denied access.

8. Members may entertain a maximum of two visitors within the precincts of Parliament at any time. Members and any officer of Parliament will be solely responsible for the conduct and behaviour of the visitors they have invited to the precincts of Parliament.

9. Members are requested to report any suspicious looking person or object observed to the security officers or Serjeant-at-Arms for immediate necessary action.

These security measures will be implemented in the precincts of Parliament which include main Parliament Buildings, KICC, Continental House, County Hall, Protection House and Harambee Plaza. All concerned persons are required to comply. These measures supplement Speaker's Rules on conduct of Members and admission and conduct of members of the public made under powers conferred by the National Assembly (Powers and Privileges Act).

Hon. Senators, security is a responsibility of everyone. Cooperation with security staff at the control points by Members and their visitors will go a long way in demonstrating how serious security is taken at Parliament. At no any one time will any Member both the Senators or Members of the National Assembly or visitors be allowed within the precincts of Parliament carrying guns even if they are authorized to do so.

Hon. Members, I, therefore, urge your full and maximum cooperation.

I thank you.

**Tuesday, 19<sup>th</sup> July, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM LAIKIPIA  
UNIVERSITY AND KILILI GIRL'S HIGH SCHOOL

**The Speaker** (Hon. Ethuro): Order, hon. Senators, before we move on to the next Order, I wish to recognize the presence of visiting students and lecturers from the following institutions-

- (1) Laikipia University, Embu Campus, Embu County.
- (2) Kilili Girl's High School, Machakos County.

Both delegations are seated at the Public Gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I wish to extend a warm welcome to them. On behalf of the Senate and my own behalf, I wish them a fruitful visit to our Parliament.

Thank you.

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM OLODARIAK  
BOYS SECONDARY SCHOOL

Hon. Senators, I wish to recognize the presence of visiting students and teachers from Olodariak Boys Secondary School from Kajiado County. They are seated at the Public Gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.



**Wednesday, 20<sup>th</sup> July, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION OF STUDENTS FROM MURANG'A  
COUNTY STUDYING AT EGERTON UNIVERSITY

**The Deputy Speaker** (Sen. Kembi-Gitura): I have a short Communication to make. Hon. Senators, I wish to recognize the presence of the visiting students from Egerton University from Murang'a County. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate, and on my own behalf, wish them a fruitful visit.

Thank you.

*(Applause)*

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM LORETO GIRLS'  
SECONDARY SCHOOL

Hon. Senators, I wish to recognize the presence of visiting students and teachers from Loreto Secondary School in Limuru, Kiambu County who are seated in the Public Gallery. In our usual tradition of receiving and welcoming visitors, although Sen. Karaba has pre-empted the situation, I extend a welcome to them and on behalf of the Senate and on my own behalf, wish them a fruitful visit.

*(Applause)*

**Thursday, 21<sup>st</sup> July, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING STUDENTS AND COORDINATORS FROM  
UNIVERSIDAD PONTIFICIA COMILLA, MADRID, SPAIN

**The Speaker** (Hon. Ethuro): Hon. Senators, I wish to recognise the presence of visiting students and coordinators from Universidad Pontificia Comillas, Madrid, Spain who are in Kenya for three weeks on a programme dubbed 'Inside Kenya' which is hosted by Hekima Institute of Peace Studies and International Relations (HIPSIR).

They are seated at the Speaker's Gallery and they are as follows:-

Mr. Carlos Martinez	Coordinator
Ms. Angela De Hoyos	Coordinator
Ms. Maria Perez	Student
Ms. Elena Fatou	Student
Ms. Ingrid Garcia	Student
Ms. Raquel Fernandez	Student
Ms. Sonia Leon	Student
Ms. Laura Garcia	Student
Ms. Macarena Mestanza	Student
Ms. Lucia Martin	Student
Ms. Laura Morillas	Student
Ms. Angela Sevillano	Student
Ms. Linsey Agai	Coordinator, Kenya

In our usual tradition of receiving and welcoming visitors to our Parliament, I wish to extend a warm welcome to them and, on your behalf and on my own behalf, I wish to wish them a fruitful visit.

Thank you.

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM MUTINDWA  
PRIMARY SCHOOL, EMBU COUNTY

Hon. Senators, I wish to recognize the presence of visiting students and teachers from Mutindwa Primary School from Embu County. They are seated at the Public Gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

I thank you.

**Tuesday, 26<sup>th</sup> July, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM THE ZIMBABWE  
PARLIAMENTARY COMMITTEE ON LEGAL AFFAIRS

**The Speaker** (Hon. Ethuro): Hon. Senators, I wish to recognize the presence of visiting Members and staff of the Zimbabwe Parliamentary Committee on Legal Affairs who are seated at the Speaker's Gallery. They are as follows:-

Hon. Innocence Gonese	-	The Leader of the Delegation
The Hon. Ziyambi Ziyambi	-	Member
Hon. Fortune Chasi	-	Member
Hon. Fungayi Jesse Majome	-	Member
Mrs. Gladys Pise	-	Parliamentary Counsel
Mrs. Nosizi Khumalo	-	Committee Clerk

In our usual tradition of receiving and welcoming visitors to our Parliament, I send a warm welcome to them. On your behalf and on my own behalf, I wish them a fruitful visit to our Senate.

**COMMUNICATION FROM THE CHAIR**

THE SPEAKER'S ROUND TABLE RETREAT WITH KEPSA

Hon. Senators, I wish to inform you that the Office of the Speaker of the Senate has organised a meeting between the Senators and the Kenya Private Sector Alliance (KEPSA) to deliberate on the Public-Private sector engagement, especially on the legislative matters and its effects on the economy. The KEPSA is the apex body of the private sector in Kenya with its membership drawn from the various sectors of the economy. The KEPSA advocates on behalf of the private sector in respect of high level national cross-cutting issues. It also coordinates the private sector's engagement on public-private sector dialogue with the various arms of government. Recently, they played a very pivotal role in ensuring that there is a peaceful engagement by the two Houses on the matters of IEBC.

Since its establishment in March 2003, KEPSA has sought the integration of the private sector as a partner with the various arms of Government and other stakeholders in the formation of laws and policies. Its over-arching goal is to create an environment conducive to business which makes Kenya a globally competitive destination commanding a high rank in the ease of doing business index which has improved over time.

It is towards this end that KEPSA has established mechanisms of engagement with the three arms of Government. These engagements are facilitated through various mechanisms such as the presidential round table, the Speaker's round table, the Ministerial stakeholder's' forum and the Judiciary forum.

Hon. Senators, the theme for this year's Speaker's round table retreat with KEPSA is: Securing Kenya's competitiveness through an enabling legislative framework. The meeting will focus on the following broad objectives:-

1. To reflect on the engagement between the private sector and the Senate.
2. To review Kenya's competitiveness, policy and legislative reforms.
3. To deliberate on the forthcoming General Elections and mitigating the impact on the business environment.

The retreat will take place from 28<sup>th</sup> to 30<sup>th</sup> July 2016 at the Pride Inn Paradise Beach Resort and Convention Centre in Mombasa County. Hon. Senators are scheduled to depart on Thursday, 28<sup>th</sup> July, 2016. I invite all of you to plan to attend this important retreat. You are requested to forward your preferred time of travel to the Clerk of the Senate for planning.

I thank you.

**Wednesday, 27<sup>th</sup> July, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM MARELL  
ACADEMY, BUNGOMA COUNTY

**The Speaker** (Hon. Ethuro): Hon. Senators, I wish to recognize the presence of visiting students and lecturers teachers from Marell Academy from Bungoma County. They are seated at the Public Gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I send a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

I thank you.

**COMMUNICATION FROM THE CHAIR**

APPEARANCE OF THE CHAIR OF NPSC AND IG  
BEFORE SENATE COMMITTEE

Order, Members! I have Communication to make. As you are aware, on Thursday, 21<sup>st</sup> July, 2016, I directed the Standing Committee on National Security and Foreign Relations to invite the Chairperson of the National Police Service Commission and the Inspector General (IG) of the National Police Service to appear before the Committee to respond to supplementary questions raised on the Statements raised by Sen. Njoroge regarding the 2016 police recruitment exercise. The chairperson of the National Police Service Commission and the IG have confirmed their availability on Thursday, tomorrow, 28<sup>th</sup> July, 2016.

I, therefore, invite you to the meeting of the Standing Committee on National Security and Foreign Relations to meet the Chairperson of the National Police Service Commission and the IG on Thursday, 28<sup>th</sup> July, 2016 in the Senate Chamber, Ground Floor, Main Parliament Buildings.

I thank you.

