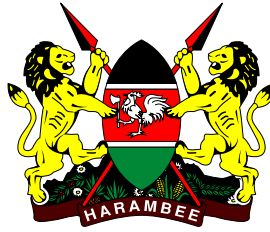


THE SENATE



COMMUNICATIONS AND RULINGS FROM THE CHAIR - 2014

Tuesday, 4th February, 2014 – Special Sitting

COMMUNICATION FROM THE CHAIR

ESTABLISHMENT OF SPECIAL COMMITTEE TO
INVESTIGATE THE PROPOSED REMOVAL FROM
OFFICE, BY IMPEACHMENT, OF THE GOVERNOR
AND DEPUTY GOVERNOR OF EMBU COUNTY

Hon. Senators, in terms of Article 181 of the Constitution, Section 33(3)(a) of the County Governments Act and Standing Order No.65(1)(a) of the Senate, the Speaker of the Senate is required, and I quote:-

“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.”

It is in this respect that I convened this special sitting of the Senate by Gazette Notice No.627 of 31st January, 2014, which was carried in a special issue of the Gazette Notice of the same day.

Section 33(3)(b) of the County Governments Act and Standing Order No.65(1)(b) both provide that at this sitting, the Senate, by resolution, may appoint a special committee comprising eleven of its members to investigate the matter.

Indeed, hon. Senators will observe that at Order No.3 on today’s Order Paper, pursuant to these provisions of the law, 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 at Order No.4 of the Order Paper. This is the only business we have for this special sitting.

Hon. 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 No.65(2), to investigate the matter and report to the Senate within 10 days, on

whether it finds the particulars of the allegations against the Governor and Deputy Governor to have been substantiated. If, however, - and note this - the Motion for the establishment of a special committee does not pass, it should be known that the default provisions set by law shall then kick in and the Senate shall proceed to investigate and consider the matter in plenary. The resolution of the Senate on the Motion by the Senate Majority Leader will, therefore, determine the manner in which this matter shall hence forth proceed.

It is note worthy, and I wish to emphasis to all hon. 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 and Deputy Governor of Embu 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 their merits. It is, therefore, not permissible - and I will not hesitate to rule out a Senator to be out of order if he or she veers into any matters other than the Motion before the Senate.

Hon. Senators, the hearing of charges for the proposed removal from office of a Governor or Deputy Governor of a county ranks up there among the most important and solemn duties of the Senate under the Constitution of Kenya, perhaps only coming second in order of importance to the processes of impeachment of a President and or a Deputy President at Articles 145 and 150 of the Constitution respectively. This is, therefore, a very important process that has no precedent in the legislative history of our Republic. All precedents from around the world are testimony to the fact that this is a most solemn process, calling for the highest level of responsibility and circumspection from all the Senators, not only in the plenary, but also, should the Motion by the Senate Majority Leader pass, by those Senators who shall be called upon to serve in the Special Committee. This is as much of a judicial process as it is a political process. Some would probably say that it is a judicial process.

Finally, hon. Senators, this process puts to test our nascent Constitution and the instruments of accountability that we have set for ourselves. I urge that we all conduct ourselves, that when the narrative of the impeachment processes in this country is written, we shall stand on the right side of history.

I thank you all.

(Applause)

COMMUNICATION FROM THE CHAIR

DATE OF FIRST MEETING OF THE SPECIAL COMMITTEE

The Speaker (Hon. Ethuro): Hon. Senators, I have the following Communication to make. As you are aware, under Standing Order No.181 of the Senate Standing Orders, the Clerk is required to appoint a place, date and time for the first meeting of a Select Committee within seven days of its constitution by the Senate or such further period as the Speaker may approve; and as soon as the Committee is present the Clerk shall by a secret ballot conduct the election of the Chairperson and vice-chairperson of the Committee.

Pursuant to this Standing Order I have, therefore, directed the Clerk to appoint today 4th February, 2014 as the date of the first meeting of the Special Committee. This meeting is to be held here, in this Senate Chamber, 30 minutes after the rise of the Senate.

Friday, 14th February, 2014 – Special Sitting

COMMUNICATION FROM THE CHAIR

CONVENING OF SPECIAL SITTING OF THE SENATE TO CONSIDER
THE REMOVAL FROM OFFICE OF THE GOVERNOR AND
DEPUTY GOVERNOR OF EMBU COUNTY

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

As you are now fully aware, the County Assembly of Embu, pursuant, to Article 181 of the Constitution and Section 33 of the County Governments Act, No.17 of 2012, on 28th January, 2014 approved the following Motions:-

To remove from office by impeachment the County Governor and the Deputy Governor of Embu County. Notification of this approval was made to the Speaker of the Senate by the Speaker of Embu County Assembly by letters dated 29th January, 2014 reference CAE/ACA/1/28 and 29 respectively which were received in the Office of the Speaker of the Senate on 30th January, 2014. The Speaker of the County Assembly of Embu also forwarded to the Speaker of the Senate the following documents in respect of both the Governor and the Deputy Governor:-

- (i)Particulars of the allegations thereon and related annextures;
- (ii)The results of the Division;
- (iii) The signatures in support of the Motion;
- (iv) The signatures in support of the Notice of the Motion;
- (v) The HANSARD report in respect of the Motion;
- (vi) The Attendance register.

In terms of Article 181 of the Constitution, Section 33(3)(a) of the County Governments Act and Standing Orders No.65(1)(a) of the Senate Standing Orders, the Speaker of the Senate was required within seven days after receiving notice of a resolution from the Speaker of the County Assembly of Embu, convene a meeting of the Senate to hear the charges against the Governor.

Hon. Senators, you will recall that on 4th February, 2014 the Speaker of the Senate, by Message, communicated the resolution of the County Assembly of Embu as communicated in the letter by the Speaker by the County Assembly of Embu and pursuant to Section 33(3)(b) of the County Governments Act and our Standing Order No.65(1)(a), the Senate, by resolution established a Special Committee comprising 11 of our Members to investigate the matter and to present a report to the Senate.

Section 33(5) of the County Governments Act provides that the Governor and the Deputy Governor shall have the right to appear and be represented before the Special Committee during its investigations. I have no doubt that the Special Committee adhered to the provisions of this section, and as to whether that is a fact or not will be evidenced in the context of the Special Committee Report to be tabled today.

Pursuant to Section 33(4) of the County Governments Act, a Special Committee appointed under Section 33(3) of the Act is required to undertake the following:-

- (a)Investigate the matter; and,
- (b)Report to the Senate within ten days on whether it finds the particulars of the allegations against the Governor and the Deputy to have been substantiated.

Section 33(6) of the County Governments Act provides that, and I quote;
“In the Special Committee reports that the particulars of any allegation against the Governor:-
(a) have not been substantiated further proceedings shall not be taken under this section in respect of that allegation, or
(b) have been substantiated, the Senate shall, after according the Governor an opportunity to be heard, vote on the impeachment charges.”

Hon. Senators, notice was given to all Senators on 12th February, 2014, through the Kenya Gazette Notice that pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act, No.17 of 2012 and our own Standing Orders Nos.29 and 65, the Speaker of the Senate appointed this day, Friday, 14th February, 2014 as a day for a Special Sitting of the Senate to be held at the Senate Chamber, First Floor, County Hall, Nairobi, commencing at 4.00 p.m., pursuant to Section 33(4) of the County Governments Act.

The business, therefore, to be transacted at this sitting is consideration of a Motion for the noting of the report of the Special Committee on the proposed removal from office of the Governor and Deputy Governor, Embu County. The contents of the report of the Special Committee shall guide the next course of action to be taken by the Senate as contemplated in Section 33(4) of the County Governments Act and Standing Order No.65(4) of the Senate Standing Orders.

Thank you.

Thursday, 27th February, 2014

COMMUNICATION FROM THE CHAIR

PROCEDURE TO BE FOLLOWED IN CONSIDERATION OF THE RBC REPORT ON REVIEW OF THE STANDING ORDERS

The Speaker (Hon. Ethuro): Senators, before we proceed with Order No.8, I would like to remind the House about the guidance I gave on 5th December, 2013 with regard to the procedure that will apply in consideration of the Report by the Rules and Business Committee on the Review of the Standing Orders.

As hon. Senators will recall, in the past, Reports on the review of the Standing Orders were considered in three phases. In the first phase, when the Order for the Motion was read, the Chairperson of the Committee moved the Motion:

“That, Mr. Speaker do now leave the Chair,” which was subsequently seconded and a question proposed to initiate debate on the policy and principles implied in the Report. At the end, the question was put;

“That, Mr. Speaker do now leave the Chair.”

If this was agreed to, the House resolved itself into a Committee of the Whole.

In the second phase, the Report was considered in the Committee of Whole in a similar manner as the Committee Stage of a Bill except that the Speaker took the Chair as the Chairman of the Committee of the Whole since he was also the Chairman of the Rules and Business Committee. The Clerk read each of the proposed amendments to the Standing Orders, one after the other and each amendment was disposed of in that order like in the case of a Bill. When all the proposed amendments had been disposed of, the question of the Motion for the Adoption of the Report was put.

In the third phase, the House resumed and the Speaker reported progress of the Report. The question was then put;

“That, the House doth agree with the Committee in the said Report.”

Hon. Senators, the new procedure that will apply to Order No.8 is now provided for under Standing Order No.247 which provides as follows: Upon tabling of a Report of the Rules and Business Committee under Standing Order No.244, 245 and 246, the procedure set out at Standing Order No.245(5) and (6) shall apply with the necessary modifications. Standing Order No.245 (5) provides: The Senate shall consider the proposed amendments to the Standing Orders as reported from the Rules and Business Committee on a Motion that the Report of the Rules and Business Committee be approved.

You will note that the proposed amendments to the Standing Orders are contained in the Report of the Committee as an annex to the Report. Any proposal to amend the amendment proposals will, therefore, be an amendment to the Report and may be styled as an amendment to approve the Report subject to the following amendments.

If you have an amendment, the amendment must have been approved by the Chair. I am only aware of two, so far, and if you have not brought your amendment, you may be time barred. Owing from these provisions, we will not have the Motion; “That, Mr. Speaker, do now leave the Chair.”

We will not also be having the Committee of the Whole on Order No.8 since the Motion before us is for the approval of the Report of the Rules and Business Committee under Standing

Order No.245(5). If the Report is approved, the amendments proposed will similarly have been approved.

Thursday, 27th March, 2014 - Joint Sitting of the National Assembly and the Senate

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, the 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, the Constitution of Kenya at Article 132(1) (b) 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:-

“once every year-

(i) report, in an address to the nation, on all the measures taken and the progress achieved in the realization 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 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.1920 which was published in a Special Issue of the Kenya Gazette on 21st March, 2014, 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.1921, which was published in a Special Issue of the Kenya Gazette on the 21st March, 2014, 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.

(Applause)

Tuesday, 11th March, 2014

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF FACULTY AND STUDENTS
FROM WOOSTER COLLEGE, OHIO, USA

The Temporary Speaker (Sen. (Dr.) Machage): Order, Sen. (Dr.) Khalwale! You will have your time.

Please allow me to recognize the presence of a delegation of faculty and students from the college of Worcester in Ohio, USA. They are led by the President of the college, Prof. Grant Cornwell and the professor of Anthropology, Dr. O'Connell

The visit of the delegation underscores warm mutual relations between the people of Kenya and the United States of America. Four Members of Parliament in the Eleventh Parliament were students of Prof. Grant Cornwell at St. Lawrence University in New York State. They have accompanied the group. They are: Hon. Lekuton of Laisamis, hon. Chachu Ganya of North Horr, hon. Lati Lelaliti of Samburu East and hon. Kenneth Akoth of Kibra.

You are welcome.

Wednesday, 12th March, 2014

COMMUNICATION FROM THE CHAIR

CONSTITUTION OF MEDIATION COMMITTEE ON THE COUNTY GOVERNMENTS (AMENDMENT) (NO. 2) BILL

The Speaker (Hon. Ethuro): Hon. Senators, as a consequence of the above message, I have a communication to make.

I wish to report to the Senate that pursuant to Standing Order Nos. 43 and 44, I have received the following Message from the Speaker of the National Assembly regarding the rejection by the Assembly of the County Governments (Amendment) (No.2) Bill, Senate Bill No.4 of 2013.

Hon. Senators, Article 112(1) of the Constitution provides that if one House passes an amendment Bill concerning counties and the second House rejects the Bill, it shall be referred to a mediation committee appointed under Article 113. Article 113 provides as follows:-

“(1) If a Bill is referred to a mediation committee under Article 112, the Speakers of both Houses shall appoint a mediation committee consisting of equal numbers of members of each House to attempt to develop a version of the Bill that both Houses will pass.

(2) If the mediation committee agrees on a version of the Bill, each House shall vote to approve or reject that version of the Bill.

(3) If both Houses approve the version of the Bill proposed by the mediation committee, the Speaker of the National Assembly shall refer the Bill to the President within seven days for assent.

(4) If the mediation committee fails to agree on a version of the Bill within thirty days, or if a version proposed by the committee is rejected by either House, the Bill is defeated.”

Hon. Senators, under the circumstances, I concur with the Speaker of the National Assembly to form a mediation committee in accordance with Article 112(1)(a) of the Constitution. In this regard, I have already instructed the Senate Majority Leader and the Senate Minority Leader to propose three names who will be part of the mediation committee that will be appointed to look at a version of the Bill.

I thank you.

Tuesday, 18th March, 2014

COMMUNICATION FROM THE CHAIR

**CLOSURE OF CONTINENTAL HOUSE CAR PARK TO PAVE
WAY FOR CONSTRUCTION OF OFFICE BLOCK**

The Temporary Speaker (Sen. (Dr.) Machage): Hon. Senators, as you may be aware, the Parliamentary Service Commission (PSC) has awarded a contract for the construction of a modern office block in an effort to ensure that Members and staff of Parliament are adequately facilitated with a good working environment. The office block will be constructed at the current car park of Continental House. The construction site was handed over to the contractor on 16th January, 2014 and the contractor is now ready to move on site. To create space for the construction work, the parking space at Continental House will be closed with effect from Monday, 24th March, 2014.

Hon. Senators, therefore, alternative and additional car parking space has been leased at the Kenyatta International Convention Centre (KICC), COMESA grounds. This parking, together with the visitors' car park at the Main Parliament Buildings, shall be reserved for Members of Parliament. This is to request Members to cooperate with the Serjeant-at-arms to ensure that the construction site is vacated and made available to the contractor before Monday, 24th March, 2014.

Thank you.

Tuesday, 25th March, 2014

COMMUNICATION FROM THE CHAIR

ANNUAL STATE OF THE NATION ADDRESS BY
HIS EXCELLENCY THE PRESIDENT

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

As you may be aware, pursuant to Article 132(1)(b) and (c)(i) and (iii) of the Constitution and Standing Order No.22(1) and (2) of the Senate Standing Orders, a Special Sitting of Parliament shall be held at the National Assembly Chamber, Main Parliament Buildings, Nairobi, on Thursday, 27th March, 2014 at 2.30 p.m.

In this regard, I wish to draw your attention to Gazette Notice No.1921 which was published in a special issue of the Kenya Gazette on 21st March, 2014 in which I gave notice of the said Special Sitting. At that sitting, His Excellency, Hon. Uhuru Kenyatta, President and Commander-in-Chief of the Kenya Defence Forces (KDF) shall deliver the State of the Nation Address and shall also submit status reports on the following:-

- (1) The implementation of Kenya's international obligations;
- (2) The implementation of national values and ethics and,
- (3) The state of national security.

As hon. Senators are aware, the Constitution, at Article 132(1)(b), requires the President to address a Special Sitting of the House once every year and at any other time. Further, Article 132(1)(c) requires the President to report in an Address to the nation, on all the measures taken and the progress achieved in the realization of the national values set out in Article 10. The President is also required to submit a report on the progress made in the fulfillment of the international obligations of the Republic.

I, therefore, urge all hon. Senators to attend this Special Sitting which is an important occasion in the calendar of our 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 as stated above.

I thank you.

