



REPUBLIC OF KENYA

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ELEVENTH PARLIAMENT – FOURTH SESSION

THE SENATE

VOTES AND PROCEEDINGS

SPECIAL SITTING

WEDNESDAY, SEPTEMBER 07, 2016 AT 10.00 A.M.

1. The Senate assembled at Ten O'clock.
2. The Proceedings were opened with Prayer said by the Speaker.

3. **COMMUNICATION FROM THE CHAIR**

The Speaker conveyed the following Communications from the Chair-

a) On the Special Sitting of the Senate.

“Honourable Senators, let me take this opportunity to once again welcome you back for this Special Sitting of the Senate which is the fourth during the current recess. Additionally, Hon. Senators, we shall, tomorrow, Thursday, 8th September, 2016, have the 5th Special Sitting during this recess. Your finding time to come each time you are required is a clear demonstration of your dedication to the service of the people of Kenya and your readiness to execute your constitutional mandate. I urge that you continue in this spirit.

Honourable Senators, today's and tomorrow's Special Sitzings have been convened following a letter by the Senate Majority and Minority Leaders, dated 5th September, 2016 and supported by the requisite number of Senators, requesting the Speaker to appoint Wednesday, 7th September, 2016 and Thursday, 8th September 2016 as days for Special Sitzings of the Senate to consider;

- 1) The Elections Laws (Amendment) Bill 2016;
- 2) The Election Offences Bill, 2016;
- 3) The proposed removal from office, by impeachment of the Governor of Nyeri County; and
- 4) Other urgent business pending before the Senate.

Following consideration of the request which the two leaders made pursuant to Standing Order 29 (1) of the Senate Standing Orders, I was satisfied that it met the requirements of Standing Order 29 (2). It is in this respect that I convened these

special sittings of the Senate via a *Gazette notice No. 7174* which was published on 6th September, 2016.

Honourable Senators, as specified in the Gazette Notice and in accordance with standing order 29(5) of the Senate Standing Orders, the business specified in the Notice shall be the only business before the Senate during these Special Sittings, following which the Senate shall stand adjourned in accordance with the Senate Calendar.

I thank you."

b) On the proposed removal from office, by impeachment, of the Governor of Nyeri County.

"Honourable Senators,

By a letter received in the Office of the Speaker of the Senate on Monday, 5th September, 2016, the Speaker of the County Assembly of Nyeri informed the Speaker of the Senate of the approval of a Motion by the County Assembly of Nyeri for the removal from office, by impeachment, of the Governor of Nyeri County. The Speaker of the County Assembly also forwarded the following documents:-

- 1) The Resolution of the County Assembly of Nyeri specifying the grounds for the proposed impeachment of the Governor of Nyeri County;
- 2) The Division list of the County Assembly of Nyeri on the Motion for Impeachment;
- 3) The Motion for impeachment of the Governor of Nyeri County together with signatures of the Members of County Assembly in support of the Motion.

Hon. Senators,

In terms of Article 181 of the Constitution, Section 33(3)(a) of the County Governments Act, 2012 and Standing Order 68(1)(a) of the Senate, the Speaker of the Senate is required "*within seven days after receiving notice of a resolution from the Speaker of a county assembly to convene a meeting of the Senate to hear charges against the Governor.*"

Consequently Honourable Senators, pursuant to Section 33(3)(a) of the County Governments Act, 2012 and Standing Order 68(1)(a) of the Senate Standing Orders, I convened this Sitting of the Senate, through Kenya *Gazette* Notice No. 7174, published on 6th September, 2016.

And now Honourable Senators, pursuant to Section 33(3) of the County Governments Act, 2012 and Standing Order 68(1)(a) of the Senate, I hereby proceed to read the charges against Hon. James Nderitu Gachagua, the Governor of Nyeri County.