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM MATUNGULU GIRLS HIGH SCHOOL

**The Temporary Speaker** (Sen. (Dr.) Machage): Hon. Senators, I wish to recognise the presence of visiting students and teachers from Matungulu Girls High School, Machakos County. They are seated at the Public Gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

**Thursday, 28<sup>th</sup> July, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM KILUNGI ABC PRIMARY  
SCHOOL, MAKUENI COUNTY

**The Speaker** (Hon. Ethuro): Hon. Senators, before we proceed to the next order, I wish to recognize the presence of visiting students and teachers from Kilungi ABC Primary School from Makueni County. They are seated at the Public Gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I send a warm welcome to them. On behalf of the Senate, and on my own behalf, I wish them a fruitful visit.

I thank you.

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM NANDI HILLS PRIMARY  
SCHOOL, NANDI COUNTY

Hon. Senators, I wish to recognise the presence of visiting pupils and teachers from Nandi Hills Primary School, Nandi County. They are seated in the Public Gallery.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and on my own behalf, wish them a fruitful visit.

Since we are in the middle of Statements, I will allow only Sen. Sang to welcome the pupils from Nandi County. He will welcome the delegation on behalf of all other Senators

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATIONS FROM HILLS VIEW PRIMARY SCHOOL  
AND KAPSOOR PRIMARY SCHOOL

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, I wish to recognize the presence of visiting students and teachers from Hills View Primary School, Meru County. They are seated at the Public Gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

Hon. Senators, I know that Kapsoor Primary School from Baringo County was in the Public Gallery, but they left before I had recognized their presence. I would like it to go in the HANSARD that Kapsoor Primary School from Baringo County was also here. The record should show that they too were welcomed and that we would have also wished them a happy learning experience.

## Friday, 5<sup>th</sup> August, 2016 – Special Sitting

### COMMUNICATION FROM THE CHAIR

#### CONVENING OF SPECIAL SITTING TO CONSIDER THE COUNTY GOVERNMENTS CASH DISBURSEMENT SCHEDULE AND OTHER BUSINESS

**The Speaker** (Hon. Ethuro): Honourable Senators, I wish to welcome you back a few days after the commencement of our August recess and thank you for finding time to attend this Special Sitting of the Senate. I am certain that each one of you has a loaded schedule of events at your respective counties. I am sure it is because of the value you attach to the business of the Senate, especially the consideration of key business such as the County Governments Cash Disbursement Schedule, that you have created time to be here to dispose of today.

Honourable Senators, the County Governments Cash Disbursement Schedule for the Financial Year 2016/2017 was sent to us by the national Treasury and received at the Senate on Friday, 29<sup>th</sup> July, 2016, after we had already adjourned for the August recess. Consequently, Hon. Senators, considering the need to approve the Schedule, to enable disbursement of the much needed financial resources to the county governments and the need to conclude consideration of Bills awaiting Divisions at various stages, the Majority Leader, pursuant to Standing Order No.29(1) of the Senate Standing Orders, requested the Speaker to appoint a day for a Special Sitting of the Senate to consider the County Governments Cash Disbursement Schedule for the Financial Year 2016/2017 and other urgent business pending before the House. The request which was made *vide* Letter Ref. SML/GEN./CORR/VOL.1 (204), dated 2<sup>nd</sup> August, 2016, was supported by at least 15 Senators.

Honourable Senators, you may wish to note that urgent business currently pending before the Senate includes the three Mediation Committee Reports on very crucial Bills, two of which are subject to the August 27, 2016 constitutional timeline and several Bills pending Division either at the Second Reading stage or at the Committee of the Whole.

Honourable Senators, following consideration of the request by the Senate Majority Leader, I was satisfied that it met the requirements of Standing Order No.29(2). It is in this respect that I convened this Special Sitting of the Senate, by Gazette Notice No. 5987 dated 2<sup>nd</sup> August, 2016, which was carried in a Special Issue of the Gazette of 3<sup>rd</sup> August, 2016.

Honourable Senators, as required by Standing Order No.29(5), the Notice specified the business to be transacted at this sitting and it is the business scheduled in today's Order Paper. Indeed, as specified in the Gazette Notice and in accordance with Standing Order No.29(5) of the Senate Standing Orders, the business specified in the Notice shall be the only business before the Senate during this Special Sitting, following which the Senate shall stand adjourned until Tuesday, 13<sup>th</sup> September, 2016, at 2:30 p.m. in accordance with the Senate Calendar.

Honourable Senators, it is noteworthy, and I wish to emphasize that in accordance with Article 123 of the Constitution and Standing Order No.71, for the Senate to approve

business scheduled at Order Nos. 4 to 10 and 12 to 18, a majority of delegations – that is 24 delegations – are required to vote. Further, Order No.11, which relates to a constitutional amendment, requires a special majority of two thirds of all Senators to pass, pursuant to Article 256(1)(d) of the Constitution. I therefore urge you all to remain in the Chamber for the transaction of this important business as scheduled in the Order Paper.

I thank you.



## **Thursday, 18<sup>th</sup> August – Special Sitting**

### **COMMUNICATION FROM THE CHAIR**

#### **CONVENING OF SPECIAL SITTING TO VOTE ON THE COUNTY GOVERNMENTS CASH DISBURSEMENT SCHEDULE FOR FY2016/2017 AND OTHER URGENT BUSINESS**

**The Speaker** (Hon. Ethuro): Hon. Senators, let me take this opportunity, once again, to welcome you back for this second Special Sitting of the Senate during the current August recess. I am gratified that you found time to come for this sitting considering the busy schedules each one of you has at your respective counties. This is a pointer to your commitment to executing the businesses of the Senate which I note with appreciation.

As hon. Senators will recall, we concluded consideration of the County Governments Cash Disbursement Schedule during the Special Sitting of 5<sup>th</sup> August, 2016. The only matter pending now is voting on the Schedule in order to approve it. As indicated in today's Order Paper, we shall be proceeding to the Division on the Schedule in addition to other business scheduled for Division.

As communicated on 5<sup>th</sup> August, 2016, the County Governments Cash Disbursement Schedule for the Financial Year 2016/2017 was sent to the Senate by the National Treasury and received on Friday 29<sup>th</sup> July, 2016 at which time we were already on recess. This necessitated a Special Sitting considering the need to approve the Schedule to enable disbursement of the much needed financial resources to the county governments. In addition, there was also need to conclude consideration of Bills awaiting Divisions at various stages.

Hon. Senators, as indicated in paragraph 2 above, we did not manage to vote on the Schedule as well as the various Bills listed for consideration on the Special Sitting of 5<sup>th</sup> August, 2016. It is for this reason that the Senate Majority Leader and the Senate Minority leader, pursuant to Standing Order No.29 (1) of the Senate Standing Orders requested the Speaker once more to appoint a day for a Special Sitting of the Senate to consider the County Governments Cash Disbursement Schedule for the Financial Year 2016/2017 and other urgent business pending before the Senate. The request which was made vide letter dated 10<sup>th</sup> August, 2016 was supported by 17 Senators. I wish to note that the Speaker does not originate Specialittings.

Hon. Senators, you may also wish to know that urgent business currently pending before the Senate includes Motions to adopt the three negated Committee reports on very crucial Bills, two of which are subject to the August 27<sup>th</sup>, 2016 Constitutional timelines. Several Bills are pending only Division; either the Second Reading Stage or they are at the Committee of the Whole. There is also a Motion to adopt a very crucial report of the Joint Parliamentary Select Committee on matters relating to the Independent Electoral and Boundaries (IEBC). It was the view of the leadership that there was no need to have pending business that is already committed.

Hon. Senators, following consideration of the request by the Senate Majority Leader, I was, therefore satisfied that it met the requirements of the Standing Order

No.29(2). It is in this respect that I have convened this Special Sitting of the Senate by Gazette Notice No.6505 dated 12<sup>th</sup> August, 2016 which was carried in a Special Issue of a Gazette of the same date.

Hon. Senators, as required by Standing Order No.29(5) the Notice specified the business to be transacted at this Special Sitting, and it is the business scheduled in today's Order Paper. Indeed, as specified in the Gazette Notice and in accordance with Standing Order No.29 (5) of the Senate Standing Orders, the business specified in the Notice shall be the only business before the Senate during this Special sitting following which the Senate shall stand adjourned until Tuesday 13<sup>th</sup> September, 2016 at 2.30 p.m. in accordance with the Senate Calendar.

Hon. Senators, I would, therefore, like to reiterate that in accordance with Article 123 of the Constitution and Standing Order No.71, for the Senate to approve the business scheduled at Order Nos.5 to 11 and 13 to 19, a majority of delegations – 24 – are required to vote. I, therefore, urge you all to remain in the Chamber for the transaction of this business as scheduled in the Order Paper.

Thank you.