COMMUNICATION FROM THE CHAIR

SENATORS DISCUSSING MATTERS PENDING
BEFORE COMMITTEES IN PUBLIC FORA

The Speaker (Hon. Ethuro): Hon. Senators, on Thursday 27th February, 2014, the Chairperson of the Standing Committee on Finance, Commerce and Economic Affairs issued a statement on the management of reports by the Auditor –General and the Controller of Budget on the performance of county governments. The Chairperson drew the attention of the House to what he considered as legal and procedural questions facing the Committee and by extension, this Senate in discharging its constitutional mandate and particularly instances of overlap between the Senate/Parliament at a national level and county assemblies at the county level in the exercise of oversight and accountability. The Chairperson consequently sought the guidance of the Speaker on the two issues, namely; the exercise of oversight by Parliament and the county

assemblies between the two levels of government and the appropriateness or otherwise of the practice where Senators comment or debate questions pending before the House or Committees at public fora outside the House.

Hon. Senators, this communication addresses the second concern raised by the Chairperson where Senators take the debate outside the House. The first and more fundamental question will be addressed at a later date due to its magnitude.

Hon. Senators, let me start by drawing the attention of the House to the relevant Standing Order relating to discussing matters pending before Committees within the House, that is, Standing Order No.89 which states as follows:-

“No Senator shall refer to the substance of the proceedings of a Select Committee before the Committee has made its report to the Senate.”

I wish, therefore, to emphasize that the above provision applies to debate within the House which gives the principle of application outside the House. The question of Members of the House taking debate or commenting on matters pending before the House or Committee is not new. Therefore, as you can expect, it is a well developed part in terms of procedure which is codified through rules and practice, which as you are all aware, is uncodified and set by precedence mostly through Communications from the Chair. Indeed, there was a specific decision in a resolution on 17th October, 1969 to bar any discussion by Members on debates on matters before the House. Prior to that resolution, the matter had been raised even earlier on 12th August, 1969, to which Speaker Slade responded as follows:-

“As stated in my Communication of 28th May, 1969 and 24th June, 1969, it is definitely improper and contentious of this House for hon. Members to carry on debate outside this House or to answer in the press or publicly elsewhere anything that has been said by hon. Members in this House. What I said about carrying debates outside applies only to debates on substantive Motions which result in a definite resolution. The subject matter of such debates, indeed, must not be discussed by hon. Members publicly outside the House while the debate is still pending nor should there be any subsequent comments by hon. Members outside the House which challenges the ultimate resolution of the House. Whatever the nature of the proceedings, things said by hon. Members in this House may only be answered by other Members in this same House.”

While quoting the above ruling, the Speaker of the National Assembly, hon. Marende, noted as follows on 31st July, 2008 when dealing with a similar question. I quote:-

“As can be discerned from the foregoing and given the careful scrutiny of the journals of this House reveals that the rulings over this subject matter have never been varied nor rescinded, I do rule without fear of possible contradiction that our present procedure and practice bar hon. Members from referring to, commenting or continuing with debate outside this Chamber on substantive matters not yet disposed of by this House. I hasten to add that in barring references, comments and debates outside the Chamber on substantive matters under debate here, is similarly referring to matters of a select committee before the committee tables its report as included by the provisions of Standing Order No.70 which prohibits anticipating discussion of substantive Motions already seized by this House.”

Hon. Senators, I wish to reiterate the position taken by Speaker Marende on 31st July, 2008 which stated that Members taking debate outside the House, no doubt lowers its dignity and brings into disrepute its proceedings. It behooves all of us to individually and collectively uphold the dignity of this House.

Arising from the foregoing, therefore, the Chair has no reason or intention of deviating from or varying this Speakers' rulings by successive Speakers on the continuation of debate outside the House, contrary to the laid down Parliamentary conventions which we have inherited. As has been noted on numerous occasions, what is required at times like this in our country's history is leadership which in most instances demands that you stay above the fray and provide direction by, among other things, creating a clear distinction between persons, personal and issues, including disaggregating them. This is what we have been called upon to do as the pioneering Senate.

The Chair appreciates the observation made by Senators about the fear of being gagged. I wish to assure the House that the Chair will continue to defend and protect your rights and privileges as Senators to facilitate you to discharge your responsibilities, but will also fairly but firmly and objectively, apply the practices and procedures of the House.

In conclusion, hon. Senators, I wish to appeal to Senators to look at the bigger picture and focus on matters that will culminate into a dividend to the Kenyan people, not only substantively, but also in a sustainable manner.

Thank you.

Wednesday, 26th March, 2014

COMMUNICATION FROM THE CHAIR

MARKING THE FIRST ANNIVERSARY OF THE SENATE

The Speaker (Hon. Ethuro): Hon. Senators, as you are aware, the Senate held its first sitting on the 28th of March, 2013, following the general elections which, in essence, marked its reintroduction after a 47 year break since the first Senate of independent Kenya was abolished. You will undoubtedly recall that it was during that sitting that you were sworn in before participating in the election of the Speaker and the Deputy Speaker. This is, therefore, to notify Senators that Friday, the 28th March, 2014, will therefore mark the first year of operation of the Senate.

(Applause)

As is the norm during such occasion of commemorating an anniversary, this is a period for the Senate to critically examine its performance as well as to review and reflect on its first year of existence as it gears itself for the second year. It is a time to appraise our strengths and weaknesses as the guardian angel of devolution as set out in the Constitution.

(Applause)

Hon. Senators, the last one year has brought to the fore dark realities about our country; the recognition that it faces many challenges ranging from poverty, marginalization, unemployment and under-development, amongst others. However, tied to these challenges that we are meeting are tremendous opportunities to take the country forward. To put all these factors in proper context, where we are, as leaders, the Office of the Speaker will, therefore, shortly organize a forum to thoroughly examine one year of the Senate which will bring together several players in the area of governance.

(Applause)

We will also be organizing, after ours, all the stakeholders involved in the devolution process to review what we have been able to achieve and to agree on how to move forward to implement this new Kenyan experiment. I, therefore, just wanted to take this opportunity to sincerely thank all of you for proactively participating in the activities of the Senate for the past one year, and we look forward to more and productive outcomes in the years to come.

I thank you.

(Applause)

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, the 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, the Constitution of Kenya at Article 132(1) (b) 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:-

“once every year-

(i) report, in an address to the nation, on all the measures taken and the progress achieved in the realization 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 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.1920 which was published in a Special Issue of the Kenya Gazette on 21st March, 2014, 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.1921, which was published in a Special Issue of the Kenya Gazette on the 21st March, 2014, 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.

(Applause)

Tuesday, 1st April, 2014

COMMUNICATION FROM THE CHAIR

PROCEDURE FOR DEBATE ON THE PRESIDENTIAL ADDRESS

The Speaker (Hon. Ethuro): Order, hon. Senators. I have a Communication to make which will relate to one of the Papers to be laid.

As you are aware, His Excellency the President, pursuant to Article 132(1) (b) and (c), delivered the State of the Nation Address on 27th March, 2014, at a Special Sitting of Parliament. During the occasion, His Excellency the President also submitted two reports to the Senate. The reports are as follows:-

(i) The report of measures taken and progress achieved in the realization of national values and principles of governance.

(ii) The annual report to Parliament on the state of national security.

Hon. Senators, Standing Order No.24 (5) and (6) of the Senate Standing Orders provides as follows:-

“Whenever the President delivers an Address, a Senator may, as soon as practicable thereafter, lay the Presidential Address on the Table of the Senate following the reading of such Address.”

Part (VI) says:-

“A Senator may give a notice of Motion, that “The thanks of the Senate be recorded for the Exposition of Public Policy contained in the Address of the President” but the debate on the Address shall not exceed three sitting days.”

Article 132(1) (c) (i) says:-

“The President shall-

once every year-

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

Further, Article 240(7) read together with Section 16 of the National Security Council Act, 2012, provides for the annual reporting to Parliament on the state of the security of Kenya.

Hon. Senators, arising from the above, I wish to guide the Senate as follows:-

(1) The Senate Majority Leader will table the following Papers:-

(a) The Speech by His Excellency, the Hon. Uhuru Kenyatta, President and Commander in Chief of the Defence Forces of the Republic of Kenya during the state of the nation Address at Parliament Buildings, Nairobi, on 27th March, 2014.

(b) The report by His Excellency the President on measures taken and progress achieved in the realization of national values and principles of governance submitted on 27th March, 2014 during the state of the nation Address at Parliament Buildings.

(c) The annual report by His Excellency the President to Parliament on the state of national security submitted on 27th March, 2014 during the state of the nation address at Parliament Buildings, pursuant to Article 240(7) of the Constitution and Section 16 of the National Security Council Act, 2012.

(2) The Senate Majority Leader will give a notice of Motion to allow for debate on the Address by the President pursuant to Standing Order No.24(6) and another notice of Motion to allow debate for noting the annual report to Parliament on the state of national security.

(3) Pursuant to Article 132(1), the debate on the Address by the President shall proceed together with the report on measures taken and progress achieved in the realization of national values and principles of governance.

(4) After the conclusion of debate on the Address by the President, the Senate will commence debate on the Motion to note the annual report to Parliament on the state of national security.

I thank you.

Wednesday, 2nd April, 2014

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM BARINGO COUNTY ASSEMBLY

The Speaker (Hon. Ethuro): Hon. Senators, I wish to take this opportunity to acknowledge the presence of a delegation visiting us today. Allow me, therefore, to introduce to you, a delegation of Members of the County Assembly of Baringo who are seated at the gallery.

The delegation is led by the Chairperson of the Committee on Implementation, hon. James Cheptoo. As I proceed to introduce the rest I request that when an hon. Member is called, he or she should stand up and be acknowledged in the normal tradition of Parliament. The delegation consists of:-

Hon. James Cheptoo;
Hon. Lotela J. Nelson;
Hon. Cyrus Kibii;
Hon. Richard Kitilit;
Hon. Lucy Ngetich;
Hon. Emmy Buttuk; and
Hon. Isaiah Kibowen.

They are also accompanied by the following staff:-

Mr. Joseph Koech, Clerk to the Assembly;
Mr. Renson Kachike, Secretary to the Delegation;
Mr. Stanley Kipchumba and,
Mr. Henry Kipkebut.

On behalf of the Senate, and on my own behalf, I extend a warm welcome to you. I wish you a happy and fruitful visit that will translate into better service to the people of Baringo County and the country at large.

(Applause)

Hon. Senators, only on Monday, the County Assembly of Baringo was hosting your Speaker at the launch of their strategic plan and revised Standing Orders. So, I want to thank you for coming to visit us too.

Thank you.

(Applause)

Wednesday, 2nd April, 2014

CONSIDERED RULING

COMMITTEE CHAIRPERSONS HAVE THE POWER TO GET INFORMATION FROM THE EXECUTIVE

The Speaker (Hon. Ethuro): Order, Members! I will try to respond to what the Chair was inviting me in terms of other Members introducing other issues. Maybe if you can recall the words of Sen. Kiraitu *versus* Sen. Wetangula, whether Statements are being overloaded, yes, that tendency seems to be there and it must be discouraged. But for you, you are not lucky today. One, the most pertinent one by Sen. Khalwale was not responded to. Sen. Munyes from Turkana actually gave a similar situation and the kind of clarifications that he sought were actually very relevant to the same statements of Bungoma, in terms of policy, how the police reacted and actually confirming to you further that the situation may not be that isolated. So, it was equally expanded by the Senator for Kajiado.

So, to that extent, I think that they were admissible in terms of how the police respond to these issues. But, definitely, in previous situations where other issues were added, as I referred to the one between Sen. Kiraitu and Sen. Wetangula, you know how I responded. We disallowed the one by Sen. Wetangula and restricted to what Sen. Kiraitu had sought. So, for today they were actually very relevant. In fact, I thought that you would praise them for giving you even a better perspective, so that you can deal with this matter.

Now, on how we can proceed on this one, I really want to submit that a Chair of a Committee of the Senate is a very powerful person. This is because your power is not only just drawn by being the Chair, but by the fact that you are a Member of the Senate, the Senate being one Chamber of Parliament. The entire authority of Parliament is with you as the Chair. So, if information must be sought, you have the constitutional power and law to get that information from whatever source. This is because even what the Members are making popular by saying “refer it to the whole Committee” that Committee is still chaired by the same Chair. It is the Chair to convene the meetings to discuss the same matter and ask for the relevant Cabinet Secretary to make an appearance. So, that, to me, is not generally a solution that we should run to. Whether you do it alone or with the Committee, I think that I want the Chairs to be confident that they have the power to summon anybody to come before them and give the necessary explanations that the Committee will require of them. It is a constitutional duty and must be performed.

For purposes of maybe the subject matter in terms of security concerns that seem to be rampant, that is why we would invite your Committee, which you can do in your own Motion. It helps to know that the mood of the House is in that direction. You may wish to consider that matter more comprehensively, so that when you make the report, maybe during the debate on the Report, Members will have an opportunity to revisit those issues.

So, I would order that you deal with this comprehensively as a Committee.

Thank you.

Thursday, 10th April, 2014

COMMUNICATION FROM THE CHAIR

LIST OF LEADERSHIP OF SENATE COMMITTEES

The Speaker (Hon. Ethuro): Hon. Senators, I have a Communication to make. You may wish to recall that on Thursday, 13th March, 2014, I issued a communication directing the newly constituted committees to conduct the elections of chairpersons and vice chairpersons within a period of two weeks. I now wish to inform the House that all committees have completed the exercise of electing their chairpersons and vice chairpersons. The following is the full list of the leadership of the committees:-

STANDING COMMITTEES

A. COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES

- | | | |
|----------------------------|---|------------------|
| 1. Sen. Murungi Kiraitu | - | Chairperson |
| 2. Sen. Tiolo Ndiema Henry | - | Vice Chairperson |

B. COMMITTEE ON EDUCATION

- | | | |
|--------------------------------|---|------------------|
| 1. Sen. Karaba Daniel | - | Chairperson |
| 2. Sen. Mohamed Abdille Halima | - | Vice Chairperson |

C. COMMITTEE ON ENERGY

- | | | |
|---------------------------------|---|------------------|
| 1. Sen. Moi Gideon | - | Chairperson |
| 2. Sen. Mwazo Mwakulegwa Danson | - | Vice Chairperson |

D. COMMITTEE ON FINANCE, COMMERCE AND BUDGET

- | | | |
|-----------------------|---|------------------|
| 1. Sen. Kerrow Billow | - | Chairperson |
| 2. Sen. Mositet Peter | - | Vice Chairperson |

E. COMMITTEE ON HEALTH

- | | | |
|----------------------------|---|------------------|
| 1. Sen. (Dr.) Kuti Mohamed | - | Chairperson |
| 2. Sen. Kittony Zipporah | - | Vice Chairperson |

F. COMMITTEE ON ROADS AND TRANSPORT

- | | | |
|--------------------|---|-------------|
| 1. Sen. Chiaba Abu | - | Chairperson |
|--------------------|---|-------------|

2. Sen. Sijeny Judith - Vice Chairperson

G. COMMITTEE ON LABOUR AND SOCIAL WELFARE

1. Sen. Mwachiru Stewart Madzayo - Chairperson
2. Sen. Martha Wangari - Vice Chairperson

H. COMMITTEE ON INFORMATION AND TECHNOLOGY

1. Sen. Kagwe Mutahi - Chairperson
2. Sen. Kilonzo Mutula Jnr. - Vice Chairperson

I. COMMITTEE ON LAND AND NATURAL RESOURCES

1. Sen. Kivuti Lenny - Chairperson
2. Sen. Khaniri George - Vice Chairperson

J. COMMITTEE ON LEGAL AFFAIRS AND HUMAN RIGHTS

1. Sen. Amos Wako - Chairperson
2. Sen. Stephen Sang - Vice Chairperson

K. NATIONAL SECURITY AND FOREIGN RELATIONS

1. Sen. Yusuf Haji - Chairperson
2. Sen. Fatuma Dullo - Vice Chairperson

SESSIONAL COMMITTEES

A. COUNTY PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE

1. Sen. (Dr.) Khalwale Boni - Chairperson
2. Sen. Hassan Omar Hassan - Vice Chairperson

B. COMMITTEE ON DEVOLVED GOVERNMENT

1. Sen. Murkomen Kipchumba - Chairperson
2. Sen. Lesuuda Naisula - Vice Chairperson

C. COMMITTEE ON IMPLEMENTATION

1. Sen. Orenge James - Chairperson
2. Sen. Nyongesa Kanainza Daisy - Vice Chairperson

D. COMMITTEE ON DELEGATED LEGISLATION

- | | | |
|-----------------------|---|------------------|
| 1. Sen. Sang Stephen | - | Chairperson |
| 2. Sen. Sijeny Judith | - | Vice Chairperson |

JOINT COMMITTEES

A. COMMITTEE ON NATIONAL COHESION AND EQUAL OPORTUNITY

- | | | |
|----------------------------|---|------------------|
| 1. Hon. Johnson Sakaja, MP | - | Chairperson |
| 2. Sen. Hargura Godana | - | Vice Chairperson |

B. PARLIAMENTARY BROADCASTING AND LIBRARY

- | | | |
|-------------------------------|---|------------------|
| 1. Sen. Naisula Lesuuda | - | Chairperson |
| 2. Hon. Mustafa Salim Idd, MP | - | Vice Chairperson |

Hon. Senators, you will also wish to know that there are three other *ad hoc* committees that will elapse as soon as they conclude their business namely:-

A. AD HOC COMMITTEE ON LEGISLATION AND HARAMBEEES

- | | | |
|---------------------------------|---|------------------|
| 1. Sen. (Prof.) Anyang'-Nyong'o | - | Chairperson |
| 2. Sen. Joy Gwendo | - | Vice Chairperson |

B. LEGISLATION ON ROYALTIES ACCRUING FROM NATURAL RESOURCES IN COUNTIES

- | | | |
|--------------------------|---|------------------|
| 1. Sen. (Dr.) Agnes Zani | - | Chairperson |
| 2. Sen. Paul Wamatangi | - | Vice-Chairperson |

C. LEGISLATION ON PUBLIC COMPENSATION BUREAU IN ALL COUNTIES

- | | | |
|---------------------|---|------------------|
| 1. Sen. Chris Obure | - | Chairperson |
| 2. Fatuma Dullo | - | Vice-Chairperson |

Hon. Senators, as you are aware, Article 96 of the Constitution gives the Senate the role of representing counties and serving to protect and promote the interests of counties and their governments. Committees have a central role in the fulfillment of this and other constitutional roles of law making, determining allocation of national revenue among counties and providing effective oversight.