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

Particulars include:-

- 1) Failing to account or make proper disclosure of Ksh. 352, 976, 913/= contrary to Article 201 (a) of the Constitution of Kenya 2010 and Section 104 (1) (i) of the Public Finance Management Act, 2012.
- 2) Utilizing local revenue at source contrary to Article 207 of the Constitution of Kenya 2010 and Section 109 of the Public Finance Management Act, 2012.
- 3) Irregular procurement contrary to the Public Procurement and Disposal Act, 2005.
- 4) Lack of prudence in refurbishment of buildings amounting to Ksh. 81,384,118.40 in contravention of Article 201 (d) of the Constitution of Kenya 2010 and Section 104 (1) (i) of the Public Finance Management Act, 2012.
- 5) Splitting of tenders contrary to Section 30 of the Public Procurement and Disposal Act, 2005.
- 6) Lack of prudence in use of public funds contrary to Section 201 (d) of the Constitution of Kenya, 2010 and Section 104 (1) (i) of the Public Finance Management Act, 2012.
- 7) Failure to establish the County Budget and Economic Forum as stipulated under Section 137 of the Public Finance Management Act, 2012.
- 8) Undermining the Legislative Authority of the County Assembly contrary to Article 185 of the Constitution of Kenya, 2010 and delaying the budget making process.
- 9) Failure to consider and/or assent to County Bills passed by the County Assembly contrary to Section 30 (2) (g) of the County Governments Act, 2012.

Ground B: Failure To Comply With The Law

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

- 1) Violation of Article 41 (1) of the Constitution of Kenya, 2010 that ensures every person the right to fair labour practices and Section 19 of the Employment Act by failing to remit and/or delaying the remittance of statutory deductions of County officers i.e. NHIF, NSSF, Voluntary pension contributions and political parties remittances.
- 2) Contravention of Section 109 (4) (b) of the Public Finance Management Act by the County Executive under the stewardship of the Governor by deliberately delaying release of salaries for the Month of July, 2016 for Members of the County Assembly and staff of the County Assembly.
- 3) Failure to define the responsibility of every member of the County Executive Committee by Notice in the Gazette contrary to Section 30 (2) (i) of the County Governments Act.

- 4) Establishment of extra sub-counties in Nyeri County in contravention of Section 48 (1)(b) of the County Governments Act and without the approval of the Assembly.
- 5) Failing to consider gender parity, representation of minorities, marginalized, the community and cultural diversity in composing the County Executive Committee.

Ground C: Abuse of Office/Gross Misconduct

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

- 1) Appointment of a County Secretary (Ms. Alice Njamiu Wachira) in acting position for an indefinite period of time, contrary to Sections 44 and 64 of the County Governments Act. The said Acting County Secretary had, via a resolution of the County Assembly, been found unsuitable to hold the position and further resolved that the County Secretary vacates office, a resolution that was ignored by the Governor.
- 2) Appointment of an Acting Secretary of the County Public Service Board from among officers of the County Government who has not been vetted, contrary to Section 58 of the County Governments Act.
- 3) Operating for a long duration with perennial acting County Executive Committee Members and acting Chief Officers who have not been vetted by the County Assembly, thereby jeopardizing service delivery and accountability in the County.

Honourable Senators,

Section 33(3)(b) of the County Governments Act and Standing Order 68(1)(b) of the Senate Standing Orders both provide that the Senate, by Resolution, may appoint a Special Committee comprising eleven of its members to investigate the matter.

Honourable Senators will observe that in today's Order Paper, pursuant to these provisions of the law, and the Gazette Notice, the Senate Majority Leader will be giving Notice of a Motion for the establishment of a Special Committee. You will also observe that the Motion has, with the approval of the Speaker, been listed on the Order Paper.

Honourable Senators,

Should the Motion for the establishment of the Special Committee pass, the Special Committee will be required, under Section 33(4) of the County Governments Act and Standing Order 68(2), to investigate the matter and to report to the Senate within 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, 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 Honourable Senators, that debate on the Motion shall be limited to the substance of the Motion, namely; whether to establish a Special Committee consisting of the Senators listed to investigate the proposed removal of the Governor of Nyeri County. It is not a Motion on the propriety, prudence or even the constitutionality or the legality of the processes that have preceded the submission of this matter to the Senate. It is not a debate on the facts of the matter or their merits. It is, therefore, not permissible to deviate to any matters other than the Motion before the Senate.