**Wednesday, 24<sup>th</sup> August, 2016**

**COMMUNICATION FROM THE CHAIR**

CONVENING OF SPECIAL SITTING TO CONSIDER THE  
REPORT OF THE JOINT PARLIAMENTARY COMMITTEE ON  
IEBC AND OTHER BUSINESS

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, I have a communication to make on this Special Sitting.

Hon. Senators, let me take this opportunity once again, to welcome you to this third Special Sitting of the Senate during the current August recess. Thank you for finding time from your busy schedules to attend the sitting. I am sure each one of you has scheduled county events. It is because of the value you attach to the business of the Senate, especially the consideration of the pieces of legislation like the one before us today, that you have created time to be here.

Hon. Senators, by a letter dated 18<sup>th</sup> August, 2016, and pursuant to Standing Order No.29(1) of the Senate, the Senate Majority and Minority Leaders, supported by 16 Senators, requested the Speaker to convene a Special Sitting of the Senate to consider:-

(1) A Report of the Joint Parliamentary Select Committee on Matters Relating to the Independent Electoral and Boundaries Commission (IEBC).

(2) Bills with constitutional deadline of 27<sup>th</sup> August, 2016.

(3) A Procedural Motion to extend the recess by a few days given that the August recess of Senators has been disrupted severally by Special Sittings.

Following the consideration of the request by the Senate Majority and Minority Leaders, I was satisfied that it met the requirements of Standing Order No.29(2). It is in this respect that I convene this Special Sitting of the Senate *via* Gazette Notice No.6780 dated 22<sup>nd</sup> August, 2016. I subsequently issued an addendum to the Gazette Notice to incorporate Reports of the Mediation Committee on the Energy Bill and the Petroleum Exploration, Development and Production Bill.

Hon. Senators may wish to note that the urgent business currently pending before the Senate includes Motions to adopt the four mediation Committee Reports on crucial Bills, all of which are subject to the 27<sup>th</sup> August, 2016 constitutional timeline, a Motion to adopt the report of the joint parliamentary select Committee on matters relating to the IEBC and a constitutional amendment Bill by Sen. Judith Sijeny which is due for Division at Second Reading and later if approved, Committee of the Whole.

As hon. Senators are aware and pursuant to Article 256(1)(d) of the Constitution, the constitutional amendment Bill by Sen. Sijeny requires a threshold of two thirds of all Senators to pass it at Second and Third Readings. That is a minimum of 45 Senators.

Hon. Senators, as required by Standing Order No.29(5), the Gazette Notice specifies the business to be transacted at this sitting. It is the business scheduled in today's Order Paper. Indeed, as specified in accordance with Standing Order No.29(5) of the Senate, the business listed shall be the only business before the Senate during the Special Sitting following which the Senate shall stand adjourned until Tuesday, 13<sup>th</sup> September, 2016 at 2.30 p.m. in accordance with the Senate Calendar.

Hon. Senators, I would like to reiterate that in accordance with Article 123 of the Constitution and Standing Order No.71, for the Senate to approve business scheduled at Orders No. 4 to 7, the support of a majority of all delegations, that is 24, is required. I, therefore, appeal to you all to remain in the Chamber for the transaction of the business as scheduled.

I thank you.

## Wednesday, 7<sup>th</sup> September, 2016 – Special Sitting

### COMMUNICATIONS FROM THE CHAIR

#### CONVENING OF SPECIAL SITTING TO CONSIDER THE ELECTIONS LAWS AND OTHER URGENT BUSINESS

**The Speaker** (Hon. Ethuro): Hon. Senators, let me take this opportunity to once again welcome you to this Special Sitting of this Senate, which is the fourth during the current recess. Additionally, we shall tomorrow, Thursday, 8th September, 2016, have the fifth Special Sitting during this recess.

Your finding time to come each time you are required is a clear demonstration of your dedication to your duty, and in the service of the people of the Republic of Kenya, and your willingness and readiness to execute the constitutional mandate. I, therefore, urge you to continue in this spirit.

Hon. Senators, today's and tomorrow's Special Sittings have been convened following a request by the Senate Majority and Minority leaders, dated 5<sup>th</sup>, September, 2016, and supported by the requisite number of Senators, requesting the Speaker of the Senate to appoint Wednesday, 7<sup>th</sup> September, 2016, and Thursday, 8<sup>th</sup> September, 2016 as the days for Special Sittings of the Senate in order to consider:-

- (1) The Elections Laws (Amendment) Bill (National Assembly Bills No.37 of 2016);
- (2) The Election Offences Bill (National Assembly Bills No. 36 of 2016);
- (3) The proposed removal from office by impeachment of the Governor of Nyeri County; and,
- (4) Other urgent business pending before the Senate.

Following consideration of the request which the two leaders made, pursuant to Standing Order No.29(1) of the Senate Standing Orders, I was satisfied that it met the requirements of Standing Order No.29(2). It is in this respect that I convene this Special Sitting of the Senate via Kenya Gazette Notice No.7174 of 6th September, 2016.

Hon. Senators, as specified in the Gazette Notice, and in accordance with Standing Orders No.29(5) of the Senate Standing Orders, the business specified in the notice shall be the only business before the Senate during these special sittings, following which the Senate shall stand adjourned in accordance with the Senate calendar or subject to further requests.

I thank you.

Order, Senators, I have a second communication to make.

#### THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF THE GOVERNOR OF NYERI COUNTY

**The Speaker** (Hon. Ethuro): Honourable Senators, by a letter received in the Office of the Speaker of the Senate on Monday, 5<sup>th</sup> September, 2016, the Speaker of the County Assembly of Nyeri informed the Speaker of the Senate of the approval of a Motion by the County Assembly of Nyeri for the removal from office, by impeachment,

of the Governor of Nyeri County. The Speaker of the County Assembly also forwarded the following documents:-

(1) The Resolution of the County Assembly of Nyeri specifying the grounds for the proposed impeachment of the Governor of Nyeri County;

(2) The Division list of the County Assembly of Nyeri on the Motion for Impeachment;

(3) The Motion for impeachment of the Governor of Nyeri County together with signatures of the Members of County Assembly (MCAs) in support of the Motion.

Hon. Senators, in terms of Article 181 of the Constitution, Section 33(3)(a) of the County Governments Act, 2012 and Standing Order No.68(1)(a) of the Senate, the Speaker of the Senate is required “within seven days after receiving notice of a resolution from the speaker of a county assembly, to convene a meeting of the Senate to hear charges against the governor.”

Consequently, Hon. Senators, pursuant to Section 33(3)(a) of the County Governments Act, 2012 and Standing Order No.68(1)(a) of the Senate Standing Orders, I convened this Sitting of the Senate, through Kenya Gazette Notice No.7174, published on 6<sup>th</sup> September, 2016. And now, Hon. Senators, pursuant to Section 33(3) of the County Governments Act, 2012 and Standing Orders No.68(1)(a) of the Senate, I hereby proceed to read the Charges against Hon. James Nderitu Gachagua, the Governor of Nyeri County.

Ground A: Gross Violation of the Constitution of Kenya, 2010, the County Governments Act, 2012, the Public Finance Management Act, 2012 and the Public Procurement and Disposal Act, 2005. Particulars include:-

(1) Failing to account or make proper disclosure of Kshs352,976,913, contrary to Article 201(a) of the Constitution of Kenya 2010 and Section 104(1)(i) of the Public Finance Management Act, 2012.

(2) Utilizing local revenue at source, contrary to Article 207 of the Constitution of Kenya 2010 and Section 109 of the Public Finance Management Act, 2012.

(3) Irregular procurement contrary to the Public Procurement and Disposal Act, 2005.

(4) Lack of prudence in refurbishment of buildings amounting to Kshs81,384,118.40 in contravention of Article 201(d) of the Constitution of Kenya 2010 and Section 104(1)(i) of the Public Finance Management Act, 2012.

(5) Splitting of tenders contrary to Section 30 of the Public Procurement and Disposal Act, 2005.

(6) Lack of prudence in use of public funds, contrary to Section 201(d) of the Constitution of Kenya, 2010 and Section 104(1)(i) of the Public Finance Management Act, 2012.

(7) Failure to establish the County Budget and Economic Forum as stipulated under Section 137 of the Public Finance Management Act, 2012.

(8) Undermining the Legislative Authority of the County Assembly, contrary to Article 185 of the Constitution of Kenya, 2010 and delaying the budget making process.

(9) Failure to consider and/or assent to County Bills passed by the County Assembly, contrary to Section 30(2)(g) of the County Governments Act, 2012.

Ground B: Failure to comply with the law

The County Governor failed to comply with the law in the following ways:-

(1) Violation of Article 41(1) of the Constitution of Kenya, 2010 that ensures every person the right to fair labour practices and Section 19 of the Employment Act by failing to remit and/or delaying the remittance of statutory deductions of county officers, that is, NHIF, NSSF, voluntary pension contributions and political parties remittances.