The enactment of properly thought out laws will therefore very much depend on proper scrutiny of Bills once committed to the above statutory committees. Similarly, effective consideration of public petitions or of other matters before they are brought to the Plenary will depend on the output of the committees. Effective public participation and the legislative process are also dependent on how committees engage the public and experts on Bills once they are committed to them. I hasten to add that it is, therefore, in this committees where legislation to

promote representation of marginalized groups as well as other provisions in Articles 54, 55, 56, 57 and 100 should be initiated.

The Joint Committee on National Cohesion and Equal Opportunity in particular is mandated to, among other things, promote measures designed to enhance the equalization of opportunities and improvement of the quality of life and status of all persons, including groups that are marginalized. They have to play a major role in enacting that kind of legislation.

Thank you.

Tuesday, 6th May, 2014 – Special Sitting

COMMUNICATION FROM THE CHAIR

THE SENATE SHALL BE GUIDED BY RESOLUTIONS
MADE ON THE FLOOR OF THE HOUSE

The Speaker (Hon. Ethuro): Order, Senators. I think we have all heard Sen. Musila raise issues of anticipating debate under Standing Order No.88. That Standing Order has three provisions. All of them have been referred to. The first one was made reference to by Sen. Musila, the second one by Sen. Murkomen and the third one by Sen. (Dr.) Machage. So, the entire Standing Order has been read to the House, I do not need to repeat it.

Let me say the following. This is a bit tricky. You need to read the words very carefully. If you read part (2) of the Standing Order, it says:-

“It shall be out of order to anticipate the debate of a Motion of which notice has been given by discussion upon substantive Motion or an amendment, or by raising the same subject matter upon a Motion of the adjournment of the Senate.”

Notice was not given until now. Yes, there was a gazette notice of a Special Sitting to discuss the matter but the Speaker does not give notices of motions. I gave notice of a Special Sitting because the Senate is on recess. So, strictly speaking, anybody else would raise the matter before now.

According to part (3) of that standing order, and that is why I am saying it is a bit tricky, I had already noticed that, the question would be, why would the Members be in a hurry to debate when they have an opportunity given by the Constitution and the people of the Republic of Kenya to come and say all the things they would wish to say on any particular matter? The probability of the matter anticipated being brought before the Senate within a reasonable time, of course, the time had already been spelt out, it was very reasonable. If it could be reported this morning on the material day, there is nothing more reasonable than that.

Having said that, unfortunately, your source of information is also inadmissible. Not only are you the Chairman of a very important party known as Wiper, but you are a very seasoned politician having even been a former Deputy Speaker. I know for a fact, you are very robust with Standing Orders. So, I find that your point of order is not admissible.

(Applause)

But having dismissed it, I want to make it absolutely clear that all Senators, including the ones being mentioned, must restrain themselves. Censorship should not be a matter by the state, it is a matter that you look at your own circumstances and your stand in society and you know the kind of things that you will say. Some of the utterances may be prejudicial to the deliberations before us. But as they have clarified, those were their own personal opinions. As far as this House is concerned, whatever you do out there, whether you have the fame of bull fighting---

(Laughter)

Whether you are a lion-king from some mountain or the representative of the largest county in terms of population, you can say whatever you want to say out there. This House and this country can only be guided by the resolutions of the Senate on the Floor of the Senate.

Thank you.

Tuesday, 6th May, 2014 – Special Sitting

COMMUNICATION FROM THE CHAIR

PROCEDURE FOR ESTABLISHING SPECIAL
COMMITTEE OF THE SENATE TO CONSIDER
THE REMOVAL FROM OFFICE OF THE
GOVERNOR OF EMBU COUNTY

The Speaker (Hon. Ethuro): Hon. Senators, in terms of Article 181 of the Constitution, Section 33(3a) of the County Governments Act and the Senate Standing Order No.68 (1) (A), 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. It is in this respect that I convened this Special Sitting of the Senate by Gazette Notice No.3020 of 2nd May, 2014 which was carried in a special issue of the Kenya Gazette of the same day.

Section 33(3b) of the County Governments Act and Standing Order No.68(1b) both provide that at this sitting, the Senate by resolution may appoint a special committee comprising eleven of its Members to investigate the matter. Indeed, hon. Senators will observe in today's Order Paper that pursuant to these provisions of the law, the Senate Majority Leader has already given Notice of 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.

Hon. Senators, if the Motion for the establishment of a Special Committee is approved, the Special Committee will be required under Section 33(4) of the County Governments Act and Standing Order No.68(2) to investigate the matter and report to the Senate within ten 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 today, the Senate shall proceed to investigate and consider the matter in Plenary. I hope I am clear there.

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 hon. 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 from office of the Governor of Embu County. It is not a Motion on the propriety, prudence or even the constitutionality or 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 veer into any matter other than the Motion before the House.

Hon. Senators, as I have previously stated, the hearing of charges for the proposed removal of a Governor is one of the most important and almost solemn functions of the Senate under the Constitution. I therefore urge that the Senate exercises the highest level of responsibility on this matter in the Plenary and also, should the Motion by the Senate Majority Leader pass, the same applies in the special committee.

Tuesday, 6th May, 2014 – Special Sitting

COMMUNICATION FROM THE CHAIR

THE MOTION BEFORE THE HOUSE IS
LEGAL AND WITHIN THE CONSTITUTION

The Speaker (Hon. Ethuro): Order, Sen. Bule. You can only speak once the Chair has allowed you and not when you feel like it.

Let me make my ruling. One is that I will invoke Standing Order No.1 to start with. I will first dispose of the preliminaries. For Sen. G.G. Kariuki, this is a House of debate and even the Chair can only drink from a fountain, not only one fountain but many fountains. So, Members of the Senate are not passive recipients of information. They have opinions and an understanding of the Constitution and the laws of the Republic. So, it is always better for the House to entertain comments so that we come up with a better conclusion.

Under Standing Order No.50:

“No Motion may be moved which is the same in substance as any question that has been resolved (either in the affirmative or in the negative) during the preceding six months in the same Session.”

These are our Standing Orders which are derived from the Constitution. They cannot overturn the Constitution itself. The Constitution contemplates that possibility. We agonised over these matters, Senators. The Constitution anticipates an opportunity where if a Motion is negated, the House can reintroduce it in three months. So, should we come here and say that since our Standing Orders talk about six months and since those six months have not been realized, and then we should not act on it?

With regard to what Sen. Billow has said, that is not just a technicality but a diary issue. This is a Motion passed on 29th April, 2014. That is what we got from the County Assembly of Embu. That is what we can act upon. For all the good, I am persuaded by the arguments by the Senate Majority Leader, Sen. Murkomen and Sen. Orengo. The issues may appear the same but they still need to be substantiated and looked into. There are timelines of about ten days given by the Constitution to do the same. These are not things that are just provided by the Standing Orders but also provided by the Constitution which we all agree with the basic contract between the governed and the Governors. All of us are, but subjects of the same Constitution.

Therefore, we are dealing with a different Motion that originated from the County Assembly of Embu on 29th April which is coming before us for consideration in a manner that is already spelt out in Article 181 and the County Governments Act, Section 33. So, we will proceed along those lines. I am sure that the Senator for Vihiga is not only convinced but a very satisfied man.

(Applause)

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Speaker, Sir, I do not intend to take too long. I have already said that among the various duties that this House has to perform, in my personal view, this is a very sad one. This is because it talks about, number one, a very important and critical office in the devolution system and that is the Office of the Governor.

Number two, we are talking about removal from office which is quite a drastic and unfortunate event. Having said so, I would like to say that those who drafted this Constitution had a good reason to put these processes and functions in this format. Therefore, we should not be shy to discharge our duties when we must discharge them. We have always said, time and again, that some of the misconceptions that are emerging about the Senate and the things that we do are selective. Some people want to be selective. They want to befriend and acknowledge the Senate when it suits them, for instance, when it comes to protecting the interests of counties.

Tuesday, 13th May, 2014 (Morning) – Special Sitting

COMMUNICATION FROM THE CHAIR

PROCEDURE FOR CONSIDERATION OF REPORT OF SPECIAL COMMITTEE ON PROPOSED REMOVAL FROM OFFICE OF THE GOVERNOR OF EMBU

The Speaker (Hon. Ethuro): Order, Senators! I have the following Communication to make relating to the procedure that we will use in conducting the business with regard to the consideration of the Report of the Special Committee on the proposed removal from office of the Governor of Embu County.

Hon. Senators, the Chairperson of the Special Committee will lay the Report of the Committee this morning. Once it is laid, hon. Senators will have time to peruse it. It will, therefore, not be debated immediately, but the House will adjourn for one hour in order to allow hon. Senators to go through it. This is because at the point at which it is being laid now, it will not be known to the House which of the two procedures provided by Section 33(6) of the County Governments Act and Standing Order No.68(4) will be applied. Its contents will determine the procedure to be applied.

Hon. Senators, for your information, both Section 33(6) of the County Governments Act and Standing Order No.68(4) provide as follows:-

“If the special committee reports that the particulars of any allegation against the governor—

(a) have not been substantiated, further proceedings shall not be taken under this section in respect of that allegation; or

(b) have been substantiated, the Senate shall, after according the governor an opportunity to be heard, vote on the charges.”

Consequently, after you, hon. Senators, have had the opportunity of perusing the Report and after establishing whether or not the particulars of the allegations against the Governor have been substantiated, the Motion to consider it will be listed for business in a Supplementary Order Paper which once prepared will be circulated when we reconvene after one hour. If the Special Committee reports that any particulars of the allegations have been substantiated, the Senate will vote on each of the impeachment charges, after according the Governor the opportunity to be heard.

Hon. Senators, arrangements have been made for the Governor of Embu County to sit in the Gallery during debate on the Motion. At the appropriate time before I put the Question on the Motion, he will appear before the Senate and be heard, either by himself or his legal representative. I wish to inform the hon. Senators that if the Governor chooses to exercise his right to appear and be heard by the Senate, he shall be heard here, either by himself or his advocate in total silence. His speech shall not be followed by any question or comment. The Senate shall, thereafter, immediately proceed to vote on each allegation found to have been substantiated.

Thank you.

Tuesday, 13th May, 2014 (Morning) – Special Sitting

COMMUNICATION FROM THE CHAIR

INVITATION OF SENATORS TO WORKSHOP ON AGRICULTURE,
LIVESTOCK AND FISHERIES

The Speaker (Hon. Ethuro): Order, Senators. I have a Communication to make.

The Standing Committee on Agriculture, Livestock and Fisheries has convened a high level workshop on Agriculture, Livestock and Fisheries from the 5th to 8th June, 2014 at Enashipai Resort, Naivasha, to identify specific, measurable, attainable, realistic and time-bound interventions by the Senate Committee in order to accelerate agricultural transformation in Kenya during its tenure between 2014 and 2017.

Hon. Senators, this is an invitation to all of you who would wish to attend this forum to register their names with the Clerks-at-the-Table noting that agriculture is one of the devolved functions.

Thank you.

Thursday, 15th May, 2014 – Special Sitting

COMMUNICATION FROM THE CHAIR

SPECIAL SITTING OF THE SENATE TO CONSIDER
THE DIVISION OF REVENUE BILL, 2014

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I have a short communication to make. You may recall that the Senate met on 13th of May, 2014, at 3.30 p.m. with the aim of considering the Division of Revenue Bill (National Assembly Bill No.15 of 2014), but we did not consider it.

You may recall further that I issued a Communication from the Chair informing the House that there have been developments that have necessitated the Speaker to direct that the consideration of the Bill and the House be adjourned until a date to be notified to you in the usual manner, as set out in the Standing Orders, during which date the House would consider the Division of Revenue Bill.

Hon. Senators, by Gazette Notice No.3223 dated 13th May, 2014, the Speaker of the Senate appointed today, Thursday 15th of May, 2014, as a day for the Special Sitting of the Senate. The notice specified that the Special Sitting will be held here at the Senate Chamber, 1st Floor, County Hall, Nairobi, commencing at 2.30 p.m. The Business to be transacted at this sitting will be the consideration of the Division of Revenue Bill (National Assembly Bill No.15 of 2014), as passed by the National Assembly, with amendments on 23rd of April, 2014.

Hon. Senators, as specified in the Gazette Notice and in accordance with Standing Order 29(5) of the Senate Standing Orders, the business specified in this Notice shall be the only business before the Senate during the Special Sitting, following which, the Senate shall stand adjourned until Tuesday, 3rd June, 2014 at 2.30 p.m. in accordance with the resolution of the Senate made on Thursday, 17th April, 2014.

I thank you, hon. Senators.

Friday, 23rd May, 2014 – Special Sitting

COMMUNICATION FROM THE CHAIR

CONVENING OF SPECIAL SITTING OF THE SENATE
TO ESTABLISH A COMMITTEE TO HEAR CHARGES
AGAINST THE GOVERNOR FOR KERICHO COUNTY

The Speaker (Hon. Ethuro): Hon. Senators, in terms of Article 181 of the Constitution and Section 33 3(a) of the County Governments Act and our own Standing Order No.68 1(a) of the Senate Standing Orders, 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. It is in this respect that I convened this Special Sitting of the Senate by Gazette Notice No.3378 of 20th May 2014 which was carried in a special issue of the Gazette of the same date.

Section 33 3 (b) of the County Governments Act and Standing Order No.68 1(b) provides that at this sitting, the Senate by resolution may appoint a special committee comprising 11 of its Members to investigate the matter.

Hon. Senators will observe that at Order No.2 on today's Order Paper, pursuant to these provisions of the law, the Senate Majority Leader will be giving notice of a Motion for the establishment of a special committee. You will observe also that the Motion has been listed at Order No.3 of the Order Paper with the approval of the Speaker.

Hon. 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 No.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, it should be known that the provisions set by law will then kick in and the Senate shall proceed to investigate and consider the matter in 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.