Honourable Senators,

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 solemn functions of the Senate under the Constitution. I, therefore, once again, urge that the Senate rises to the occasion and exercises the highest level of responsibility on this matter in Plenary and also, should the Motion by the Senate Majority Leader pass, in the Special Committee.

I thank you."

4. MESSAGES FROM THE NATIONAL ASSEMBLY

The Speaker conveyed the following Messages from the National Assembly-

a) On the adoption of the Report of the Joint Parliamentary Select Committee on Matters Relating to the Independent Electoral and Boundaries Commission.

"Hon. Senators,

I wish to report to the Senate that, pursuant to Standing Order 40 (3) and (5), I received the following Message from the Speaker of the National Assembly on 26th August, 2016, regarding the adoption of the Report of the Joint Parliamentary Select Committee on Matters relating to the Independent Electoral and Boundaries Commission (IEBC):-

"PURSUANT to the provisions of Standing Order 41 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

WHEREAS, the Report of the Joint Select Committee on *Matters Relating to the Independent Electoral and Boundaries Commission (IEBC)* was considered in the National Assembly on August 25, 2016;

AND WHEREAS, by resolution, the National Assembly adopted the said Report with amendments whose effect is to *delete sub-Paragraph (7) of Paragraph 659 on Page 215 of the Report*;

NOW THEREFORE, in accordance with the provisions of Standing Order 41 of the National Assembly Standing Orders, and the Houses of Parliament (Joint Sittings) Rules, I hereby forward the said decision to the Senate".

I thank you."

b) On the passage of the Election Laws (Amendment) Bill (National Assembly Bill No. 37 of 2016) and the Election Offences Bill (National Assembly Bill No. 36 of 2016)

"Hon. Senators,

I wish to report to the Senate that, pursuant to Standing Order 40 (3) and (5), I received the following Message from the Speaker of the National Assembly, on 2nd September, 2016, regarding the passage, by the National Assembly, of the Election Laws (Amendment) Bill (National Assembly Bill No. 37 of 2016) and the Election Offences Bill (National Assembly Bill No. 36 of 2016):-

"PURSUANT to the provisions of Standing Orders 41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

WHEREAS, the Election Laws (Amendment) Bill (National Assembly Bill No. 37 of 2016), was published *vide* Kenya Gazette Supplement No. 141 of 26th August, 2016 as a Bill concerning county governments and seeking to amend the Elections Act, 2011, the Independent Electoral and Boundaries Commission Act, 2011, the Political Parties Act, 2011, the Supreme Court Act, 2011 and the Registration of Persons Act, Cap 106, in order to actualize the recommendations of the Joint Parliamentary Select Committee on matters relating to the Independent Electoral and Boundaries Commission and the conduct of elections;

WHEREAS, the Election Offences Bill (National Assembly Bill No. 36 of 2016), was published *vide* Kenya Gazette Supplement No. 140 of 26th August, 2016 as a Bill concerning county governments and seeking to consolidate offences relating to elections into one law and to give effect to the recommendations of the Joint Parliamentary Select Committee on matters relating to the Independent Electoral and Boundaries Commission and the conduct of elections;

AND WHEREAS, the National Assembly considered and passed the two Bills without amendments on Thursday 1st September, 2016;

NOW THEREFORE, in accordance with the provisions of Article 110(4) of the Constitution and Standing Order 142 of the National Assembly Standing Orders, I hereby refer the said two Bills to the Senate for consideration".

Hon. Senators,

Pursuant to Standing Order No. 148 that requires a Bill which originates in the National Assembly to be proceeded with, by the Senate, in the same manner as a Bill introduced in the Senate by way of First reading in accordance with Standing Order No. 129, I directed that the Bills be listed for First Reading in today's Order Paper.

In order to facilitate public participation pursuant to the provisions of Standing Order 130 (4), I now direct the Standing Committee on Legal Affairs and Human Rights to ensure the exercise is undertaken after the rise of the House today, following which the Bills will be considered at Second Reading, Committee of the Whole and Third Reading stages tomorrow, Thursday, 8th September 2016.