(2) Contravention of Section 109(4)(b) of the Public Finance Management Act by the County Executive under the stewardship of the Governor by deliberately delaying release of salaries for the month of July, 2016 for MCAs and staff of the County Assembly.

(3) Failure to define the responsibility of every member of the County Executive Committee by notice in the gazette, contrary to Section 30(2)(i) of the County Governments Act.

(4) Establishment of extra sub-counties in Nyeri County in contravention of Section 48(1)(b) of the County Governments Act and without the approval of the Assembly.

(5) Failing to consider gender parity, representation of minorities, marginalized, the community and cultural diversity in composing the County Executive Committee.

**Ground C: Abuse of Office/Gross Misconduct**

The County Governor of Nyeri made several irregular appointments as follows:-

(1) Appointment of a County Secretary (Ms. Alice Njamiu Wachira) in acting position for an indefinite period of time, contrary to Section 44 and 64 of the County Governments Act. The said Acting County Secretary had, via a resolution of the County Assembly, been found unsuitable to hold the position and further resolved that the County Secretary vacates office, a resolution that was ignored by the Governor.

(2) Appointment of an Acting Secretary of the County Public Service Board (CPSB) from among officers of the County Government who has not been vetted, contrary to Section 58 of the County Governments Act.

(3) Operating for a long duration with perennial acting County Executive Committee Members and acting Chief Officers who have not been vetted by the County Assembly thereby jeopardizing service delivery and accountability in the County.

Hon. Senators, Section 33(3)(b) of the County Governments Act and Standing Order 68(1)(b) of the Senate Standing Orders both provide that the Senate, by resolution, may appoint a Special Committee comprising eleven of its Members to investigate the matter. You will therefore observe that in today's Order Paper, pursuant to these provisions of the law and the Gazette Notice, the Senate Majority Leader will be giving Notice of a Motion for the establishment of a Special Committee. You will also observe that the Motion has, with the approval of the Speaker, been listed on the Order Paper.

Honourable Senators, should the Motion for the establishment of the Special Committee pass, the Special Committee will be required, under Section 33(4) of the County Governments Act and Standing Order 68(2), to investigate the matter and to report to the Senate within 10 days on whether it finds the particulars of the allegations against the Governor to have been substantiated. If, however, the Motion for the establishment of a Special Committee does not pass, the Senate shall proceed to investigate and consider the matter in the plenary. The resolution of the Senate on the Motion by the Senate Majority Leader will therefore determine the manner in which this matter shall henceforth proceed.

It is noteworthy, and I wish to emphasize to all Honourable Senators, that debate on the Motion shall be limited to the substance of the Motion, namely; whether to establish a Special Committee consisting of the Senators listed to investigate the proposed removal of the Governor of Nyeri County. It is not a Motion on the propriety, prudence or even the constitutionality or the legality of the processes that have preceded the submission of this matter to the Senate.

It is not a debate on the facts of the matter or the merits. It is, therefore, not permissible to divert to any matters other than the Motion before the Senate.

Hon. Senators, I had previously stated in this House and I will do so today, that the hearing of charges for the proposed removal from office of a state officer is one of the most solemn functions of the Senate under the Constitution. I therefore, once again, urge that the Senate rises to the occasion, as they have done previously, and exercise the highest level of responsibility on this matter in Plenary. Also, should the Motion by the Senate Majority Leader pass, proceed as formulated to the Special Committee.

I thank you.



## **Thursday, 8<sup>th</sup> September, 2016 – Special Sitting**

### **COMMUNICATIONS FROM THE CHAIR**

#### **VISITING DELEGATION OF STUDENTS AND TEACHERS FROM KOINDI BOYS SECONDARY SCHOOL**

**The Speaker** (Hon. Ethuro): I wish to recognize the presence of visiting students and teachers from Koindi Boys Secondary School in Murang'a County. They are seated at the public gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I wish to extend a warm welcome to them and on your behalf and my own behalf wish them a fruitful visit.

I thank you.

*(Applause)*

### **CONSIDERED RULING**

#### **MANNER OF DISPOSAL OF THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF THE GOVERNOR OF NYERI COUNTY**

**The Speaker** (Hon. Ethuro): Following the resolution of the Senate yesterday Wednesday, 7<sup>th</sup> September, 2016, on the Motion against the establishment of a Special Committee to establish the matter of the proposed removal from office, by impeachment, of the Governor of Nyeri County, I undertook to rule on the manner in which the Senate will proceed with the disposal of this matter.

Honorable Senators, you will recall that on every occasion on which the question of the manner in which to consider the proposal for the removal of a governor by impeachment has arisen before this Senate, the Senate has proceeded to approve the formation of a special committee which has then, in terms of Section 33 (4) of the County Governments Act 2012, investigated the matter and reported within a period not exceeding 10 days, whether it found the particulars of the allegations to have been substantiated.

The defeat of the Motion for the establishment of the special committee yesterday means that we must determine the procedure and the timelines we will require in order for the Senate, acting as the whole legislative body rather than a committee, to dispose the matter.

Honourable Senators, you will note that neither Article 181 of the Constitution, Section 33 of the County Governments Act or our own Standing Orders shed any light on the procedure to be used if the route we took yesterday is to be adopted. This unprecedented situation necessitates recourse to Standing Order No. 1 of our Standing Orders which provides as follows:-

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

(2) The decisions made in paragraph (1) shall be based on the Constitution of Kenya, Statute Law and the usages, forms, precedents, customs, procedures and traditions of the Parliament of Kenya and other jurisdictions to the extent that these are applicable to Kenya.

In making this ruling, therefore, I am also guided by Article 259 of the Constitution which requires that the Constitution - in this case, Article 181 - be interpreted in a manner that promotes its purposes, values and principles, advances the rule of law and permits development of the law. I will also be guided by Article 70 which gives priority to the disposal of a Motion on the impeachment of the governor in our Standing Orders.

In paragraph seven, applying Article 259, it is, therefore, clear to me that there are two main pillars set out by the Constitution and the County Governments Act on the manner of proceeding with this process. These are:-

(a) Expedition: The process must not linger or be left in abeyance for an inordinate amount of time seeing that it is the question of a possible vacancy in the high office of a governor of a county that is in issue. We, therefore, need to investigate the matter and conclude within a stipulated period of not more than ten days.

(b) Procedural Propriety - namely, that the Senate acting as a quasi-judicial organ, must observe the principles of natural justice and, as far as possible, provide all the protections available to a citizen who is required to vindicate a right before a Constitutionally mandated organ.

Hon. Senators, taking one thing with another, and borrowing from the procedure we have employed in the past, I direct that having read the charges against Hon. Gachagua, the Governor of Nyeri County yesterday, the Senate, sitting in Plenary will conduct a hearing and make a determination on whether it finds the charges against the Governor to have been substantiated.

I direct that the procedure which the Senate has previously utilized through its Special Committee will also apply, with the necessary modifications, to the hearing by the Senate in Plenary. These procedures relate to the appointment and notification to the public of the days on which the Senate will consider the matter, invitation to the parties to appear, the summoning of witnesses and the procedure for the actual hearing. The detailed particulars of these are contained in the Rules of Procedure for the Hearing and Determination of the Proposed Removal from Office of a Governor which have been previously developed and which shall be circulated to all Senators and to the relevant parties.

Suffice it to state, for now, that the Senate will meet on Tuesday, 13<sup>th</sup>, Wednesday, 14<sup>th</sup> and Thursday, 15<sup>th</sup> September, 2016, to hear and determine whether it finds any of the charges to have been substantiated. For the avoidance of doubt, the proceedings of the Senate during the hearings shall be held in public and the rules of the Senate when sitting in Plenary shall apply with such modifications as the Speaker shall determine. It should be noted, however, that prior to voting on the charges, the Senate shall retire to a Deliberative Session in Camera.

In summary, the procedure will be as follows:-

(a) Before the sitting of the Senate on Tuesday, 13<sup>th</sup> September, 2016, the Office of the Clerk shall issue invitations to appear to the Governor and to the County Assembly of Nyeri in which shall be set out the charges and which invitations shall indicate the date

of the hearing and the information and the documents required for the purposes of the hearing.

(b) Charges against the Governor of Nyeri County will also be availed to Members starting today, Thursday, 8<sup>th</sup> September, 2016.

(c) Prior to the commencement of the hearings on Tuesday, 13<sup>th</sup> September, 2016, the Senate shall also meet in a pre-hearing camera briefing session. The members should note this one. The Senate shall, therefore, conduct the hearing which shall consist of hearing the case first by the County Assembly for the removal of the Governor and the response of the Governor to the charges.