I wish to emphasize to all Hon. Senators as I have done before that debate on the Motion shall be limited to the substance of the Motion namely; whether to establish a special consisting of the Senators listed to investigate the proposed removal from office of the Governor of Kericho County. It is not a Motion on the propriety, prudence or even constitutionality or legality of the processes that have preceded the submission of this matter to the Senate. It is not a debate of the facts of the matter or its merits. It is therefore not permissible, and I will not hesitate to immediately rule a Senator to be out of order if she or he digresses into any matters other than the Motion before the House. I should also indicate that this is a matter which in terms of Article 123 of the Constitution and Standing Order No.72 of our Standing Orders affects counties and, therefore, the vote on the Motion when we come to it shall be by delegations as provided for under Standing Order No.71.

Hon. Senators, as I have on earlier occasions stated, the hearing of the charges for the proposed removal of a Governor of a county is one of the most important and solemn duties of the Senate under the Constitution of Kenya. I would also hasten to reiterate that this is a process that calls for the highest level of responsibility and circumspection from all Senators not only in

plenary, but also should the Motion by the Senate Majority Leader pass, by those Senators who shall be called upon to serve on the Special Committee. This is as much of a judicial process as it is a political one.

Thank you.

Tuesday, 3rd June, 2014

COMMUNICATION FROM THE CHAIR

PROCEDURE OF ADOPTING REPORT OF THE SPECIAL COMMITTEE ON THE PROPOSED REMOVAL FROM OFFICE OF THE GOVERNOR FOR KERICHO COUNTY

The Speaker (Hon. Ethuro): Hon. Members, after the Paper has been laid, I would like to give further directions on how we will proceed from now.

As you are aware, this is not the first time the Senate is conducting a business of this nature. We shall therefore proceed along similar lines as we have done in the past when Senators receive a similar special committee report. As in the earlier cases, the Chairperson of the Special Committee will lay the Report of the Committee first, which he has done, after which Senators will have time to peruse it. The Report will, therefore, not be debated immediately. The House will adjourn for one hour in order to allow Senators to go through the Report. We shall proceed in this manner because at the point at which the Report has been laid is not known to the House which of the two procedures provided by Section 33(6) of the County Governments Act and Standing Order No.68 (4) will be applied. The contents of the Report will determine that.

Just to refresh your memories, both Section 33(6) of the County Governments Act and Standing Order No.68 (4) provide as follows:-

If the Special Committee reports any particulars of the allegations against the Governor have not been substantiated, further proceedings shall not be taken under this section in respect of that allegation or;

If it has been substantiated, the Senate shall, after according the Governor an opportunity to be heard, vote on the impeachment charges. I hope the Clerk can confirm that the Governor is in the building. I think he has confirmed.

Consequently, after hon. Senators have had an opportunity of perusing the report of the Special Committee and its finding thereof, a Notice of Motion will be given and later a Motion moved on the Report which will be listed in a Supplementary Order which will be circulated shortly. As in earlier instances, if the Special Committee reports that any particulars of the allegations have been substantiated, the Senate will vote on each of the impeachment charges after according the Governor the opportunity to be heard.

Hon. Senators, I wish to inform you that if the Governor chooses to exercise his right to appear and be heard by the Senate, he will be heard here either by himself or his advocate in total silence and his speech shall not be followed by any question or comment. The Senate shall therefore proceed to vote on each allegation found to have been substantiated.

I want to thank you and also adjourn the House for one hour.

Tuesday, 3rd June, 2014

COMMUNICATION FROM THE CHAIR

REPORT OF THE SPECIAL COMMITTEE ON THE PROPOSED REMOVAL FROM OFFICE OF THE GOVERNOR OF KERICHO COUNTY

The Speaker (Hon. Ethuro): Hon. Senators, I have a communication to make to that effect. Having seen the Report of the Special Committee, it is clear that the House shall apply the provisions of Section 33 (6) (a) of the County Governments Act and Standing Order No.68 (4) (a) as it is the finding of the Special Committee that the allegations have not been substantiated.

In these circumstances, under the County Governments Act and our own Standing Orders, we are not permitted to take any further proceedings in respect of the allegations made.

However, owing to the importance of the task that this House vested in the Special Committee and to the overwhelming public interest in this matter, I will allow the Chairperson of the Special Committee to make a few remarks in respect of the assignment his Committee undertook on the instructions of the House. I would thereafter also permit a few interventions of a general nature on the Report, which comments cannot go to the merits or demerits of the findings of the Special Committee.

Tuesday, 17th June, 2014

COMMUNICATION FROM THE CHAIR

LIMITATION OF DEBATE ON THE MOTION FOR ADJOURNMENT UNDER STANDING ORDER NO.33

The Speaker (Hon. Ethuro): As I directed earlier, at the end of Order No.9, we are going to take the Adjournment Motion. Before I do so, I also promised that I was going to give directions. I received two requests on the Motion for Adjournment on a similar matter. One was from the Senate Majority Leader, Prof. Kindiki. The other one was from the Senator for Siaya, Sen. James Orengo. We have combined them. If you look at Standing Order No.33, it stipulates the procedure on how we should proceed on this particular matter. Standing Order No.33 (4) states:-

“No Senator speaking on a matter under this Standing Order shall speak for more than five minutes without the leave of the Senate, except that the Mover may speak for ten minutes.”

Under the circumstances, I, therefore, wish to direct as follows: The Mover will speak for 15 minutes, the Senator for Siaya will speak for ten minutes and the Senate Minority Leader will also speak for ten minutes. The rest of you will be entitled to your five minutes each, in order to allow as much participation as possible. You will speak until the end of time, unless you finish earlier. That is up to you.

Wednesday, 18th June, 2014

COMMUNICATION FROM THE CHAIR

DEMISE OF HON. GEN. (RTD.) JACKSON
KIMEU MULINGE

The Speaker (Hon. Ethuro): Hon. Senators, it is with a heavy heart that I regret to announce the death of a distinguished Kenyan, an elder statesman and a patriot, hon. Gen. (Rtd.) Jackson Kimeu Mulinge, which took place on Sunday, 15th June, 2014. The late hon. Gen. (Rtd.) Jackson Kimeu Mulinge was born in Kathiani, Machakos County, in 1924. He attended AIM School, Mumbuni in Machakos, then joined the military and began serving his country in 1942. He was granted commission as an officer in the Kings African Rifles (KAR) in 1961. In 1963, he was appointed commanding officer, Third Kenya Rifles. The General rose through the ranks to become commander of the Kenya Army in 1969 and later in 1971, the first Chief of General Staff (CGS) of the Kenya Armed Forces. He was the first to become a full star General in Kenya and the first full star General to hold this position previously occupied by a Major General.

Hon. Senators, you will all recall that Kenyans remember him fondly and with tide and gratitude for thwarting the 1982 coup attempt at a time when the military coups were devolved in Africa. This ensured that our country remained a democracy up to the present. He retired honorably from the military in July, 1986, after 44 years of exemplary service. Thereafter, he was appointed as the Chairman of the Kenya Railways; then the Chairman of the Kenya Meat Commission (KMC), after which time he ran successfully for elective politics, becoming the Member of Parliament (MP) for Kathiani Constituency in post 1992 multi party elections. He was thereafter appointed to serve as the Minister for Lands and later, he also served as the Minister for Health.

Hon. Senators, you may wish to note that when he retired from politics, he went full time into business, both in real estate and in farming and ranching. His legacy is that of a distinguished Kenyan; a man who tried his best to be incorruptible, and he helped countless people to get education and to find employment. Despite all his achievements, he remained a humble man with a common touch until the very end.

He will always be remembered for his development record, particularly in Kathiani and also in the greater Ukambani region. His demise, therefore, is not only the loss of his family and to the County of Machakos, but to the entire Republic.

Hon. Senators, may I, therefore, on your behalf and on my own behalf, take this opportunity to convey our sincere condolences to the family, relatives and friends of the departed, hon. Gen. (Rtd.) Jackson Kimeu Mulinge, and to express our gratitude at the selfless service rendered to the people of Kenya. Indeed, he was one of a kind; the best of a kind. May God rest his soul in eternal peace.

Hon. Senators, let us observe a minute of silence.

*(Hon. Senators stood up and observed
a minute of silence)*

Amen.
Thank you.

Tuesday, 24th June, 2014

COMMUNICATION FROM THE CHAIR

APPOINTMENT OF SENATORS TO MEDIATION
COMMITTEE ON THE DIVISION OF REVENUE BILL
(NATIONAL ASSEMBLY BILL NO. 13 OF 2014)

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I wish to inform you that I have appointed the following Senators to represent the Senate in the mediation Committee:-

1. Sen. Billow Kerrow
2. Sen. Beatrice Elachi
3. Sen. (Dr.) Khalwale

I urge Members of the Committee to move with speed and start working and report to the House within the stipulated time.

Thank you.

Wednesday, 25th June, 2014

COMMUNICATION FROM THE CHAIR

BURIAL OF THE LATE GEN. (RTD.) JACKSON
KIMEU MULINGE

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I have a short, off the cuff communication to make. As you are all aware, last week, we paid tribute to the late Gen. Jackson Kimeu Mulinge. He will be buried this Saturday. The details of his burial are well with you. Remember he was a colleague; he was not just a General. He was a Member of Parliament and, therefore, he is a departed colleague. If any of you would like to sign the condolence book, it is outside at the foyer of this Floor.

Thank you.

COMMUNICATION FROM THE CHAIR

KAMUKUNJI TO DISCUSS ADMINISTRATIVE
SUPPORT TO HON. SENATORS

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Senators. Sen. Kagwe, this was kind of an ambush. I had no indication that this issue would come up. Normally, we do not discuss issues of a *Kamukunji* or the issues that you have raised in an open House, when we are in the glare of everybody in the republic.

Having said that, let me make this short communication. I know for sure that we had another meeting of the Rules and Business Committee. We still expect to move our sittings to the Old Chamber at the Main Parliament Buildings on Tuesday, 1st July, 2014. I can give that as a certainty that we shall be moving because the chamber is now ready for our use. I believe that tomorrow, all things being equal, is the last day that we shall sit here and then move to the other chamber.

It is interesting that you have raised these issues because they also came up in the Rules and Business Committee. These are issues of office allocation and a *Kamkunji* with the Parliamentary Service Commission (PSC). That is work in progress. It is only that the date has not been given. We expect that, that meeting will be held sooner than later, maybe as soon as next week. That is the issue that has been raised by Sen. (Dr.) Machage.

On the issue that has been raised by Sen. Haji about office allocation, I want to believe that these are issues again, we will be able to discuss at the *Kamukunji* when it is convened sometime next week.

As you are aware, the Speaker is not in station. It is important that as we have that *Kamukunji*, he is there so that I, as the Senator for Murang'a County, am able to raise the issues that I would like to raise. These are issues I may not be able to raise in the capacity that I am in at the moment. These are matters and works in progress. I am grateful that Sen. Kagwe has raised these matters although by way of an ambush. Yes, they are matters that we have discussed and we will deal with next week.

Hon. Senators, I hope that is satisfactory for now. Shall we move on to the next Order?

Thursday, 26th June, 2014

COMMUNICATION FROM THE CHAIR

RELOCATION OF THE SENATE FROM COUNTY
HALL TO THE REFURBISHED SENATE CHAMBER
IN MAIN PARLIAMENT BUILDINGS

The Temporary Speaker (Sen. Ongoro): Order! Order! Hon. Senators, before we adjourn, I want to take this opportunity, once again, to state that this is the last day that the Senate is sitting in this Chamber. On Tuesday 1st July, 2014 we will have our first sitting in our refurbished Chamber. I think that sometimes privileges come in little bits and you are privileged to be the last seven Senators present in the House, on the last day of the Sitting of the Senate in this Chamber.

Hon. Senators, at 9.30 a.m. on the same day we shall have a debriefing in the refurbished Chamber, because as you are aware, we have now moved from analogue to digital. We will be using our new electronic devices, which shall be used henceforth in transacting business in that Chamber.

Tuesday, 1st July, 2014

COMMUNICATION FROM THE CHAIR

WELCOME TO THE OFFICIAL SENATE CHAMBER

The Speaker (Hon. Ethuro): Order, Senators! I have a Communication to make. It is with great joy and pleasure that I wish to take this opportunity to welcome you, hon. Senators, to the official Senate Chamber, in the Main Parliament Buildings.

(Applause)

The event that we are participating in today, namely, taking of the custody and occupation of this Chamber, is a major milestone in claiming and entrenching the bicameral system of governance in Kenya after a hiatus of about 50 years. As you are well aware, the Independence Constitution of 1963 established a Bicameral legislature, consisting of the Senate and the House of Representatives. It is a historical fact that in 1966 the Senate was disbanded through a constitutional amendment. It may be worth noting that the then Attorney General and Mover of the amendment Bill referred to the exercise as a merger or an amalgamation with the House of Representatives, to form the Kenya National Assembly, and in the process, ushered in a new era of a Unicameral legislature. I leave it to the historians, constitutional lawyers, political scientists and posterity to judge whether disbanding the Senate then was the right thing to do.

It is, however, important to take cognizance of where we are as a country and most significantly, our role as the Senators in the constitutional dispensation. You will all recall that in the long journey towards constitutional reforms, devolution of power and resources became a critical component as a means to addressing marginalization and promoting equitable growth and development in all parts and regions of Kenya. With the enactment of the new Constitution of Kenya in 2010, 47 counties were created. This had a domino effect on the legislature, as the country reverted to the Bicameral system with the reintroduction of the Senate, with a membership of 47 Senators, representing the 47 counties, 16 nominated Women Senators, two Senators representing the youth and another two Senators representing persons with disabilities.

The role of the Senate, as spelt out in Article 96 of the Constitution, is to primarily protect the interests of the counties and their governments, lawmaking, determining allocation of national revenue among counties and to provide oversight of State officers.

Hon. Senators, you will allow me to make a few observations on the place of the Senate, especially after our experiences of the last one year. First, the Senate exists because the people of Kenya wanted it and not due to the magnanimity of a person, entity, body or authority. This fact should exercise our minds on a daily basis.

(Applause)

Secondly, as in 1966 and looking at the events of the last one year, there are those who are stuck in the mindset of a Unicameral system. They have failed or otherwise refused to understand and appreciate the essence of bicameralism and consequently, why the Senate exists. Our response to them as a Senate is that we will remain faithful to our call and mandate.

Hon. Senators, for the record, the Senate was deliberately created by the people of Kenya as an organ of national Government to perform specific functions, especially to be the guardian angel of devolution, which goes to the heart of the new constitutional dispensation. As we settle in our Chamber, I, therefore, appeal to all of you to rededicate yourselves to this cardinal duty that you have been called upon to do and serve our country.

It is, therefore, my pleasure and privilege to welcome all of you to the Senate Chamber, which I believe will be a permanent home. It has nothing to do my nomadic nature. I wish you all the best in your endeavour to serve the country and the people.

I thank you.

(Applause)

COMMUNICATION FROM THE CHAIR

RAMADHAN KAREEM WISHES TO ALL
KENYAN MUSLIMS

The Speaker (Hon. Ethuro): Maybe, before you issue the next Statement, let me also make a small Statement. On behalf of the Senate and on my own behalf, I want to wish our Muslim Senators, Members of the National Assembly and all Kenyans *Ramadhan Kareem*. I do recognize that this is the third day of the holy month of *Ramadhan*. We join our Muslim brothers and sisters at this moment of prayer and sacrifice. I urge you to pray for this great nation so that *Allah* may grant us his abundant favour and victory to surmount our current challenges.

Wednesday, 2nd July, 2014

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM KILIFI
COUNTY ASSEMBLY

The Speaker (Hon. Ethuro): Hon. Senators, I wish to acknowledge the presence of a delegation visiting us today. Allow me, Hon. Senators to introduce to you a delegation of members of the County Assembly of Kilifi who are seated at the gallery. The delegation is led by the Speaker of the County Assembly, hon. Jimmy Kahindi. As I proceed to introduce the rest, I request that when an Hon. Member is called, he or she should stand up and be acknowledged in the normal tradition of Parliament.