I further direct the Committee to submit a report on the Bills at the commencement of the sitting tomorrow.

I thank you."

c) On the approval of the Land Laws (Amendment) Bill (National Assembly Bill No. 55 of 2015) and the Community Land Bill (National Assembly Bill No. 45 of 2015)

"Hon. Senators,

I wish to report to the Senate that, pursuant to Standing Order 40 (3) and (5), I received the following Message from the Speaker of the National Assembly, on 5th August, 2016, regarding the Approval, by the National Assembly, of the Mediated versions of the Land Laws (Amendment) Bill (National Assembly Bill No. 55 of 2015) and the Community Land Bill (National Assembly Bill No. 45 of 2015):-

"PURSUANT to the provisions of Standing Orders 41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

WHEREAS the Senate, on Wednesday, June 15, 2016 rejected the Land Laws (Amendment) Bill (National Assembly Bill No. 55 of 2015) and the Community Land Bill (National Assembly Bill No. 45 of 2015) at Second Reading, the impact of which the said Bills were referred to a Mediation Committee;

AND WHEREAS the National Assembly, by way of resolution passed on Thursday, August 4, 2016, considered the report of the Mediation Committee and approved the mediated versions of the said Bills;

NOW THEREFORE, in accordance with the provisions of Article 113 of the Constitution and Standing Order 150 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate."

Hon. Senators,

I wish to inform you that the said Bills have since been Assented to by H.E the President.

I thank you."

d) on the approval of the mediated versions of the Forest Conservation and Management Bill (National Assembly Bill No. 49 of 2015) and the Natural Resources (Classes of Transactions Subject to Ratification) Bill (National Assembly Bill No. 54 of 2015)

"Hon. Senators,

I wish to report to the Senate that, pursuant to Standing Order 40 (3) and (5), I received the following Message from the Speaker of the National Assembly, on 29th August, 2016, regarding the approval, by the National Assembly, of the mediated versions of the Forest Conservation and Management Bill (National Assembly Bill No. 49 of 2015) and the Natural Resources (Classes of Transactions Subject to Ratification) Bill (National Assembly Bill No. 54 of 2015):-

"PURSUANT to the provisions of Standing Orders 41 and 149 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

WHEREAS the Forest Conservation and Management Bill (National Assembly Bill No. 49 of 2015) and the Natural Resources (Classes of Transactions Subject to Ratification) Bill (National Assembly Bill No. 54 of 2015), were published on 11th August, 2015 and 18th August, 2015 respectively to correspondingly give effect to the provisions of Articles 69 and 71 of the Constitution;

WHEREAS, the two Bills were referred to a Mediation Committee on 4th August 2016 pursuant to the provisions of Article 112 (2)(b) of the Constitution and Standing Order 148 (b) of the National Assembly Standing Orders;

AND WHEREAS, on 24th August 2016, the National Assembly considered and adopted the Report of the Mediation Committee and approved the mediated versions of the said Bills in the form developed by the Committee;

NOW THEREFORE, in accordance with the provisions of Article 113 of the Constitution and Standing Order 149 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate".

Hon. Senators,

As you may recall, the Senate passed the mediated versions of the said two Bills, on Wednesday, 24th August, 2016 and a Message to that effect sent to the National Assembly. The said Bills have since been Assented to by H.E the President.

I thank you."

e) On the Approval of the Protection of Traditional Knowledge and Cultural Expressions Bill (National Assembly Bill No. 48 of 2015)

"Hon. Senators,

I wish to report to the Senate that, pursuant to Standing Order 40 (3) and (5), I received the following Message from the Speaker of the National Assembly, on 29th August, 2016, regarding the approval, by the National Assembly, of the Protection of the Traditional Knowledge and Cultural Expressions Bill (National Assembly Bill No. 48 of 2015):-

"PURSUANT to the provisions of Standing Orders 41 and 148 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