On conclusion of the hearings, the Senate shall, as I have indicated before, adjourn to a deliberative closed session, whereafter, the Senate shall re-assemble in Plenary and vote on each of the charges. In accordance with Section 33(7) and Standing Order 68(5), the voting shall be by County Delegations.

d) The Governor shall cease to hold office if a majority of all the county delegations of the Senate vote to uphold any impeachment charge. If the charges are not substantiated, the Governor will remain in office.

Hon. Senators, the responsibility that vests on all of us in the disposal of this matter is great, more so because of the adoption of this procedure in the Plenary. I would, therefore, direct that all Hon. Senators avail themselves to the service of the Senate and the Nation throughout the period of the hearings next week, culminating in the voting on the proposed removal from office by impeachment of the Governor of Nyeri County. As a result, all other business of Committees stands suspended until the conclusion of this process. Indeed, the Motion we have just adopted on varying the calendar is to allow you more time for the Committee work which you may have planned for next week.

Hon. Senators, in the usual manner, according to our Standing Orders and Parliamentary Procedures and Practice, the Senate and each and every Senator, being now seized of the matter with the proposed removal from office by impeachment of the Governor of Nyeri County, it is not open for any Senator to comment in any forum in any manner prejudicial or pre-emptive to the fair and judicious determination of the matter.

I thank you.

## **COMMUNICATION FROM THE CHAIR**

### **VISITING DELEGATION FROM SOSSIOT GIRLS SECONDARY SCHOOL, KERICHO COUNTY**

Hon. Senators, I wish to recognize the presence of visiting students and teachers from Sossiot Girls Secondary School from Kericho County. They are seated at the Public Gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.

*(Applause)*

## **Tuesday 13<sup>th</sup> September, 2016 – Special Sitting**

### **COMMUNICATION FROM THE CHAIR**

#### **IMPEACHMENT HEARING: MANDATE OF THE SENATE, RULES OF PROCEDURE, PROGRAMME AND ALLOCATION OF TIME**

**The Speaker** (Hon. Ethuro): Hon. Senators, let me take this opportunity to welcome you back for this Special Sitting of the Senate which is the sixth during the current recess. In addition, we shall, tomorrow, Wednesday, 14<sup>th</sup> September, 2016, and maybe Thursday, 15<sup>th</sup> September, 2016, hold the seventh and eighth Special Sittings respectively during this recess. Your finding time to come each time you are required to do so during this recess is clear demonstration of your dedication to the service of the people of Kenya and readiness to execute your constitutional mandate.

Hon. Senators, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, 2012, on 2<sup>nd</sup> September, 2016, the County Assembly of Nyeri approved a Motion for the Removal from Office of the Governor of Nyeri County. By letter dated 2<sup>nd</sup> September, 2016, and received in my Office on 5<sup>th</sup> September, 2016, the Speaker of the County Assembly of Nyeri informed the Speaker of the Senate of the approval of the Motion by the County Assembly of Nyeri and further forwarded to the Speaker of the Senate documents in evidence of the proceedings of the Assembly.

Pursuant to Section 33(3)(a) of the County Governments Act, 2012, and Standing Order No.68(1)(a) of the Senate Standing Orders, on Wednesday, 7<sup>th</sup> September, 2016, the Speaker of the Senate convened a meeting of the Senate to hear charges against the Governor of Nyeri County. Further, on the same date, the Senate resolved to investigate the matter of the proposed removal from office, by impeachment, of the Governor of Nyeri County by the Senate in plenary.

Hon. Senators, the mandate of the Senate in so far as it relates to the removal of a governor from office is provided for under Article 181 of the Constitution as read together with Section 33 of the County Governments Act, 2012, and Standing Order No.68 of the Senate Standing Orders. In particular, Article 181 of the Constitution provides as follows:-

“(1) A county governor may be removed from office on any of the following grounds—

- (a) gross violation of this Constitution or any other law;
- (b) where there are serious reasons for believing that the county governor has committed a crime under national or international law;
- (c) abuse of office or gross misconduct; or
- (d) physical or mental incapacity to perform the functions of office of county governor.

(2) Parliament shall enact legislation providing for the procedure of removal of a county governor on any of the grounds mentioned in clause (1).”

Hon. Senators, as you may recall, in a ruling that I made on Thursday, 8<sup>th</sup> September, 2016, I stated that neither Article 181 of the Constitution nor Section 33 of the County Governments Act nor, indeed, our own Standing Orders shed any light on the

procedure to be followed where the hearing and determination of the proposed removal from office of a governor by impeachment is to be undertaken by the Senate in plenary.

Accordingly, pursuant to Standing Order No.1 of the Senate Standing Orders, I directed that the procedure which the Senate has previously utilized in forming special committees established pursuant to Section 33(3) of the County Governments Act, 2012, and Standing Order No.61(1) of the Senate Standing Orders, would apply with the necessary modifications to the hearing by the Senate in plenary.

Hon. Senators, in this regard, the rules of procedure for the hearing and determination of the proposed removal from office, by impeachment, of a governor, has been circulated to all Senators, and to both the County Assembly and the Governor. The rules of procedure shall apply to these proceedings.

Hon. Senators will further note that the hearing programme has been circulated, which details the various activities in the hearing and determination of the matter, and the time allocated to each activity. It will be crucial that all the parties comply with the time allocated.

In summary, the programme is as follows:-

Today, Tuesday 13<sup>th</sup> September, 2016, after we have dispensed with preliminary matters, the charges against the Governor as submitted by the County Assembly shall be read to the Governor. This will be followed by the opening statements to be made on behalf of both parties and thereafter the presentation of the case of the County Assembly.

On Wednesday 14<sup>th</sup> September, 2016, the Governor will have an opportunity to present his case before the Senate. This will be followed by the closing statements by both parties. The Senate, therefore, urges all parties to observe the time allocated to them in the hearing programme so as to ensure that the matter is disposed of expeditiously.

The Senate shall then proceed to a closed session for deliberations prior to voting on each of the charges. In accordance with Section 33(7) of the County Governments Act, 2012 and Standing Order No.68(5) of the Senate Standing Orders, the voting shall be by county delegations and the voting shall be in the open. The Governor shall cease to hold office if a majority of all county delegations of the Senate vote to uphold any impeachment charge. If the charges are not substantiated, the Governor shall remain in office.

Hon. Senators, it is important to observe that pursuant to Rule 11 of the Rules of Procedure, the hearing of evidence once it commences shall proceed and continue on until the Senate concludes the hearing of the matter. As the Senate embarks on the hearing and determination of the matter, the Senate must, therefore, undertake this task in the most expeditious manner, and in addition, observe procedural propriety. The Senate, acting as a *quasi-judicial* organ, must also observe the principles of natural justice.

I wish to emphasize as I conclude that the Senate is cognizant of the gravity of this matter with which it is seized and that it shall accord all the parties to the proceedings a fair hearing.

I thank you.

## **Wednesday 14<sup>th</sup> September, 2016 – Special Sitting**

### **COMMUNICATION FROM THE CHAIR**

#### IMPEACHMENT HEARINGS: PROGRAMME FOR THE DAY

**The Speaker** (Hon. Ethuro): Order, Senators! I wish to welcome you to today's Special Sitting. We shall continue from where we left yesterday, guided by today's Order Paper, the programme for the impeachment proceedings and the rules of procedure, which we circulated yesterday.

In accordance with the program, we shall now proceed with the presentation of the case of the governor, including presentation of his witnesses, if any. As I invite the governor, let me emphasize that we need to adhere to the stipulated timelines and urge all of us to abide by the rule of relevance. I appreciate that we did well yesterday and it is my expectation that, that will continue even today.

## **Wednesday 14<sup>th</sup> September, 2016 – Special Sitting**

### **COMMUNICATION FROM THE CHAIR**

#### WELCOME REMARKS FROM THE CHAIR AFTER RECESS

**The Deputy Speaker** (Sen. Kembi-Gitura): Order, Senators! Hon. Senators, I have a short communication to make.

Hon. Senators, it is my pleasure to welcome you back from the long recess on this first day of the last part of this current Session which, as you are all aware, ends in December this year. Despite the numerous interruptions caused by Special Sittings, it is my sincere hope that you all had a pleasant recess.

Before we went on recess, the Senate conducted a substantial amount of business in line with its mandate as provided in the Constitution. Just to refresh your memories, some of the business transacted during the previous part of this session and during the Special Sitting was as follows:-

1. A total of 20 Bills, eight of them with constitutional deadlines of 27<sup>th</sup> August, 2016 were passed.

2. The Report of the Joint Parliamentary Select Committee on the Independent Electoral and Boundaries Commission.

3. Impeachment proceedings against the governor of Nyeri County, Hon. Nderitu Gachagua - the first proceedings to be fully conducted in Plenary.