Hon. Adamson Kadenge; hon. Albert Kiraga Hare; hon. Alfonse Mwayaa; hon. Anthony Kenga Mupe; hon. Anthony Ndune Nzaka; hon. Bakari Ali Mwinyi; hon. Boniface Mbkombe Mwangi; hon. Cosmas Foleni Kenga; hon. Daniel Chai Chiriba; hon. Daniel James Mangi; hon. Dr. Silas Mzungu Chitibwi; hon. Duncan K. Kaingu; hon. Edward Kazungu Dele; hon. Elna Stephen Mbaru; hon. Emmanuel Kazungu Chai; hon. Getrude Mbeyu Mwanyanje; hon. Hamza Hamisi Hussein; hon. Hassan Muhamed Said; hon. Ibrahim Abdi Athuman; hon. Japhet Katana Chai Nzaro; hon. Jared Kaunda Chokwe Barns; hon. Kahindi Geoffrey Muhambi; hon. Lawrence Kazungu Kilabo; hon. Mwingo Kaingu Boniface; hon. Naphtali Nyae Kombo; hon. Nixon Charo Mramba; hon. Onesmas Gambo Karisa; hon. Pascal T. Jacob; hon. Renson Kambi Karisa; hon. Said Mwachenda; hon. Stanley Karisa Kenga; hon. Stephen Bahati Mlanda; hon. Teddy Ngumbao Mwambire; hon. Theophilus Kalama Fondo; hon. Valentine Matsaki Mwamanga; hon. Gibson Matano Herbert; hon. Christine Fondo; hon. Grace Kwekwe Mwangombe; hon. Anderson Ngombo Kithi; hon. Asha Chiku Wanje; hon. Nashee Nana Mohamed; hon. Elizabeth Muthoka; hon. Sophie Burns Chokwe; hon. Elizabeth Tabu Ngala; hon. Jane Bahati Mwaro; hon. Selina Khadija Salim; hon. Grace Mbodza Chihanga; hon. Priscila Zawadi Kitsao; hon. Lali Omar Sadi; hon. Esther Dzidza Albert; hon. Tecler Naomi Muye; hon. Arafa Salim Baya; hon. Barka Mohamed.

They are also accompanied by Mr. George Kumbatha; Ms. Patience Pili Kingi; Mr. William Katana Nyanje; Mr. Gideon Karisa; Mr. Joseph Chaka; Mr. Alfred Mumba; Mr. Justin Kiti; Ms. Elizabeth Tatu; Mr. Gideon Mvurya; Ms. Lilian Ngala.

On my own behalf and on behalf of the Senate, I extend a warm welcome to the Members of this delegation from Kilifi County and wish you a happy and fruitful visit that will hopefully translate into better services to the people of Kilifi County and the country at large. Welcome.

Thank you.

(Applause)

Wednesday, 2nd July, 2014

COMMUNICATION FROM THE CHAIR

PROCEDURE OF VOTING UNDER THE MULTI-MEDIA DIGITAL CONGRESS SYSTEM

The Speaker (Hon. Ethuro): You will realise that yesterday, 1st July, 2014, we started using the new Chamber and multi-media digital congress system. I hope that satisfies Sen. Karaba. The Multi-Media Digital Congress system allows you to speak or to make a point of order or seek information by use of the card system. You have already made suggestions and we will go about that so that we have PIN numbers. You also want to lodge the cards at the entrance as you enter. I am aware that you have been issued with cards and pin numbers to allow you to use the system. Once you have the card and the pin number, this is the procedure to follow.

Procedure No. 1 – Insert the card into the slot provided on your left of the delegate unit with the arrow of the card facing down.

Procedure No.2 – Enter the PIN Number given to you and press the microphone button to display the word original.

Procedure No.3 – press the microphone button to request to speak once. When your name appears on the Speaker’s screen, the microphone button will remain blinking until an opportunity is granted to you by the Speaker to speak.

Procedure No.4 – To move up or raise a point of order or information, you will press the INT which is the intervention button from the Speaker’s panel and you will differentiate the points of order and a request to speak.

Procedure No. 5 – For voting exercise – this is important – you will press the “yes”, “no” or “abstain” button on the delegate unit which is just next to the other buttons. You will then press the last button to register your voting option. Voting will be done within the specified period of time given by the Speaker. The attendance of the Senators present will be taken before the voting exercise starts.

We will have a free sitting although the Senate Majority Leader suggested that we delegate seats. That is a proposal that he will bring to you for consideration except, of course, the designated seats for the Senate Majority Leader and the Senate Minority Leader. Apart from the Senate Majority Leader and the Senate Minority Leader, you will be expected to come with a card at every sitting to allow you to speak and to take part in the voting exercise. I hope that will help, especially when it comes to voting.

Wednesday, 9th July, 2014

COMMUNICATION FROM THE CHAIR

INVITATION OF THE SENATE TO A CONSULTATIVE WORKSHOP ON DEVOLUTION

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

Distinguished Senators, you may recall that in April this year, a consultative meeting between Senators and Governors was held in Eldoret during which a number of issues of common interest were discussed. I am therefore pleased to inform you that a follow up meeting for the entire Senate has been organized from 30th July to 1st August, 2014. The meeting will focus mainly on the state of play of devolution and the relations between the various institutions, among others. Other details relating to the actual programme and the logistical arrangements will be communicated to you in due course.

Hon. Senators, it is in the interest of the Senate as the protector and promoter of counties and their governments that we take time to reflect on the progress we have made so far in the process of making devolution a reality and to continue to engage all the other key players. We all must therefore continue to work together and take keen interest on the welfare of counties. Consequently, I take this early opportunity therefore to invite you, hon. Senators, to this very important workshop and urge you to attend. Please mark your calendar.

Thank you.

Tuesday, 15th July, 2014

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF BARINGO COUNTY ASSEMBLY WOMEN CAUCUS

The Speaker (Hon. Ethuro): Hon. Senators, before we proceed to the next Statement, I have a communication to make on the visiting delegation from the Baringo County Assembly Women Caucus.

I wish to acknowledge the presence of a delegation from Baringo County Assembly Women Caucus which is seated at the Speaker's Gallery. As I proceed to introduce the delegation led by the Chairperson of the Caucus, Hon. Safina Chelagat, I request that if an honourable MCA is called, she should stand up and be acknowledged in the normal tradition of Parliament. They are as follows:-

1. Hon. Safina Chelagat
2. Hon. Risper Kimaiyo
3. Hon. Emmy Butuk
4. Hon. Lisa Chebet
5. Hon. Lydia Francis
6. Hon. Judy Yator
7. Hon. Cynthia Kiptui
8. Hon. Purity Tallam
9. Hon. Valentine Sergon
10. Hon. Eunice Karani
11. Hon. Magdalene Chebet
12. Hon. Juliana Letangule
13. Hon. Jeniffer Kiptoo
14. Hon. Jeniffer Koipiri
15. Hon. Beatrice Changwony
16. Hon. Lucy Ngetich

They are also accompanied by the following staff:-

1. Jepkmoi Chemase, Deputy Clerk - Administration
2. Miss Betty Toroitich, Legal Officer
3. Miss Fridah Chelagat, Senior Security Warden

On behalf of the Senate and on my own behalf, this is to welcome you to the Senate and to wish you a fruitful visit during your one week induction by the Senate. Thank you.

Wednesday, 16th July, 2014

COMMUNICATION FROM THE CHAIR

INVITATION TO PARLIAMENT WEEK

The Speaker (Hon. Ethuro): Hon. Senators, I have a Communication to make on the Parliament Week.

As hon. Senators are aware, the national values and principles of governance set out in Article 10 of the Constitution binds all state organs, including Parliament, to provide amongst other things, for participation of the people, transparency and accountability. Article 118(1) (b) of the Constitution further requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its committees.

Hon. Senators, in light of this constitutional provisions and as part of Parliament's public outreach responsibility, the Parliamentary Service Commission (PSC) has organised a Parliament week which is scheduled for the period of Monday, 28th July, 2014 to Friday, 1st August, 2014. The Parliamentary week will be preceded by a breakfast with the media, which will be held tomorrow, Thursday, 17th July, 2014 and which will bring together the leadership of Parliament and the representatives of the media industry, including the Media Owners Association (MOA), the Kenya Editors Guild (KEG) and the Kenya Parliamentary Journalists Association (KPJA), among others.

Hon. Senators, a number of activities have also been lined up for the Parliament Week as follows:-

(1) A public lecture which will be held on Monday, 28th July, 2014 at the University of Nairobi (UoN), Taifa Hall, between 2.00 p.m. and 4.00 p.m. The theme of the public lecture is: "*Separation of Powers under the Constitution of Kenya, 2010: A Case for the Eleventh Parliament.*" The Speakers of both Houses will each present a paper at the public lecturer which will be responded to by four distinguished university professors.

(2) Sporting events, including football and netball matches are scheduled for Thursday, 31st July, 2014, commencing at 9.00 a.m. to 11.00 a.m. at the Nyayo Stadium.

(3) An open day will be held on Friday, 1st August, 2014, at Parliament's Public Parking space situated opposite Sheria House. The open day shall officially be opened by the leadership of Parliament. It will provide a forum for the various directorates and departments of Parliament to exhibit and inform the public on various matters concerning Parliament and on their roles and responsibilities.

(4) A number of media appearances have also been scheduled in various media houses at which a number of Senators will be called upon to participate in.

(5) A documentary on Parliament will be aired on all television stations, which will focus on Parliament, its roles and achievements and which will feature Parliamentary leadership.

Hon. Senators, as you will observe, there are quite a number of wide ranging activities that have been organised and scheduled. Therefore, this is to urge and invite you to fully participate in the various activities that you may be called upon to participate in so as to ensure the success of the Parliament week. I thank you for your participation and cooperation in anticipation.

Thursday, 17th July, 2014

COMMUNICATION FROM THE CHAIR

VISIT TO THE SENATE OF KENYA BY THE PRESIDENT OF THE SENATE OF RWANDA

The Speaker (Hon. Ethuro): Hon. Senators, the Communication I have is on the visit to the Senate of Kenya by the President of the Senate of Rwanda.

I wish to inform you that the President of the Senate of the Republic of Rwanda, Hon. (Dr.) Jean Damascene Ntawukuliryayo will be visiting the Senate of the Republic of Kenya from 18th to 22nd July, 2014. This will be a reciprocal visit preceded by an official visit by a delegation from the Senate that I led to the Senate of the Republic of Rwanda from 20th to 24th June, 2013.

Hon. Senators, you will appreciate that Rwanda is a friendly country, a member of the East African Community and a member of the Commonwealth. Above all, Rwanda is a strategic and important partner to our great Republic. To this end, preparations for the visit by the President of the Senate of the Republic of Rwanda have been going on. We are ready to receive the President, tomorrow, Friday, 18th July, 2014.

We have also laid an elaborate programme for him and his delegation during their stay in Kenya. The programme of the visit will include a meeting with the President of the Republic of Kenya, meeting with the Speaker and the leadership of the Senate, meeting with the Speaker of the National Assembly, meeting with the Senate Standing Committee on National Security and Foreign Relations and meeting with the Cabinet Secretary for Foreign Affairs and International Relations.

The key highlight of the visit by the President of the Senate of Rwanda will be an address to the plenary of the Senate on Tuesday, 22nd July, 2014 at 2.30 p.m. on the topic of: “*EAC Integration and a Bicameral Parliament*”. This will be the first address to the Senate by a visiting dignitary. As you are aware, Standing Order No.25 (1) provides as follows:-

“The Speaker may, after consultation with the Senate Majority Leader and the Senate Minority Leader, allow a visiting Head of State or other visiting dignitary, to address the Senate.”

I wish to confirm that, indeed, I have consulted the Senate political leadership as required by this Standing Order and they have all concurred.

In terms of the procedure which we shall apply, hon. Senators, I wish to draw your attention to the provisions of Standing Order No.25(3) which states as follows:-

“Standing Order 23 (*President entering or leaving the Chamber*) and 24 (*President’s Address to Parliament*) shall, with necessary modifications, apply to a visiting Head of State or such other dignitary.”

In particular, Standing Order No.24 (4) and (5) provide as follows and I quote:-

“When delivering an Address to Parliament, the President shall be heard in silence and the Address shall not be followed by any comment or question.

Whenever the President delivers an Address, a Senator may, as soon as practicable thereafter, lay the Presidential Address on the Table of the Senate following the reading of such Address.”

Hon. Senators, I will, therefore, give further guidance on the debate on the Presidential Address. I now, therefore, wish to request that all the Senators attend the Senate sitting on Tuesday, 22nd July, 2014 for the Address by Hon. (Dr.) Jean Damascene Ntawukuliryayo, the President of the Senate of the Republic of Rwanda and that the provisions of Standing Order No.25 shall apply as the Presidential Address. Hon. Senators may also wish to note that the Senate will continue its business immediately after the address by the visiting dignitary.

Thank you.

Tuesday, 22nd July, 2014

COMMUNICATION FROM THE CHAIR

WELCOME TO THE PRESIDENT OF THE SENATE OF RWANDA,
THE RT. HON. (DR.) JEAN DAMASCENE NTAWUKULIRYAYO

The Speaker (Hon. Ethuro): Hon. Senators, I have a communication to make on the Address to the House by the President of the Senate of the Republic of Rwanda.

It gives me great pleasure, on your behalf and on my own behalf, to extend a very special and warm welcome to our colleague and dear friend, the President of the Senate of Rwanda, the Rt. Hon. (Dr.) Jean Damascene Ntawukuliryayo.

Mr. President, welcome, *Karibu* to the Senate of the Republic of Kenya.

(Applause)

As hon. Senators are aware, the President of the Senate arrived in our country last Friday, 18th July, 2014 for an official visit whose climax will be his address to the Senate and to the people of Kenya, this afternoon.

It is worth noting that the address by the President of the Senate of Rwanda will be the first to the Senate of Kenya by a visiting dignitary, which further restates the special place of Rwanda to our country in particular and to the East African Community (EAC) generally. Indeed, Article 5 of the EAC treaty calls upon us to deepen and widen the cooperation among the community.

Hon. Senators, allow me, therefore, to start by thanking the President of the Senate of Rwanda for honouring the Senate and the people of Kenya through this reciprocal bi-lateral visit. I have no doubt in my mind that the visit has entrenched the already existing cordial relations between our countries and Parliaments for the mutual benefit of our people and by extension, the greater East African Community. The Senate of Rwanda has been generous in enabling our committees perform study visits in order to operationalise the functions of the Senate.

Mr. President and hon. Senators, our countries are grappling with a number of challenges ranging from poverty, marginalization, unemployment, negative ethnicity, terrorism, insecurity, illiteracy, poor infrastructure, high morbidity rates *et cetera*. In addition to this, over dependence on rain-fed agriculture is leading to food insecurity, underdevelopment and internal strife, among others. The list is endless. However, tied to these challenges, like siamese twins, are tremendous opportunities to take our respective countries forward. As the old saying goes, “there is always a silver lining in every cloud.” Kenya and Rwanda must not only learn from our nasty experiences of genocide and post election violence of 2007/2008 respectively, but must rise from these ashes like a phoenix. These challenges should spur us to action to ensure that we do not only overcome them, but also take our societies and communities on a higher level, of a higher pedestal of economic growth, advancement in political institutions and social cohesion devoid of internal strife and conflict as captured in our visions (Rwanda Vision 2020 and Kenya Vision 2030). We must, therefore, invest in our institutions, the rule of law and constitutionalism in order to sort out any challenge that are societies are confronted with.

Mr. President, hon. Senators, this is what we have been called upon to do as leaders and as an institution of Parliament; namely, to tirelessly continue to seek solutions to the problems

facing the people and to demolish structures that stand in the way or impede the achievement of the full potential of our people through robust legislation. I am sure I speak for the Kenyan Senate when I quote Winston Churchill upon his very first entry into the House of Commons as Britain's new Prime Minister on Monday, 13th May, 1940, when he made this brief statement:-

“I would say to the House, as I said to those who have joined the government, I have nothing to offer but blood, toil, tears and sweat and in all these, in another speech, victory must be assured.”

Mr. President, as I conclude, I wish to reiterate that the Senate of the Republic of Kenya will continue to foster closer links with the Senate and the people of Rwanda, like many other countries in the region, in order to share experiences in addressing the challenges that confront us and together, I am certain that we shall overcome, each one of us, doing our part, as a legislature.

Hon. Senators, it is now my singular duty and honour to invite our distinguished guest and friend, the President of the Senate of Rwanda, to address the Senate and the people of Kenya.

I thank you.