WHEREAS, the Traditional Knowledge and Cultural Expressions Bill (National Assembly Bill No. 48 of 2015) was published *vide* Kenya *Gazette* Supplement No. 132 of 11th August, 2015 to give effect to the provisions of Article 11, 40(5) and 69(1)(c) of the Constitution, relating to culture by providing for promotion and protection of indigenous knowledge, cultural expressions and intellectual property rights, further to which the National Assembly passed the Bill on Tuesday, 15th March 2016 and referred it to the Senate for consideration;

AND WHEREAS, the Senate's amendments to the Bill were thereafter referred to the National Assembly on Tuesday, 19th July, 2016 and were thereupon considered and agreed to on Tuesday 23rd August, 2016;

NOW THEREFORE, in accordance with the provisions of Article 112(2)(a) of the Constitution and Standing Order 148 (a) of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate".

Hon. Senators,

The said Bill has since been Assented to by H.E the President.

I thank you."

f)On the approval of the Access to Information Bill (National Assembly Bill No. 36 of 2015) & the Fisheries Management and Development Bill (National Assembly Bill No. 20 of 2014)

"Hon. Senators,

I wish to report to the Senate that, pursuant to Standing Order 40 (3) and (5), I have received the following Message from the Speaker of the National Assembly, on 17th August, 2016, regarding the Approval by the National Assembly, of the Access to Information Bill (National Assembly Bill No. 36 of 2015) and the Fisheries Management and Development Bill (National Assembly Bill No. 20 of 2014):-

"PURSUANT to the provisions of Standing Orders 41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

WHEREAS, the Access to Information Bill (National Assembly Bill No. 36 of 2015) was published *vide* Kenya Gazette Supplement No. 94 of 30th June, 2015 to give effect to the provisions of Article 35 of the Constitution, relating to the right to information, by facilitating access to information held by Government Ministries and other public Authorities through proactive publication and dissemination of information;

WHEREAS, the Fisheries Management and Development Bill (National Assembly Bill No. 20 of 2014) was published *vide* Kenya Gazette Supplement No. 45 of 4th April, 2014 to provide for conservation, management and development of fisheries and other aquatic resources and to establish the Kenya Fisheries Service;

WHEREAS, the National Assembly passed the two Bills on Thursday, 28th April 2016 and Wednesday, 30th September, 2015, respectively and referred them to the Senate for Consideration;

AND WHEREAS, the National Assembly received Senate amendments to the two Bills on Tuesday, 19th July, 2016;

FURTHER WHEREAS, the National Assembly by a resolution passed on Thursday, 11th and Tuesday, 16th August 2016, Considered and agreed with Senate on its amendments on the two Bills;

NOW THEREFORE, in accordance with the provisions of Article 112 of the Constitution and Standing Order 149 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate."

Hon. Senators,

I also wish to inform you that the said Bills have since been Assented to by H.E the President.

I thank you."

g) On the Approval of the Mediated Version of the Water Bill (National Assembly Bill No. 8 of 2014)

"Hon. Senators,

I wish to report to the Senate that, pursuant to Standing Order 40 (3) and (5), I received the following Message from the Speaker of the National Assembly, on 17th August, 2016, regarding the approval, by the National Assembly, of the Mediated version of the Water Bill (National Assembly Bill No. 8 of 2014):-

"PURSUANT to the provisions of Standing Orders 41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

WHEREAS, the National Assembly, by way of a resolution, considered and passed on Wednesday 10th August, 2016 the report of the Mediation Committee and approved the mediated version of the Bill in the form developed by the Mediation Committee on 21st July, 2016;

NOW THEREFORE, in accordance with the provisions of Article 113 of the Constitution and Standing Order 150 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate."

I thank you."

h) On the Approval of the Mediated Versions of the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 44 of 2015) and the Energy Bill (National Assembly Bill No. 50 Of 2015)

"Hon. Senators,

I wish to report to the Senate that, pursuant to Standing Order 40 (3) and (5), I received the following Message from the Speaker of the National Assembly, on 29th August, 2016, regarding the approval, by the National Assembly, of the mediated versions of the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 44 of 2015) and the Energy Bill (National Assembly Bill No. 50 of 2015):-

"PURSUANT to the provisions of Standing Orders 41 and 149 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly-

WHEREAS, the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 44 of 2015) and Energy Bill (National Assembly Bill No.