This is just part of what the Senate achieved which indicates a marked improvement in volume and quality of business transacted over the previous sessions. Much more was achieved through respective committees as the House firmly and unequivocally took up its rightful place as the guardian of devolution. In continuing to exercise our mandate as a House of equity, it is my heartfelt expectation to see more business transacted by the House during this last part.

As we resume sittings, let us all be aware that our in-tray is full as the following business is still pending:-

1. Twenty three Bills are pending at the Committee Stage.

2. Nineteen Bills are at the Second Reading Stage

3. Five Bills are due for First Reading.

It is my sincere hope that the same zeal and dedication that you have shown in handling business before the Senate will be exhibited as we seek to fully exercise our role as the overseer of the devolved system of governance. I wish you all the best as you continue to fulfill your mandate.

Thank you.

*(Applause)*

### **COMMUNICATION FROM THE CHAIR**

#### VISITING DELEGATION OF STAFF FROM VARIOUS COUNTY ASSEMBLIES

**The Deputy Speaker** (Sen. Kembi-Gitura): This afternoon, hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery of the visiting staff from various county assemblies. The county assembly staff are here on a ten day county staff legislative attachment program at the Senate. I request each member of the delegation to stand when called out so that they may be acknowledged in the usual Senate tradition.

They are:-

<b>Baringo County Assembly</b>	
Anne Kapanat Domongole	- Clerk Assistant II
Hosea Kondira Komen	- Clerk Assistant II
<b>Kilifi County Assembly</b>	
Mwalili Dickson Kachiezy	- Clerk Assistant II
Safari Damaris Redson	- Clerk Assistant II
<b>Siaya County Assembly</b>	
Tobias Odhiambo	- Deputy Hansard Editor
Charles Otieno	- Serjeant-At-Arms
<b>Migori County Assembly</b>	
Salome Atieno Nguka	- Clerk Assistant II
<b>Kitui County Assembly</b>	
Esther Kitavi	- Research officer I
Mutetei Mutisya	- Senior Communications Officer
<b>Nyamira County Assembly</b>	
James Michael Kisesa	- Administrative Assistant II
Stella Kwamboka Nyamete	- Administrative Assistant III
<b>Kajiado County Assembly</b>	
Saiyanka Richard	- Director Legislative, Committee and Procedure
Ms. Lydia Makaka	- Principal Clerk Assistant
<b>West Pokot County Assembly</b>	
Daniel Lokeno Lotupot	- Clerk Assistant II
Lydia Cheptoo Katialem	- Clerk Assistant III
<b>Embu County Assembly</b>	
Silas Njeru Mwaniki	- Principal Serjeant-At-Arms
Doreen Mumbi Muthoni	- Administrative Assistant I
<b>Kiambu County Assembly</b>	
Faith Wanjiku David	- Clerk Assistant II
Alex Njogu Wanjiku	- Clerk Assistant II
<b>Bomet County Assembly</b>	
Calvin Kibet Kitur	- Legal Clerk
Veronicah Waweru	- Clerk Assistant II
<b>Tharaka Nithi County Assembly</b>	
Mary Kendi	- Clerk Assistant I



**Trans Nzoia County Assembly**

Nicholas Nandasaba Simiyu  
Joan Cherop Ngetich

- Deputy Serjeant-At-Arms
- Public Relations and  
Communications Officer

**Samburu County Assembly**

Lekapes Saiwan Shadrack  
Leliok Lekupanae  
Lekalesoi Philip

- Senior Clerk Assistant
- Principal Clerk Assistant
- Senior Clerk Assistant

I hope that they will have a fruitful programme. On behalf of the Senate and on my own behalf, I welcome them to the Senate and wish them well for the remainder of their stay.

Thank you.

**Wednesday, 5<sup>th</sup> October, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM FARASI LANE  
PRIMARY SCHOOL, NAIROBI COUNTY

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, I wish to recognise the presence of visiting pupils and teachers from Farasi Lane Primary School, Westlands, Nairobi City County. They are seated at the Public Gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I wish them a fruitful visit.

Hon. Senators, as you are aware and as has come out in the House before, it is not mandatory that we should recognise pupils in the Public Gallery. I remember that has been raised by Sen. (Dr.) Khalwale. However, when pupils and students are in our Public Gallery, I find it incumbent upon myself to recognise them because, for them, this is a learning curve. They have come here so that they learn something and that is why you find that, invariably, when pupils and students are here with their teachers, we take the time to recognise their presence because they have come here for the specific purpose to learn from us. So, I would like to welcome them very much to the Senate.

**Thursday, 6<sup>th</sup> October, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM THE UNIVERSITY OF ELDORET

**The Deputy Speaker** (Sen. Kembi-Gitura): Hon. Senators, I have a short communication to make on the visiting students and lecturers from the University of Eldoret. I wish to recognize the presence of visiting students and lecturers from the University of Eldoret, Uasin Gishu County. They are seated in the public gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.

**Wednesday, 12<sup>th</sup> October, 2016**

**COMMUNICATIONS FROM THE CHAIR**

VISITING DELEGATION OF WOMEN  
PARLIAMENTARIANS FROM SOUTH SUDAN

**The Speaker** (Hon. Ethuro): Order, Members. I have a communication to make on the visiting delegation of Women Parliamentarians from the Parliament South Sudan.

Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of the visiting delegation of Women Parliamentarians from the Legislative Assembly of South Sudan. The delegation is in the country for an exposure visit to learn and share the experiences and broaden its understanding and knowledge on the workings of our Parliament. They have been here since Monday, 10<sup>th</sup> October, 2016, and will depart on Thursday, 13<sup>th</sup> October, 2016.

I request each Member of the delegation to stand when called out so that they may be acknowledged in the great Senate tradition. The Members of the delegation are as follows:-

The Hon. Betty Achan , MP	-	National Legislative Assembly and Leader of the Delegation
Ambassador Michael Nyang, MP	-	Ministry of Foreign Affairs
The Hon. Mary Puru, MP	-	National Legislative Assembly
The Hon. Alma Abuoch Jervas, MP	-	National Legislative Assembly
The Hon. Lith Aluong, Mp	-	State Legislative Assembly
The Hon. Nyanchiek Nhial, MP	-	National Legislative Assembly
The Hon. Hannah Lona, MP	-	State Legislative Assembly
The Hon. Athiak Rou Rachel, MP	-	State Legislative Assembly
The Hon. Suzan Paite, MP	-	State Legislative Assembly
The Hon. Mary Elias MP	-	State Legislative Assembly
The Hon. Florence Abina, MP	-	State Legislative Assembly
The Hon. Florence Nighty, MP	-	State Legislative Assembly
The Hon. Flora Iliha, MP	-	State Legislative Assembly
The Hon. Ajoh Gordon Kuol, MP	-	State Legislative Assembly
The Hon. Adriana Ali, MP	-	State Legislative Assembly
The Hon. Mary Hadia, MP	-	State Legislative Assembly
The Hon. Joyce Hadia, MP	-	State Legislative Assembly
Ms. Catherine Pita	-	Staff
Ms. Florence Ade	-	Staff

I hope they will have a fruitful programme during their study in the Senate. On behalf of the Senate and on my own behalf, I welcome them to the Senate and wish them well for the remainder of their stay. Thank you

*(Applause)*

## COMMUNICATION FROM THE CHAIR

### VISITING DELEGATION OF STUDENTS FROM THE KENYA SCHOOL OF LAW

**The Temporary Speaker** (Sen. (Dr.) Machage): Hon. Senators, I wish to recognise the presence of the visiting students of the Kenya School of Law (KSL) from Nairobi County. They are seated in the Public Gallery.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I wish them a fruitful visit.

Thank you.

**Thursday, 13<sup>th</sup> October, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM  
UMAA PRIMARY SCHOOL, MAKUENI

**The Speaker** (Hon. Ethuro): Order, Members! Before we proceed with that particular Business, let me recognise the presence of visiting pupils and teachers from Umaa Primary School in Makueni County. They are sitting at the Public Gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and on my own behalf, we wish them a fruitful visit.

Thank you.

**Thursday, 13<sup>th</sup> October, 2016**

**COMMUNICATION FROM THE CHAIR**

**THE FOURTH ANNUAL CONFERENCE ON  
DEVOLVED GOVERNMENT IN KENYA**

**The Speaker** (Hon. Ethuro): Hon. Senators, I have a Communication on the Fourth Annual Conference on Devolved Government in Kenya.

As you are aware, the devolution conference has since 2013 been organised on an annual basis, bringing together all implementers of devolved governance to celebrate the gains that have been made and identify the challenges that can be addressed collaboratively amongst all the stakeholders for the welfare of our country.