Wednesday, 23rd July, 2014

COMMUNICATION FROM THE CHAIR

PROCEDURE FOR APPROVAL OF PROPOSED AMENDMENTS TO BILLS IN THE COMMITTEE OF THE WHOLE

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

As you are aware, the House has concluded the Second Reading of the following Bills:-

(1) The County Governments (Amendment) Bill, Senate Bill No.1 of 2014 by Sen. (Dr.) Khalwale on Tuesday, 17th June, 2014.

(2) The Alcoholic Drinks Control (Amendment) Bill, Senate Bill No.5 of 2014 by Sen. (Prof.) Kindiki on Tuesday, 17th June, 2014.

(3) The Statute Law (Miscellaneous Amendments) Bill, Senate Bill No.6 of 2014 by the Standing Committee on Legal Affairs and Human Rights on Wednesday, 2nd July, 2014.

(4) The County Governments (Amendment) (No.2) Bill, Senate Bill No.2 of 2014 by Sen. Martha Wangari on Wednesday, 9th July, 2014.

(5) The Political Parties (Amendment) Bill, Senate Bill No.2 of 2014 by Sen. (Dr.) Khalwale on Tuesday, 15th July, 2014.

The five Bills are now due for consideration in the Committee of the Whole and will be scheduled for Senate business this coming week as follows:-

On Tuesday, 29th July, 2014, the House will consider the Alcoholic Drinks Control (Amendment) Bill, Senate Bill No.5 of 2014 by Sen. (Prof.) Kindiki, the County Governments (Amendment) Bill, Senate Bill No.1 of 2014 by Sen. (Dr.) Khalwale and the County Governments (Amendment) No.2 Bill, Senate Bill No.2 of 2014 by Sen. Martha Wangari.

On Wednesday, 30th July, 2014, the House will consider the Statute Law (Miscellaneous Amendments) Bill, Senate Bill No.6 of 2014 by the Standing Committee on Legal Affairs and Human Rights and the Political Parties (Amendment) Bill, Senate Bill No.2 of 2014 by Sen. (Dr.) Khalwale.

Hon. Senators, Standing Order No.138(2) of the Senate Standing Orders states as follows and I quote:-

“No amendment shall be moved to any part of a Bill by any Senator, other than the Senator in charge of the Bill, unless written notification of the amendment shall have been given to the Clerk at least twenty four hours before the commencement of the sitting at which that part of the Bill is considered in Committee of the Whole.”

In order to facilitate orderly transaction of business at the committee stage on the five Bills, I would like to request hon. Senators who intend to propose amendments to any of the Bills, to forward their proposed amendments to the office of the Clerk by 10.00 a.m. on Friday, 25th July, 2014. This is necessary to facilitate drafting, where necessary, and for approval by the Speaker. It will also serve as a notice of amendment to the sponsor of the Bill and enable us to avoid the situation where substantive amendments are brought on the Floor of the Senate during Committee Stage which causes confusion because such amendments are not contained in the Order Paper. Substantive amendments brought after the indicated timelines will not be approved.

Hon. Senators, I also wish to bring to your attention that pursuant to Article 123 of the Constitution and Standing Order No.71 of the Senate Standing Orders, the House must proceed on a division on every Bill and for every amendment proposed. Additionally, a vote is carried only if it is supported by a majority of all the delegations. The import of that last part is to request and implore you, hon. Senators, to ensure that on those two days that we shall be in committee for those five bills, it is imperative that as many of you as possible are in the House, so that we are able to deliberate and pass the Bills as necessary.

Thank you.

Wednesday, 30th July, 2014

COMMUNICATION FROM THE CHAIR

ACTIVITIES TO MARK THE PARLIAMENT WEEK

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, further to the communication on the Parliament Week at the sitting of Wednesday, 16th July, 2014, I have the following communication to make.

As hon. Senators are aware, the Parliament Week commenced with a media breakfast which was successfully held on 17th July, 2014 in Parliament. The media breakfast brought together the leadership of Parliament and various representatives of the media industry and provided a forum for deliberation on matters of concern to Parliament and the media. A series of media appearances by Members of Parliament on various television and radio stations have also commenced and will run throughout this week.

On Monday, 28th July, 2014, a public debate was held at the University of Nairobi (UoN). The theme of the debate was: “*Separation of Powers under the Constitution of Kenya 2010, a Case for the Eleventh Parliament.*” The public debate was attended by the leadership of Parliament including the Speaker of the National Assembly, the Deputy Speaker of the Senate, commissioners of the Parliamentary Service Commission and other hon. Members of Parliament. Distinguished university professors led by the Vice Chancellor of the UoN, Prof. George Magoha, the student fraternity and the general public attended and actively participated in the debate.

Hon. Senators, as part of the activities lined up for the Parliament Week, the much awaited sporting activities pitting the two houses of Parliament against each other are scheduled for tomorrow, Thursday, 31st July, 2014, at the Nyayo Stadium commencing 7.00 a.m. The sporting activities will include a football match between Members of the National Assembly and Senators, a netball match between Members of the National Assembly and Senators and a tug of war between the two houses. In order to facilitate attendance by the hon. Senators and staff of the Senate, all committees are requested to defer any committee meetings scheduled for tomorrow, Thursday, 31st July, 2014 at any time before noon tomorrow.

Hon. Senators are requested to note that the Open Day will be held on 1st August, 2014 at Parliament’s public parking space opposite Sheria House which is presently the parking space availed to Senators. To facilitate pitching of tents in this area, the visitors parking will be unavailable for parking tomorrow, Thursday, 31st July, 2014 and on Friday, 1st August, 2014. Alternative arrangements have been made for parking at the COMESA Grounds of the KICC. Any inconvenience is highly regretted. Thank you.

Thursday, 31st July, 2014

COMMUNICATION FROM THE CHAIR

APPROVAL OF MOTION BY THE COUNTY ASSEMBLY OF MACHAKOS FOR THE REMOVAL FROM OFFICE BY IMPEACHMENT OF THE DEPUTY GOVERNOR OF MACHAKOS COUNTY

The Speaker (Hon. Ethuro): Hon. Senators, I have the following communication to make.

By a letter received in the Office of the Speaker of the Senate on Friday, 25th July, 2014, the Speaker of the County Assembly of Machakos informed the Speaker of the Senate of the approval of a Motion by the County Assembly of Machakos for the removal, from office, by impeachment, of the Deputy Governor of Machakos County.

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 Standing Orders, 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.”

Hon. Senators, for the avoidance of doubt, 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 Standing Orders apply to the proposed removal from office, by impeachment, of a Governor as well as the proposed removal from office, by impeachment, of a Deputy Governor.

Hon. Senators, pursuant to section 33(3) of the County Governments Act, 2012 and Standing Order No.68 (1) (a) of the Senate Standing Orders, I hereby proceed to read the charges against Bernard Kiala, the Deputy Governor of Machakos County.

You will recall that in the last business, Members petitioned this procedure and just to confirm, the Speaker listens and that is why we are doing it.

Ground 1: Gross Violation of the Provisions of the Constitution

The particulars are that on various dates between 5th March, 2013 and 7th July, 2014, the Deputy Governor committed the following acts in gross violation of the specified provisions of the Constitution of Kenya-

- (1) THAT the Deputy Governor conducted himself in a manner that undermined his position as a member of the Machakos County Executive by antagonizing the Governor, Members of the Machakos County Executive Committee and other members of the County Government thereby undermining the collective responsibility of the County Executive as contemplated under Article 179(4), (5) and (6) of the Constitution;
- (2) THAT the Deputy Governor failed to disclose that he had a pending criminal case in a court of law, contrary to Article 10 and Chapter 6 of the Constitution;
- (3) THAT the Deputy Governor committed acts which exhibited bias in the appointment of officers within his docket and attempted to influence appointments of members of his extended family contrary to Article 73(2)(b) of the Constitution;

- (4) THAT the Deputy Governor solicited for money from members of the public to award contracts and for jobs in the County Government contrary to Article 73 of the Constitution; and
- (5) THAT the Deputy Governor failed to adhere to the values and principles of public service contrary to Article 232 of the Constitution.

Ground 2: Gross violation of the provisions of various Acts of Parliament

1. The County Governments Act, No. 17 of 2012

The particulars are that on various dates, the Deputy Governor committed acts that were in gross violation of the County Governments Act. In particular, that the Deputy Governor failed to supervise the progress of county projects contrary to sections 30 and 32 of the County Governments Act.

2. The Public Officer Ethics Act, Cap. 183

The particulars are that on various dates the Deputy Governor committed the following acts which were in gross violation of the Public Officer Ethics Act, among other provisions-

- (1) THAT the Deputy Governor influenced or attempted to influence the employment of relatives in dockets under him or in other county institutions contrary to section 17 of the Public Officer Ethics Act;
- (2) THAT on 7th July, 2014, the Deputy Governor intentionally and willfully mislead members of the public that his official car had been withdrawn, information which the Deputy Governor knew was not true, contrary to section 19 of the Public Officer Ethics Act; and
- (3) THAT on various instances, the Deputy Governor conducted himself in a manner that did not maintain public confidence in the integrity of the Office of the Deputy Governor contrary to section 9 of the Public Officer Ethics Act.

3. The National Cohesion and Integration Act, No. 12 of 2008

The particulars are that on various dates the Deputy Governor committed the following acts which were in gross violation of the specified provisions of the Leadership and Integrity Act, No. 19 of 2012, among other provisions-

- (1) THAT the Deputy Governor called Dr. Sunil Kumal Dhall, the County Executive Committee member for Trade, Economic Planning and Industrialization, a “*mhindi*”;
- (2) THAT the Deputy Governor used derogatory language against people from outside of Machakos County;
- (3) THAT the Deputy Governor caused inflammatory leaflets to be printed;
- (4) THAT the Deputy Governor made inflammatory remarks on social media; and,
- (5) THAT the Deputy Governor uttered ethnically and regionally divisive and defamatory words during public rallies.

4. The Leadership and Integrity Act, No. 19 of 2012

The particulars are that on various dates the Deputy Governor committed the following acts which were in gross violation of the specified provisions of the Leadership and Integrity Act, among other provisions-

- (1) THAT the Deputy Governor used his office to push for Government contracts in various County Departments including Trade, Health and Agriculture to relatives and friends contrary to section 10 of the Leadership and Integrity Act;
- (2) THAT the Deputy Governor intimidated his colleagues through cell phone text messages and telephone calls seeking various favours contrary to Section 34 of the Leadership and Integrity Act; and
- (3) THAT the Deputy Governor solicited for Kshs500,000 from Dr. Sunil Kumar Dhall, the County Executive Committee Member for Trade, Economic Planning and Industrialization contrary to section 12 of the Leadership and Integrity Act.

Ground 3: Gross Misconduct

The particulars are as follows-

- (1) THAT on various dates, the Deputy Governor failed to attend County Executive Committee meetings without good cause;
- (2) THAT on 7th July, 2014, the Deputy Governor conducted himself in a manner unbecoming of a public officer by misleading the public that he had been ordered out of a County Executive Committee meeting, information that the Deputy Governor knew to be false;
- (3) THAT on various dates the Deputy Governor misled members of the public that his security had been withdrawn, information which the Deputy Governor knew to be false;
- (4) THAT on various dates, the Deputy Governor neglected duties delegated to him by the Governor;
- (5) THAT the Deputy Governor made utterances in public which disclosed information that was confidential to the County Executive Committee; and
- (6) THAT the Deputy Governor criticized Government decisions which he was a party to.

Ground 4: Abuse of Office

The particulars are-

- (1) THAT on various dates, the Deputy Governor attempted to use his office as the Deputy Governor of Machakos County to influence the award of a tender to supply drugs by incessantly making telephone calls to the County Executive Committee Member in charge of Health and Emergency Services;
- (2) THAT the Deputy Governor threatened Executive Committee members to be loyal to him purporting that he would protect them once the Governor was impeached; and,
- (3) THAT the Deputy Governor used his office to cause anxiety and tension to investors, private sector professionals and members of the public who were non-Kambas and non-Machakos Kambas.

Hon. Senators, section 33(3) (b) of the County Governments Act and Standing Order No.68 (1) (b) of the Senate Standing Orders both provide that the Senate, by resolution, may appoint a Special Committee comprising 11 of its Members to investigate the matter. Hon. Senators will observe that in today's Order Paper, pursuant to these provisions of the law, 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 Supplementary Order Paper.

Hon. 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 No.68 (2), to investigate the matter and to report to the Senate within ten days, on whether it finds the particulars of the allegations against the Deputy 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 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 hon. 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 listed Senators to investigate the proposed removal from office of the Deputy Governor of Machakos 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 their merits. It is, therefore, not permissible to deviate to any matters other than the Motion before the Senate.

Hon. Senators, as I conclude, I have previously stated in this House that the hearing of charges for the proposed removal from office of a State Officer is one of the most important and also most solemn functions of the Senate under the Constitution. I, therefore, urge once again, that the Senate exercises the highest level of responsibility and circumspection on this matter in plenary and also, should the Motion by the Senate Majority Leader pass, in the Special Committee.

Thank you.

Tuesday, 5th August, 2014

COMMUNICATION FROM THE CHAIR

FAILURE BY SENATORS TO VOTE ON MATTERS BEFORE THE HOUSE DESPITE BEING PRESENT

The Speaker (Hon. Ethuro): Hon. Senators, I have the following communication to make. You may recall that since 1st July, 2014 when we started using the new Senate Chamber, we have been using the multi-media digital congress system. This system allows you to speak, raise a point of order or seek information by use of the card. Likewise, the system allows Members to vote electronically on matters affecting counties as provided for by Standing Order No.74(3). It is now clear that we vote by pressing either the ‘Yes’, ‘No’ or ‘Abstain’ buttons on the delegate unit on your desks.

It has, however, been brought to my attention that some Members have failed to vote on matters before the Senate despite being present in the Chamber and properly logged in to participate in Senate business. I would like to caution that this amounts to disorderly conduct and a breach of Standing Order No.80 on decorum during division, which states and I quote-

“(1) No Senator shall be obliged to vote in a division, but those present and not voting shall either-

- (a) in the case of an electronic vote, press the “abstain” button; or
- (b) in the case of a roll call vote, record their abstention with the Clerk.

(2) It shall be disorderly conduct for a Senator to fail to record his or her abstention in a division.”

I thank you.

Wednesday, 6th August, 2014

COMMUNICATIONS FROM THE CHAIR

KAMUKUNJI FOR HON. SENATORS

The Speaker (Hon. Ethuro): Hon. Senators, I have two communications to make. First, I wish to announce that we will have a *Kamukunji* tomorrow morning at 11.00 a.m. in this Chamber.

OPERATIONS OF THE SELECT COMMITTEE ON THE PROPOSED
REMOVAL BY IMPEACHMENT OF THE DEPUTY
GOVERNOR OF MACHAKOS COUNTY

Secondly, I wish to announce that the Select Committee on the impeachment of the Deputy Governor of Machakos County met this morning and carried out their elections. Sen. Kagwe was elected as Chairperson and Sen. (Dr.) Zani as the Vice Chairperson. The Committee will be reporting to the House its findings on Monday, 11th August, 2014 at 2.30 p.m.

Thursday, 7th August, 2014

COMMUNICATIONS FROM THE CHAIR

OPERATIONS OF THE SELECT COMMITTEE ON THE PROPOSED
REMOVAL FROM OFFICE BY IMPEACHMENT OF THE DEPUTY
GOVERNOR OF MACHAKOS COUNTY

The Speaker (Hon. Ethuro): Hon. Senators, I wish to make a communication on the date on which the Select Committee on the impeachment of the Deputy Governor of Machakos County would be reporting to the House. Yesterday, I had indicated that it would be Monday, 11th August, 2014 but because of the fact that the Committee was formed on Tuesday, those timelines have been revised to take into account the ten days that are necessary for the Committee to complete its work. So, the new date will be Friday, 15th August, 2014 at 2.30 p.m.

Friday, 15th August, 2014 – Special Sitting

COMMUNICATION FROM THE CHAIR

PROCEDURE FOR CONSIDERATION OF REPORT OF SPECIAL COMMITTEE ON PROPOSED REMOVAL FROM OFFICE OF THE DEPUTY GOVERNOR OF MACHAKOS COUNTY

The Speaker (Hon. Ethuro): Hon. Senators, I have the following communication to make relating to the procedure we shall use in relation to the business regarding the consideration of the report of the Special Committee on the proposed removal from office of the Deputy Governor of Machakos County.