The participants of the annual devolution conference comprise, but not limited to the representatives from both levels of government, independent commissions, academia, policy practitioners, civil society organizations, the donor community, international organizations and the media. Participants of the conferences get an opportunity to deliberate on the successes of the devolved system of governance and how to take advantage of the emerging opportunities presented by devolution.

The first annual devolution conference was held in Kwale County in April 2014, the second in Kisumu City, Kisumu County in April 2015 and the third in Meru County in April 2016. The fourth is set to be held in Narok County from the 20<sup>th</sup> to 24<sup>th</sup> February, 2017. The proposed theme of the fourth devolution conference will be; ‘Devolution Transforming Lives, Tell Your Story’.

A total of 10 thematic areas have been selected to guide deliberations. These are;

1. Health- ensuring healthy lives and promoting well-being in a devolved system of governance.
2. Agriculture and agricultural transformation for food security, rural development and wealth creation.
3. Infrastructure, Roads and Energy - promoting accelerated investment and access to markets.
4. Natural Resource Management – potential opportunities for natural resource management within the devolution context.
5. Education, gender, youth, sports, culture and social services – equality and inclusivity for sustainable development at the county level.
6. Urban Planning, lands and Housing – Building resilient and climate-smart cities for growth and sustainable development.
7. Trade and Cooperatives – Promoting economic diversification through an enabling business environment.
8. Elections- Preparedness for simplest transition
9. Media perspectives on devolution for development.
10. Corruption – Facing corruption as a drawback to the development agenda.

The theme and topics selected for discussions during the Fourth Devolution Conference go to the core of the mandate of the Senate as set out in Articles 94 and 96 of the Constitution. In this regard, therefore, Hon. Senators, I hereby invite you to attend and participate in this conference. Additional information on the arrangements for this

event will be provided through the Office of the Clerk. Senators intending to participate in the conference are requested to give the confirmation in writing to the office of the clerk for planning purposes.

### **COMMUNICATION FROM THE CHAIR**

#### **VISITING DELEGATION FROM MUTHUANI PRIMARY SCHOOL, KITUI COUNTY**

Hon. Senators, I wish to recognize the presence of visiting pupils and teachers from Muthuani Primary School, Kitui County. They are seated in the Public Gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and on my own behalf, wish them a fruitful visit.

Thank you.



**Wednesday, 19<sup>th</sup> October, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM MIANGENI  
INTERNATIONAL ACADEMY, MAKUENI COUNTY

**The Speaker** (Hon. Ethuro): Hon. Members. Before, we proceed with the Statements, I wish to recognise the presence of visiting pupils and teachers from Miangeni International Academy in Makueni County. They are sitting at the Public Gallery.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

I thank you.

*(Applause)*

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM PORT REITZ  
SCHOOL, MOMBASA COUNTY

**The Temporary Speaker** (Sen. (Dr.) Machage): Hon. Senators, I wish to recognize the presence of visiting pupils and teachers from Port Reitz School, Changamwe Sub-county, Mombasa County seated at the Speaker's Gallery.

In our usual tradition of receiving and welcoming visitors to the Parliament, I extend a warm welcome to them.

On behalf of the Senate, and my own behalf, I wish them a fruitful visit.

Thank you.

*(Applause)*

**Wednesday, 2<sup>nd</sup> November, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION OF MEMBERS AND  
STAFF FROM NANDI COUNTY ASSEMBLY

**The Speaker** (Hon. Ethuro): Hon. Members, I will like to acknowledge the presence, in the Speaker's Gallery this afternoon, of the visiting Members and staff from Nandi County Assembly. I request each member of the delegation to stand when called out so that he or she may be acknowledged in the great Senate tradition.

1. Hon. Simeon Bor;
2. Hon. Joseph Lagat;
3. Hon. Francis Kemei;
4. Hon. Caroline Chepkoech;
5. Hon. Domtila Rop;
6. Hon. Sally Lelei;
7. Hon. Rhoda Chepkwony;
8. Hon. Monica Chepkemboi;
9. Hon. Amos Korir;
10. Hon. Julius Arusei.

They are accompanied by the following staff:-

1. Mr. Silas Koech and,
2. Mr. Emanuel Rotich.

On behalf of the Senate and on my own behalf, I welcome you to the Senate and wish you well for the remainder of your stay. I thank you.

*(Applause)*

**Tuesday, 8<sup>th</sup> November, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM KAKAMEGA COUNTY

**The Speaker** (Hon. Ethuro): Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of visiting members of Chairperson's Panel and staff from Kakamega County Assembly. I request each Member of the delegation to stand when called out, so that he or she may be acknowledged in the Senate tradition. They are:-

Hon. Abdihakim Mohamed	-	Deputy Speaker
Hon. Francis Mulama	-	Chairperson, Chairperson's Panel
Hon. Sayeed Omsiritsia	-	Vice-Chairperson
Hon. Herbert Sore	-	Member
Hon. Mispella Mulari	-	Member
Hon. Edward Shibember	-	Member
Hon. Jane Esuchi	-	Member
Hon. Isabella Amaiza	-	Member
Ms. Judy Achieng	-	Committee Clerk
Ms. Phyllivane Inziani	-	Committee Clerk
Ms. Janet Mwombe	-	Committee Clerk

*(Applause)*

**Thursday, 10<sup>th</sup> November, 2016**

**COMMUNICATIONS FROM THE CHAIR**

INVITATION TO A CONSULTATIVE MEETING BY THE  
INTERGOVERNMENTAL RELATIONS TECHNICAL COMMITTEE

**The Speaker** (Hon. Ethuro): Hon. Members, I wish to inform you that the Intergovernmental Relations Technical Committee, which is established by the Intergovernmental Relations Act and is responsible for the coordination of activities and functions of the Summit and the Council of Governors (CoG) among other functions, has organised and invited the Senate to a consultative meeting to deliberate on issues geared to improve service delivery in the devolved units.

Hon. Senators, the objects of the meeting are:-

- (a) to update the participants on the experiences and achievements of the Intergovernmental Relations Technical Committee;
- (b) to analyse, discuss and understand the legal provisions relating to the mandate of the Intergovernmental Relations Technical Committee and the institutional challenges thereof;
- (c) to review and identify challenges emerging from taking over of the residual functions from the defunct Transition Authority (TA);
- (d) to discuss and appreciate the constituents and implications of inadequate budgetary resources for the Intergovernmental Relations Technical Committee; and,
- (e) to review and propose amendments to the Intergovernmental Relations Act, 2012.

Hon. Senators, the meeting is scheduled to take place from 17<sup>th</sup> to 20<sup>th</sup> November, 2016, in Mombasa County. Senators should depart for Mombasa on the evening of Thursday, 17<sup>th</sup> November, 2016.

Hon. Senators, this is, therefore, to invite you all to this very important meeting and to urge you to plan and attend. You are requested to forward your preferred travel times to the Office of the Clerk of the Senate for planning purposes.

I thank you.

**Sen. (Dr.) Khalwale:** On a point of order, Mr. Speaker, Sir. Based on past experiences with some of these institutions, it is very clear that their intention is to lobby us to assist them to get more funding. Be that as it may, I want to request that you write to them and tell them that they should come and explain to us the status of the important matter of handing over and taking over of the assets and liabilities from the defunct local authorities to the county governments.

Mr. Speaker, Sir, it is now four years since we embraced devolution and the exercise has not been addressed. Land and other forms of assets continue to be abused.

Finally, they should also be reminded to come and account for the budget they were given as the TA. That is, Kshs61,595,000 per county which they used during the time of transition to buy things but they have never accounted for.

I thank you.

**The Speaker** (Hon. Ethuro): Sen. (Dr.) Khalwale, your concerns are noted and will definitely be communicated. I am sure they are part and parcel of the discussions at the meeting. In addition to us writing to them, I want to believe that you are also committing your participation.

Hon. Senators, I have another communication to make

VISITING DELEGATION OF STAFF FROM  
KILIFI AND WEST POKOT COUNTY ASSEMBLIES

**The Speaker** (Hon. Ethuro): Hon. Senators, I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of the visiting staffs from Kilifi and West Pokot county assemblies who are on attachment in the Senate. I request each member of the delegation to stand when called out, so that he or she may be acknowledged in the usual Senate tradition.

They are:-

- (1) Mr. George M. Kumbatha.
- (2) Ms. Martha N. Ngugi.
- (3) Ms. Sally K. Kadzo.
- (4) Mr. Sammy M. Mwadziwe.
- (5) Ms. Angela Loporna.
- (6) Mr. Daniel Micha.

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

I thank you.

*(Applause)*

**Sen. Kittony:** Mr. Speaker, Sir, allow me to join you in welcoming the staffs from Kilifi and West Pokot County. I commend the people of Kilifi for the beautiful assembly that was opened by you last week. I witnessed that devolution is really at work and the people of Kilifi will benefit from their staff coming to learn from the Senate. I want to attest that their assembly is remarkable because it is very well furnished.

I would like to commend the Senator for Kilifi, Stewart Madzayo, for inviting me to take part in their ceremony last week.

They are welcome and should take our greetings when they go back to Kilifi.

**Sen. (Prof.) Lonyangapuo:** Mr. Speaker, Sir, I also join you in welcoming and congratulating the delegations from the two county assemblies for choosing to come to the Senate to see how we do work for them. I would like to remind them that Senate does oversight and protects the interests of county governments and counties.

Mr. Speaker, Sir, we are witnessing many county assemblies and county governments coming to see how the Senate and the National Assembly work. However, they have begun too late towards the end of the life of this Parliament. They should have begun early in 2013 or 2014. However, what we witnessed that time was very interesting. Many delegations were going to Israel while some were going to Singapore and South Africa. I do not know what they were going to benchmark.

It is good to learn from your neighbours. I particularly encourage the staff from my county assembly to visit their neighbouring counties. I do not know whether they have been to Turkana, Elgeyo-Marakwet, Trans Nzoia and so on to see how their neighbours are performing.

Otherwise, I welcome them and wish them well in Nairobi.

**The Speaker** (Hon. Ethuro): Finally, Justice Retired, Sen. Madzayo.

**Sen. Madzayo:** Bw. Spika, naunga mkono ndugu zangu. Kwanza, nakushukuru sana kwa uamuzi uliofanya kuruhusu wafanyakazi wa kutoka Kaunti ya Kilifi kuja ili kujifundisha na kujionea jinsi Seneti inavyoendesha shughuli zake. Watapa mafunzo ya kutosha na wanaporudi nyumbani, nina hakika watafurahia kutokana na watakayojifundisha hapa.

Pili, Bw. Spika, ninakushuru kwa kukubali mwito. Waswahili husema kwamba mtu hakatai mwito, hukataa analoitiwa. Wewe ulikuja kwa kukubali mwito na ulijionea wazi kwamba Serikali ya Kaunti ya Kilifi inawania kufanya kazi ya ugatuzi kisawasawa ili kuhakikisha kaunti zingine zinaiga mfano wake.

Bw. Spika, asante sana.

VISITING DELEGATION OF PUPILS AND TEACHERS FROM  
MUTHURWA ISLAMIC ACADEMY, NAIROBI COUNTY

**The Speaker** (Hon. Ethuro): Hon. Senators, I wish to recognise the presence of visiting pupils and teachers from Muthurwa Islamic Academy, Nairobi County. They are seated at the Public Gallery.

In our usual tradition of receiving and welcoming visitors to our Parliament, I extend a warm welcome to them. On behalf of the Senate and on my own behalf, I wish them a fruitful visit.

I thank you.

*(Applause)*

**Tuesday, 15<sup>th</sup> November, 2016**

**COMMUNICATIONS FROM THE CHAIR**

**The Speaker** (Hon. Ethuro): Order, Senators. I have a number of Communications to make.

MEETING WITH CS, MINISTRY OF LANDS,  
HOUSING AND URBAN DEVELOPMENT

Hon. Senators, on Thursday, 25<sup>th</sup> February, 2016, Sen. Muthama requested for a Statement from the Chairperson of the Standing Committee on Lands and Natural Resources on the management of community and public land in Machakos County. The Chairperson of the Standing Committee on Lands and Natural Resources responded to the Statement on 13<sup>th</sup> October, 2016. Thereafter, the House deliberated on the response and found it unsatisfactory. Members raised concerns about the ongoing subdivision of the land in question and resolved that any sale of the land in contention should be stopped until the issue is resolved.

I directed the Standing Committee on Lands and Natural Resources to invite the Cabinet Secretary, Ministry of Lands, Housing and Urban Development and the Chairperson of the National Land Commission (NLC) to a meeting of all Senators to deliberate on this important matter. In this regard, the Committee has invited the Cabinet Secretary and the Chairperson of the National Land Commission to address Senators, tomorrow, Wednesday, 16<sup>th</sup> November, 2016. The meeting will be held in this Chamber from 10.00 a.m.

Hon. Senators, the meeting will discuss issues concerning;

- 1) The contested piece of land LR. No.11491/R in Kiima Kimwe, Muvuti Ward in Machakos County, more specifically as to whether it is public or community land.
- 2) Fate of the more than 2,500 squatters who are currently occupying the said piece of land.

*(Several Senators stood at the Bar)*

- 3) Parcels of land in Machakos County that have been set aside for public utilities such as schools, health centers and recreational centres.
- 4) Steps taken by NLC and the Ministry of Lands, Housing and Urban Development to address concerns raised by residents of Machakos County regarding the contested piece of land.
- 5) Steps taken by the NLC and the Ministry of Lands, Housing and Urban Development to address the long-standing land dispute in Mavoko Sub –County between the local residents and the East Africa Portland Cement Company.

In conclusion, I hereby direct that all committee meetings scheduled for tomorrow morning be suspended to allow Senators time to participate in this important meeting. I thank you.

Members, proceed to assume your seats.

*(Hon. Senators entered the Chamber)*

## PERIODIC REVIEW OF THE SENATE STANDING ORDERS

Hon. Senators, Standing Order No.176(a) of the Senate Standing Orders establishes the Procedure Rules Committee table office, among others; proposing and considering proposed amendments to the Senate Standing Orders. Further, Standing Order No.249 requires the committee to undertake a comprehensive review of the Standing Orders at least once on every term of Parliament, not later than six months to the end of the term.

Considering that we are approaching the end of the current term, the Procedure and Rules Committee has commenced this important exercise. They invite views for Senators and proposals from Senators and other stakeholders on areas of our Standing Orders that may require amendments.

This exercise is particularly important for us as it is the first time the Senate will be undertaking a comprehensive review of its own Standing Orders for use by the incoming Senate. It is important that we seize this opportunity drawing from experiences over the last three-and-a-half years to refine and improve our Standing Orders in a way as to facilitate the efficient and expeditious processing of business by the Senate.

This is therefore, to request the honourable Senators that you forward all such proposals in writing to the office of the Clerk of the Senate not later than Friday, 25<sup>th</sup> November, 2016. The proposals will be considered by the Procedure and Rules Committee which will then table its report before the Senate for consideration.

I thank you.

Senators, I will assume my seat to allow you to assume yours.

*(Hon. Senators entered the Chamber)*

## VISITING MEMBERS OF STAFF FROM VARIOUS COUNTY ASSEMBLIES

Hon. Senators, the final Communication from the Chair is on the visiting members of staff from various county assemblies.

Hon. Senators, I would like to acknowledge the presence in the Speaker's Gallery this afternoon of the visiting members of staff from the various county assemblies who are on attachment at the Senate.

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

They are:

1. Ahmed Alas –Wajir
2. Issa Samow – Wajir
3. Dennis Mwanza – Machakos
4. Susan Kiluva – Machakos
5. Daniel Murage – Laikipia
6. Valentine Maranga - Kisii
7. Naomi Ogero – Kisii
8. Rose Chepngeno – Kericho
9. Koros Cheruiyot- Kericho
10. Kaltuma Nasir – Garissa



11. Ali Noor – Garissa
12. Anne Wanjiru - Laikipia
13. Mathew Kibui - Nyeri
14. Mary Wahome - Nyeri
15. William Sowa – Taita Taveta
16. Peter Ouyo – Uasin Gishu
17. Miriam Sawe – Uasin Gishu
18. John Simwa – Kakamega
19. Doreen Wesonga - Kakamega
20. Godana Abubakar – Tana River
21. Dennis Kogo – Nandi
22. Boniface Kiptoo – Nandi
23. Joyce Gathura – Nyandarua
24. Kennedy Mwaniki – Nyandarua
25. Josyline Nanjala – Bungoma

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

I thank you.

**Thursday, 17<sup>th</sup> November, 2016**

**COMMUNICATION FROM THE CHAIR**

VISITING DELEGATIONS FROM SOUTH EASTERN  
KENYA UNIVERSITY AND KENYATTA UNIVERSITY

**The Speaker** (Hon. Ethuro): Hon. Senators, let me acknowledge the presence, in both the Speaker's and Public Gallery, this afternoon, of the visiting students from South Eastern Kenya University and Kenyatta University. In our usual tradition of receiving and welcoming visitors to Parliament, I send a warm welcome to them, and on your behalf and on my own behalf, wish them a fruitful visit.

I thank you.