As you are aware, hon. Senators, this is not the first time the Senate is conducting business of this nature. We shall, therefore, proceed along similar lines as we have done in the past when Senators received a similar special committee report.

As in earlier cases, the Chairperson of the Special Committee will lay the Report of the Special Committee first. After which, hon. Senators will have time to peruse it. The Report will, therefore, not be debated immediately, but the House will adjourn for one hour in order to allow you, hon. Senators, to go through it. We shall proceed in this manner because the point at which the report will be laid, it will not be known to the rest of us in the House, except maybe for the Committee Members which of the two procedures provided for by Section 33(6)(6) of the County Governments Act and Standing Order No.68(4) will be applied. The contents of the report will determine that.

Hon. Senators, just to refresh your memories, both Section 33(6) of the County Governments Act and Standing Order No.68(4) provide as follows:-

“If the special committee reports that any particulars of the allegations against the deputy governor-

(a) have not been substantiated, further proceedings shall not be taken under this section in respect of that allegation.

(b) have been substantiated, the Senate shall, after according the Deputy Governor an opportunity to be heard, vote on the impeachment charges.”

Consequently, hon. Senators, after you have had the opportunity of perusing the report of the Special Committee and its findings thereof, a notice of Motion on the Report will be given and then later on, the Motion which will be listed in a supplementary Order Paper to be circulated shortly, will be moved.

Hon. Senators, as in earlier instances, if the Special Committee reports that any particulars of the allegations have been substantiated, the Senate will vote on each of the impeachment charges after according the Deputy Governor the opportunity to be heard.

Hon. Senators, arrangements have been made for the Deputy Governor of Machakos County to sit in the gallery during debate on the Motion. At an appropriate time before I put the question on the Motion, he will appear before the Senate either by himself or by his legal representative to be heard by the Senate.

I wish to inform hon. Senators that if the Deputy Governor chooses to exercise his right to appear and be heard by the Senate, the Deputy Governor shall be heard here, either by himself

or his advocate in total silence and his speech shall not be followed by any question or comment.
The Senate shall thereafter proceed to vote on each allegation found to have been substantiated.
I thank you.

Tuesday, 2nd September, 2014 – Special Sitting

COMMUNICATION FROM THE CHAIR

PROCEDURE TO BE FOLLOWED WHEN CONSIDERING THE NATIONAL
ASSEMBLY AMENDMENT THE COUNTY ALLOCATION OF REVENUE BILL
(SENATE BILL NO. 13 OF 2014)

The Speaker (Hon. Ethuro): Hon. Senators, I wish to report to the Senate that pursuant to Standing Order No.40(3) and (5), on 20th August,2014, I received the following message from the Speaker of the National Assembly regarding the approval by the Assembly, with amendment, the County Allocation of Revenue Bill (Senate Bill No. 13 of 2014):-

Pursuant to the provisions of Standing Orders Nos. 41 and 151 of the National Assembly, I hereby convey the following Message from the National Assembly-

Whereas the County Allocation of Revenue Bill (Senate Bill No. 13 of 2014), which was published in the Kenya Gazette Supplement No.52 of 16th April, 2014 as a Bill originating in the Senate, and was passed by the Senate with amendments on 5th August, 2014;

Whereas the Senate forwarded the County Allocation of Revenue Bill (Senate Bill No. 13 of 2014) on 6th August, 2014 for the concurrence of the National Assembly;

And Whereas, through a resolution supported by at least two-thirds of its membership, in accordance with Article 111 of the Constitution of the Republic, the National Assembly amended the said Bill on 19th August, 2014;

Now Therefore, in accordance with the provisions of Article 111 of the Constitution and Standing Order Nos.151 (1) and 234 of the National Assembly, I hereby convey the decision of the National Assembly, the consequence of which is that the said Bill may now be forwarded to the President for assent.

Hon. Senators, this message was received while the Senate was in recess and vide by letter Ref. No. SEN/L&P/MSG. 2014/(9) dated 27th August, 2014. I circulated the Message to all honourable Senators pursuant to Standing Orders No. 40(5) and 150.

Due to the urgency of the subject of the Message and in accordance with Standing Order No. 29(5), the Speaker convened this Special Sitting of the Senate to deliberate on the matter.

Let me, therefore, take this opportunity to applaud all Senators for attending this sitting. I will now give guidance on the procedure we shall use, given that this is the first time that the House is dealing with a special Bill which has been amended by the National Assembly.

As listed in the Order Paper and pursuant to Standing Order 151, the House, in plenary and as appointed by the Rules and Business Committee, shall consider the Motion and I quote:-

“THAT, the amendment by the National Assembly to the County Allocation of Revenue Bill, 2014 be now considered.”

It is after the Motion is approved that the House shall proceed to Committee of the Whole to consider the amendment as set out in Standing Order 152. For the avoidance of doubt, Standing Order 152 states, and I quote:-

“Where the Senate has resolved that the amendments by the National Assembly to a Bill be considered, each amendment shall be read by the Clerk and may be agreed to or rejected in accordance with Article 112(2) of the Constitution.”

Standing Order 153 further amplifies the procedure as follows:-

“When the Senate has concluded the consideration of the amendments by the National assembly to a Bill originating in the Senate and the Senate-

(a) passes the Bill as amended, the Speaker shall refer the Bill to the President within seven days for assent; or

(b) rejects the Bill as amended, the Speaker shall refer the Bill to a Mediation Committee under Article 113 of the Constitution.”

Hon. Senators, to conclude, it might be worth reminding you that we are only dealing with the amendment from the National Assembly to Clause 1 which you may either approve or reject. We are not interrogating the Bill afresh; we had already gone through all the Motions of the Bill.

(Applause)

I hope that we are all reading from the same page in terms of this particular procedure.

I thank you.

Tuesday, 23rd September, 2014

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM RIABAI HIGH SCHOOL
DEBATING CLUB, KIAMBU COUNTY

The Speaker (Hon. Ethuro): Before we take the next statement, we would like to acknowledge a delegation from Riabai High School Debating Club from Kiambu County, with a total of 48 students and two teachers. Let us welcome them in our usual manner.

(Applause)

Wednesday, 24th September, 2014

COMMUNICATIONS FROM THE CHAIR

ATTACHMENT OF OFFICERS OF TURKANA COUNTY ASSEMBLY TO THE SENATE

The Speaker (Hon. Ethuro): Hon. Senators, I have a Communication to make on the attachment to the Senate of officers serving in the County Assembly of Turkana.

As you are aware, Article 96(1) of the Constitution requires the Senate to represent the counties and protect their interests and their governments.

Pursuant to this provision of the Constitution and as part of the mandate of the Senate, the Secretariat has been assisting the county governments in capacity building by way of attachment to the Senate and training of the staff of the county assemblies.

Hon. Senators, as part of this, the Senate is presently hosting three officers of the County Assembly of Turkana who commenced attachment on Tuesday, 23rd September, 2014 and will conclude the attachment on Thursday, 25th September, 2014. The officers are seated at the Speaker's Gallery. They shall stand and hon. Senators will acknowledge them in the usual manner.

*(Officers of the County Assembly of Turkana stood up
in their place as hon. Senators applauded them)*

PRESENCE OF STUDENTS FROM NGINDA GIRLS' SECONDARY SCHOOL, MURANG'A COUNTY

I also want to announce the presence of students of Nginda Girls' Secondary School from Murang'a County. Let us applaud them too. Of course, you know the Deputy Speaker is the Senator for Murang'a County.

(Applause)

Thursday, 25th September, 2014

COMMUNICATION FROM THE CHAIR

VISITING DELEGATIONS OF STUDENTS FROM KYUMBI
HIGH SCHOOL, TIMBILA HIGH SCHOOL AND
KISII HIGH SCHOOL

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senators. Before we proceed to the next speaker, I would like to take this opportunity to announce that in the gallery we have three schools namely: Kyumbi High School from Machakos County, Timbila High School from Taita Taveta and Kisii High School from Kisii County. I would be appreciative if you welcome them in our usual manner in the Senate. I hope that they are going to learn something from their visit to the Senate. Feel welcome.

Tuesday, 30th September, 2014

COMMUNICATION FROM THE CHAIR

THE THIRD INTER-PARLIAMENTARY REGIONAL HEARINGS ON EXEMPLARY FOREST POLICIES IN AFRICA

The Speaker (Hon. Ethuro): Order, Senators! Before we proceed to the next Order, let me make a communication.

The World Future Council (WFC) with the support of the Parliament of Kenya and particularly the Senate Standing Committee on Land and Natural Resources, the FAO regional office in Africa, the Greenbelt Movement and the Global Legislators Organisation; Global International, in collaboration with the Ministry of Environment, Water and Natural Resources, has organized for the third inter-parliamentary regional hearings on exemplary forest policies in Africa scheduled to take place in Nairobi today.

The WFC is a foundation based in Hamburg, Germany, which identifies and promotes solutions for the challenges of our time. Their mission is to inform policy makers and opinion leaders about the challenges facing future generations, to provide practical policy solutions and to facilitate dialogue on how to implement the same. In 2012, the WFC conducted an inter-parliamentary hearing in Kigali, Rwanda, with the support of the Rwanda Ministry of Natural Resources, the Rwanda Natural Resources Authority, the Rwanda Environment Management Authority, the United Nations Forum on forests, the FAO and Globe International. At the hearing, parliamentarians, policy makers and experts from Burundi, Cameroun, Ghana, Kenya, Malawi, Rwanda, South Africa, Tanzania, Uganda and Zambia made a commitment to take back to their countries these ideas, policies and successful experiences in order to gain support for the implementation as declared in the Kigali Declaration.

At the WFC meeting, 2013, inter-parliamentary hearing on forests for people in Dar es Salaam, 35 legislators, policy makers and experts from Ghana, Kenya, Malawi, Rwanda, South Africa, Tanzania, Uganda, Zambia and Zimbabwe committed to engage themselves for exemplary forest policy. The hearing was opened by Tanzania's Vice-President His Excellency Dr. Mohamed Gharib Bilal and our delegation from Kenya was led by Sen. Isaac Melly, Sen. Liza Chelule and Sen. Naisula Lesuuda.

The 2013 inter-parliamentary hearing focused on regional and national laws that deliver significant improvements to forests and to people who depend on them. The 2014 inter-parliamentary hearing which is scheduled to be held in Nairobi between 30th September, 2014, that is today, and the 3rd of October, 2014, the WFC has invited approximately 50 parliamentarians and government representatives from Central and the East African Region. The objectives of the hearing for the Nairobi meeting include the following:-

(i) to offer parliamentarians first hand information and to allow for a mutual exchange of interesting initiatives which have been proved effective in their countries and could be replicated elsewhere;

(ii) to provide a platform for decision-makers and practitioners from Central and East African countries to exchange experiences and solutions on sustainable forest management, wood fuels and forest governance;

(iii) to enable mutual learning and support knowledge transfer on experiences and solutions; spread Rwanda's national forest policy that received the 2011 future policy award to other countries;

(iv) to inspire practitioners and decision-makers to take collaborative action towards implementation of sustainable development solutions in forest and landscape context.

In this regard, I wish to extend an invitation to the Members of the Committee of Lands to the opening ceremony and, thereafter, to the rest of the event. The opening ceremony will be officiated by the Deputy President of the Republic of Kenya, His Excellency Hon. William Ruto at the Kenyatta International Convention Centre (KICC).

Thank you.

Wednesday, 1st October, 2014

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF STUDENTS FROM KAHURO
GIRLS SECONDARY SCHOOL, MURANG'A COUNTY

The Speaker (Hon. Ethuro): Hon. Senators, I wish to recognise the presence of students from Kahuro Girls Secondary School, Murang'a County who are seated in the public gallery. As you know the tradition of receiving and welcoming visitors to our Parliament is one long tradition and one that we shall endeavour to uphold. On behalf of the Senate and on my own behalf, I extend a warm welcome to the students and wish them a happy and fruitful visit. I hope you will appreciate them in the normal way.

(Applause)

Wednesday, 1st October, 2014

COMMUNICATION FROM THE CHAIR

ALLEGATIONS MADE BY SEN. (DR.) KHALWALE ON THE CONDUCT OF SENATOR SANG

The Speaker (Hon. Ethuro): Hon. Senators, as you may be aware, yesterday, Tuesday, 30th September, 2014, during the debate on the Second Reading of the County Assemblies Powers and Privileges Bill, 2014, the Senator for Kakamega, Sen. (Dr.) Khalwale, rose on a point of order alleging that the Senator for Nandi County, Sen. Stephen Sang, had misled the House by saying, and I quote:-

"The proponents of the referendum are lying to the MCAs that we are amending the Constitution for their welfare."

In the process, Sen. (Dr.) Khalwale also cast aspersions on Sen. Sang by asking, and I quote:-

"Is that the reason why he attacked the Personal Assistant (PA) of the Governor?"

Rising on a point of Order, the Senator for Elgeyo-Marakwet, Sen. Kipchumba Murkomen, sought to have Sen. (Dr.) Khalwale substantiate or withdraw the assertion that Sen. Sang had attacked the PA to the Governor. The matter was also canvassed by various Senators including Sen. Hassan Omar, Sen. Billow Kerrow, Sen. Yusuf Haji and Sen. Moses Wetangula. Sen. Moses Wetangula, who is also the Senate Minority Leader, in support of Sen. (Dr.) Khalwale's argument, further alleged that; and I quote:-

"If I was Sen. (Dr.) Khalwale, I would have said that Sen. Sang superintended the assault on the Personal Assistant of the Governor of Nandi County. We saw this in the media."

When further challenged to substantiate, Sen. (Dr.) Khalwale indicated that he could not be expected to substantiate the obvious and went further on to say; and I quote:-

"At that occasion, the senior-most leader there, in my view, was the Senator. Since we, as leaders, inspire our youth; by virtue of his presence the Senator for Nandi inspired the youth through the speeches that were made, then it follows, without contradiction that this might have contributed to what provoked the youth. Since I did not call him a goon, criminal or crook, then I have nothing to apologize for".

Having considered the matter and perused through the HANSARD and pursuant to Standing Order 91 of the Senate Standing Orders, I find Sen. (Dr.) Khalwale to have been out of order. Consequently, I now direct the Senator for Kakamega, Sen. (Dr.) Khalwale, to withdraw his comments and apologize to Sen. Sang.

I thank you.

Thursday, 2nd October, 2014

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM ISIOLO COUNTY ASSEMBLY

The Speaker (Hon. Ethuro): Hon. Senators, we have a visiting delegation from Isiolo County Assembly as follows: Hon. Lemantile David, hon. Nura Diba Bila, hon. Abdi Sora Bala, hon. Deka Bonjo, hon. Fatuma Said Mahat, hon. Benjamin Joel Lepetet, hon. Dhahabu Bonaya and hon. Paul Mero.

In our usual tradition, let us welcome them.

(Applause)

VISITING DELEGATION FROM ST. BAKHITA CARON
GIRLS, WEST POKOT COUNTY

The Speaker (Hon. Ethuro): Hon. Senators, we have a visiting delegation from Bakhita Caron Girls from West Pokot County.

(Applause)

VISITING DELEGATION FROM CARDINAL OTUNGA BOYS
HIGH SCHOOL MOSOCHO, KISII COUNTY

The Speaker (Hon. Ethuro): Hon. Senators, we also have a visiting delegation from Cardinal Otunga Boys High School Mosocho, Kisii County.

(Applause)

VISITING DELEGATION FROM MUSENGO
PRIMARY SCHOOL KITUI COUNTY

The Speaker (Hon. Ethuro): Hon. Senators, we also have a visiting delegation from Musengo Primary School Kitui County.

(Applause)

On behalf of the Senate and on my own behalf, I extend a warm welcome to the students, pupils and the honorable MCAs and wish them a happy and fruitful visit.

Monday, 6th October, 2014 – Joint Sitting of the Senate and National Assembly

COMMUNICATION FROM THE CHAIR

CONVENING OF SPECIAL SITTING OF PARLIAMENT
FOR ADDRESS BY THE PRESIDENT

The Speaker of the National Assembly (Hon. Muturi): Your Excellency, the Hon. Uhuru Kenyatta, President of the Republic of Kenya and Commander in Chief of the Kenya Defence Forces, the hon. Speaker of the Senate, Senator Ekwe Ethuro, hon. Members of Parliament, Article 132(1)(b) of the Constitution provides that the President shall address a special sitting of Parliament once every year and may address Parliament at any other time. Following a request from the Office of the President, and pursuant to the said Article of the Constitution and, further, pursuant to the Standing Order No.22 of the National Assembly Standing Orders, by Gazette Notice No.6990, which was published in a special issue of the *Kenya Gazette* on 3rd October, 2014, I gave notice of this Joint Sitting to the Members of the National Assembly. Similarly, pursuant to Article 132(1)(b) of the Constitution, and further pursuant to the Standing Order No.22 of the Senate Standing Orders, by Gazette Notice No.6991, which was published in a special issue of the *Kenya Gazette* on 3rd October, 2014, the Speaker of the Senate gave notice of this Joint Sitting to the Senators.

Accordingly, hon. Members, this Joint Sitting is properly convened, and it is now my singular honour and privilege to invite His Excellency the President of the Republic of Kenya to address this Joint Sitting of Parliament.

I thank you.

(Applause)

Wednesday, 22nd October, 2014

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF AFRICAN INDEPENDENT PENTECOSTAL
CHURCH OF AFRICA FROM NAIROBI COUNTY

The Speaker (Hon. Ethuro): Hon. Senators, before Sen. (Prof.) Lesan takes the Floor, let us acknowledge the presence in the public gallery of the African Independent Pentecostal Church of Africa, Bahati Academy, from Nairobi County.

(Applause)

Tuesday, 28th October, 2014

COMMUNICATION FROM THE CHAIR

PRESENCE OF THE FORMER PRIME MINISTER
IN THE SPEAKER'S GALLERY

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Members, I would like to take this opportunity to recognise the presence – on the front row of the Speaker's Gallery – of the former Prime Minister of the Republic of Kenya, hon. Raila Amolo Odinga, who I believe has come for the very first time to see the deliberations of the Senate under the new Constitution. I wish to welcome him on my own behalf and on behalf of all the Senators here present. I hope he will find our proceedings befitting of the House of Senate. Welcome. We are grateful that you have found the time to come to see how the Senate operates. *Karibu sana.*

Tuesday, 4th November, 2014

COMMUNICATION FROM THE CHAIR

RETREAT ON PLACE OF THE SENATE IN DRIVING DEVOLUTION AGENDA

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I have a small Communication to make.

The Office of the Speaker of the Senate has organized a two-day retreat for all Senators to deliberate and reflect on the achievements of the Senate and strategize on how to fulfill constitutional obligations on devolution. The theme of the retreat is “The Place of the Senate in Driving The Devolution Agenda”. The retreat will be held on Sunday 9th and Monday 10th November, 2014 at the Serena Beach Hotel and Spa, Mombasa County. Participants are expected to travel to Mombasa on the evening of Saturday 8th November, 2014 or in the morning of Sunday, 9th November, 2014. Departures from Mombasa are scheduled for the evening of Monday 10th November, 2014 or the morning of Tuesday, 11th November, 2014. All honourable Senators are requested to attend and participate in this important retreat. Honourable Senators are also requested to indicate their preferred flight time to the secretariat in the Office of the Speaker.

Thank you.

Wednesday, 5th November, 2014

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM MIGORI COUNTY ASSEMBLY

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, in the galleries, we have staff members of Migori County Assembly. I will acknowledge them by calling out their names:-

Michael Orwa, Administrative Assistant;

Matiku Alcent, Records Management Officer;

Winnie A. Odit, Librarian; and,

Teresiah Nyamohanga, Assistant Librarian.

Feel welcomed in the Senate. I hope that you will learn something from your visit. I am happy to see that your Senator is in the House this afternoon.

(Applause)

Thursday, 6th November, 2014

COMMUNICATIONS FROM THE CHAIR

DELEGATION FROM AIC CHEBISAAS BOYS SECONDARY
SCHOOL AT THE PUBLIC GALLERY

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I wish to recognise in the first instance, the presence of students and teachers from AIC Chebisaas Boys Secondary School in Uasin Gishu County who are seated in the public gallery. On behalf of the Senate and on my own behalf, I extend a warm welcome to them and wish them a happy and fruitful visit. I also hope and trust that they will learn something important when they go back to their school.

DELEGATION FROM MOMBASA COUNTY ASSEMBLY
AT THE SPEAKER'S GALLERY

Hon. Senators, I also wish to recognise in the Speaker's Gallery Members of the Mombasa County Assembly, members of the Committee of Justice, Labour and Legal Affairs. This morning, there was a meeting between committees of five counties, the equivalent of a committee of justice and legal affairs. The ones from Mombasa have to come to see what we do here. I wish to recognise them in the usual manner. I will mention their names and when the name is mentioned, please, rise and bow and you will be acknowledged in the usual manner of the Senate.

Hon. Jimmy Ondari	-	Chairman of the Committee
Hon. Jabes M. Oduor	-	Member
Hon. Lucy Chizi Chireli	-	Member
Hon. Tom Ogalo	-	Member
Hon. Patrick Simiyu	-	Member
Mr. Abdallah Hamisi	-	Clerk Assistant.

Again, welcome to the Senate and I hope you are going to enjoy our proceedings for the period that you are going to be there.

Tuesday, 11th November, 2014

COMMUNICATION FROM THE CHAIR

VISITING DELEGATION OF OFFICERS FROM THE SENATE
OF THE STATE OF WISCONSIN, USA

The Speaker (Hon. Ethuro): Hon. Senators, I wish to acknowledge the presence of two distinguished guests who are seated at the Speaker's gallery namely, Mr. Donald (Don) J. Schneider and Ms. Lucinda (Cindy) L. Ashley.

Hon. Senators, Mr. Donald J. Schneider is a distinguished legislative veteran who served as the Chief Administrative Officer/Chief Clerk of the Senate of the State of Wisconsin, United States of America (USA) from 1977 through to 2003. After that, Mr. Schneider served as a parliamentarian and an advisor to the Senate leaders on administrative matters.

Mr. Schneider has an equally impressive international background, having provided technical assistance to not less than 25 overseas Parliaments. His areas of expertise include legislative processes, parliamentary procedures, internal management, capacity building, and record-keeping. He is also a leading specialist on the application of information technologies to legislative institutions.

Hon. Senators, Ms. Lucinda (Cindy) L. Ashley is a Senior Leadership Legislative Staff veteran who served as the Chief of Staff for the President of the Wisconsin State Senate, USA, for most of her legislative career spanning 1976 to 2003. Her areas of expertise include leadership and staff operations, Senate and Assembly relations, legislative and executive relations, and legislative issues development, legislative committee coordination, training of new legislative staff, constituent relations, local government relations, press relations, campaign coordination and development.

The two distinguished persons are in the country at the invitation of the Senate to assist in building capacity of our staff on the workings of a legislature in a bicameral system. In the past, they have organized visits for our Senators and staff to various USA State legislatures and are very good friends of the Kenyan Senate.

On behalf of the Senate and on my own behalf, I extend a warm welcome to them on your behalf and wish them a happy stay in Kenya. I hope that they will find time to sample the rich hospitality of the Kenyan people and the beautiful landscape.

Thank you.

Hon. Senators, can we applause them in our traditional manner?

(Applause)

Wednesday, 19th November, 2014

COMMUNICATION FROM THE CHAIR

DEMISE OF SENATOR FOR HOMA BAY COUNTY,
SEN. GERALD OTIENO KAJWANG

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

Hon. Senators, it is with a very heavy heart that I rise to issue this communication to inform you of the untimely demise of our colleague, the Senator for Homa Bay County, Sen. Gerald Otieno Kajwang. Most of you by now are privy to the news of the passing on of the Hon. Senator. Sen. Kajwang passed on last night at around 11.30 p.m. at The Mater Hospital in Nairobi where he was rushed for treatment by family members after complaining of breathing problems and chest pains at his Nairobi home.

Sen. Kajwang was born on 2nd July 1956 in Waondo Village in Mbita, Homa Bay County. He went to Waondo Primary School, Mbita High School and Maseno School, before joining the University of Nairobi and later Makerere University where he graduated with a degree in law in 1982. He was admitted as an advocate of the High Court of Kenya in March 1984, after which he started private legal practice.

Hon. Senators, the late Sen. Kajwang was first elected to Parliament in December 1997 to represent Mbita Constituency. During his first term as a Member of Parliament (MP), the late Kajwang served as the Chairperson of the Departmental Committee on the Administration of Justice and Legal Affairs, Member of the Liaison Committee and Member of the Standing Orders Committee.

The late Kajwang was re-elected to represent Mbita Constituency in the Ninth Parliament of 2003 to 2007. During this term, he was a Member of the Public Investments Committee (PIC) and the Standing Orders Committee. In the Tenth Parliament of 2008 to 2013, the late Kajwang, who had been re-elected for a third term, served as the Minister of State for Immigration and Registration of Persons, a position he held until March 2013 when he was elected the first Senator for Homa Bay County.

Until his untimely demise, the late Kajwang was serving his fourth consecutive term as a Member of Parliament. In recognition of his distinguished service, he was decorated with the National Honour of Elder of the Golden Heart (EGH) by his Excellency the President in 2008.

In the Senate, the late Kajwang was an active Member of the Standing Committees of Roads and Transportation and Agriculture, Livestock and Fisheries.

The late Kajwang was a believer in democracy and human rights. He served in leadership positions of various political parties, the latest being service as the Chairperson of the Homa Bay branch and a Member of the National Executive Committee of the Orange Democratic Movement (ODM) party. It is during his activities as a mobiliser and crusader of democracy that he coined the *Bado Mapambano* clarion, with which he has become synonymous over the years.

Hon. Senators, death has robbed this nation of a great son, an illustrious servant, an astute lawyer, a relentless worker and a gallant politician, whose contribution in the respective fields, I am sure, will be greatly missed.

On behalf of all Senators, staff of the Senate and on my own behalf, I wish to convey our deepest condolences to the family; may the almighty God grant comfort to his family, friends,

relatives, the good people of Homa Bay County and the nation at large, during this very painful and sorrowful period. May the Lord give us all the strength to bear this tragic loss and may the good Lord rest his soul in eternal peace.

Hon. Senators, the Senate fraternity and in solidarity with the family of our late colleague, the Rules and Business Committee (RBC) met this morning and has appointed the following to constitute a funeral committee to assist in funeral arrangements for our late colleague. The Membership will be:-

- | | | |
|---------------------------------|---|------------------------|
| 1. Sen. Kembi-Gitura | - | Deputy Speaker |
| 2. Sen. (Prof.) Kindiki Kithure | - | Senate Majority Leader |
| 3. Sen. Moses Wetangula | - | Senate Minority Leader |
| 4. Sen. Beth Mugo | | |
| 5. Sen. Kiraitu Murungi | | |
| 6. Sen. James Orengo | | |
| 7. Sen. Kipchumba Murkomen | | |
| 8. Sen. Johnstone Muthama and | | |
| 9. Sen. (Dr) Agnes Zani | | |

These Senators will be joined in the committee by six of our colleagues from the National Assembly.

Hon. Senators, in honour of our departed colleague, the RBC met today, like I have said, at 12 noon and resolved to request the Speaker to rearrange today's business pursuant to Standing Order 39(2) to allow Senators to eulogise the late Kajwang.

I accordingly wish to inform you that the business of the Senate this afternoon will conclude at Order No.2. On the conclusion of this communication, I will provide an opportunity for Senators to eulogies our departed colleague after which the Senate will adjourn until tomorrow.

Further arrangements and details will be communicated to you in due course and we shall continue to update you on all the developments. We shall also give you communications as necessary between now and the day that his body shall be laid to rest.

Hon. Colleagues, in our usual parliamentary tradition, let us stand in silence for one minute in honour of our late colleague and friend, Sen. Otieno Kajwang. May I request the Senators who are standing at the door to come in so that we can all stand in solidarity with our departed colleague.

(Hon. Senators stood up in their places and observed a minute of silence)

Thank you, hon. Senators.

Hon. Senators, as I have said in my Communication to you, that is the position we are in today. It is for that reason that we will spend the rest of the afternoon eulogizing our late colleague after which the House shall stand adjourned. If you wish to contribute in this manner, you could please indicate.

Proceed, Sen. (Prof.) Kithure Kindiki.

Thursday, 20th November, 2014

COMMUNICATION FROM THE CHAIR

VISIT BY MEMBERS OF PARLIAMENT TO THE
RESIDENCE OF THE LATE SEN. KAJWANG

The Temporary Speaker (Sen. (Dr.) Machage): Order, hon. Members.

Hon. Senators, as you may recall, yesterday, Wednesday, 19th November, 2014, I made a communication regarding the passing on of the Senator for Homa Bay County, the late Sen. Otieno Kajwang. In the communication, I indicated that the two Speakers have constituted a committee comprising of Senators and Members of the National Assembly to assist in the funeral arrangements of our departed colleague.

Hon. Senators, I now wish to inform you that the committee met today and agreed that a visit by all Members of Parliament to condole with the family in their Runda residence, Nairobi, be made on Tuesday 25th November, 2014, at 9.30 a.m. I repeat, Tuesday, 25th November, 2014, at 9.30 a.m.

In this regard, pool transport has been organized and we will depart from Parliament Buildings at 9.00 a.m. on the said day. Due to logistical challenges including parking space, hon. Members are requested to make use of the pool transport to and from the residence. Other funeral arrangements including the burial date will be announced later after consultations with the family of the late Senator.

Thank you.

Tuesday, 30th December, 2014 – Special Sitting

COMMUNICATION FROM THE CHAIR

CONVENING OF SPECIAL SITTING OF THE SENATE TO CONSIDER
PASSAGE OF THE SECURITY LAWS (AMENDMENT) BILL, (NATIONAL
ASSEMBLY BILLS NO.39 OF 2014) BY THE NATIONAL ASSEMBLY

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

First, I wish to welcome you from the Christmas holiday and also thank you for finding time from the busy December festivities to attend this Special Sitting of the Senate. By a letter dated 23rd December, 2014 and pursuant to Standing Order No.29(1) of the Senate Standing Orders, the Senate Minority Leader, supported by at least 15 other Senators, requested the Speaker to appoint a day for a Special Sitting of the Senate to deliberate on the matter of the introduction, debate, passage and the enactment of the Security Laws (Amendment) Bill, (National Assembly Bills No.39 of 2014), which is now the law.

Hon. Senators, having considered the request by the Senate Minority 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.9288 of 23rd December, 2014, which was carried in a Special Issue of the Gazette of 24th December, 2014.

Standing Order No.29(5) requires that whenever the Senate meets for a Special Sitting, the Speaker shall specify the business to be transacted on the appointed day and the business so specified shall be the only business before the Senate during the Special Sitting following which the Senate shall stand adjourned until the day appointed in the Senate Calendar. In this case, Tuesday, 10th February, 2015.

Indeed, hon. Senators will observe that at Order No.2 on today's Order Paper – I hope everybody has a copy of the Order Paper – pursuant to these provisions of the Standing Orders, and as indicated in the Gazette Notice, the Senate Minority Leader will be giving notice of a Motion for the deliberation on the introduction, debate, passage and the enactment of the Security Laws (Amendment) Bill, (National Assembly Bills No.39 of 2014). You will also observe that the Motion has, with the approval of the Speaker, been listed at Order No.3 of the Order Paper.

Hon. Senators, it is noteworthy, and I wish to emphasize to all hon. Senators that debate on the Motion shall be limited to the substance of the Motion; namely, the manner of the introduction, debate, passage and enactment of the Security Laws (Amendment) Bill, (National Assembly Bills No.39 of 2014). It is, therefore, not permissible and out of order for any matter to be introduced or canvassed other than the Motion before the Senate. I will not hesitate to invoke the Standing Orders for any matter that is outside this.

Hon. Senators, it is also my expectation, that matters of this nature are emotive, that you remain sober, relevant and bring the issues that are pertinent to the debate.

I thank you.