50 of 2015) were published on 11th August, 2015 to give effect to relevant provisions of the Constitution of Kenya 2010;

WHEREAS, the two Bills were referred to a Mediation Committee on 9th and 10th August 2016, correspondingly, pursuant to the provisions of Article 112 (2)(b) of the Constitution and Standing Order 148 (b) of the National Assembly Standing Orders;

AND WHEREAS, on 25th August 2016, the National Assembly considered and adopted the Report of the Mediation Committee and approved the mediated versions of the said Bills in the form developed by the Committee;

NOW THEREFORE, in accordance with the provisions of Article 113 of the Constitution and Standing Order 149 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate".

Hon. Senators,

As you may recall, the Senate passed the mediated versions of the said two Bills, on Wednesday, 24th August, 2016 and a Message to that effect sent to the National Assembly. The said Bills have since been Assented to by H.E the President.

I thank you."

5. NOTICE OF MOTION

THAT, WHEREAS, pursuant to Article 181 of the Constitution and section 33 of the County Governments Act, 2012, on 2nd September, 2016, the County Assembly of Nyeri approved a Motion *"to remove from office, by impeachment,"* the Governor of Nyeri County;

AND FURTHER, WHEREAS by letter dated 2nd September, 2016 (Ref. No. CAN/SEN/PMNT/COR/2/ (3) received in the Office of the Speaker of the Senate on 5th September, 2016, the Speaker of the County Assembly of Nyeri informed the Speaker of the Senate of the approval of the Motion by the County Assembly and further forwarded to the Speaker of the Senate documents in evidence of the proceedings of the Assembly;

AND WHEREAS, pursuant to section 33(3)(b) of the County Governments Act, 2012 and standing order 68(1)(b) of the Senate, the Senate by resolution, may appoint a special committee comprising eleven of its Members to investigate the matter;

NOW THEREFORE, pursuant to section 33(3)(b) of the County Governments Act, 2012 and standing order 68(1)(b), the Senate resolves to establish a special committee comprising the following Senators:-

1. Sen. Lenny Kivuti
2. Sen. Peter Mositet
3. Sen. Kimani Wamatangi
4. Sen. Billow Kerrow
5. Sen. Isaac Melly
6. Sen. Joy Gwendu
7. Sen. George Munyasa Khaniri
8. Sen. Stewart Mwachiru Madzayo
9. Sen. Judith Achieng' Sijeny
10. Sen. Moses Kajwang'
11. Sen. Janet Ong'era

to investigate the proposed removal from office of the Governor of Nyeri County and to report to the Senate within ten (10) days of its appointment on whether it finds the particulars of the allegations to have been substantiated.

(The Senate Majority Leader)

6. **THE ELECTION OFFENCES BILL (NATIONAL ASSEMBLY BILL NO. 36 OF 2016)**
(The Senate Majority Leader)

Order for First Reading read;

Bill read a First time and committed to the Standing Committee on Legal Affairs and Human Rights.

7. **THE ELECTION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 37 OF 2016)**
(The Senate Majority Leader)

Order for First Reading read;

Bill read a First time and committed to the Standing Committee on Legal Affairs and Human Rights.

8. **MOTION ON THE ESTABLISHMENT OF A SELECT COMMITTEE TO INVESTIGATE THE PROPOSED REMOVAL FROM OFFICE OF THE GOVERNOR OF NYERI COUNTY**

Motion made and Question proposed;

THAT, WHEREAS, pursuant to Article 181 of the Constitution and section 33 of the County Governments Act, 2012, on 2nd September, 2016, the County Assembly of Nyeri approved a Motion "to remove from office, by impeachment," the Governor of Nyeri County;

AND FURTHER, WHEREAS by letter dated 2nd September, 2016 (Ref. No. CAN/SEN/PMNT/COR/2/ (3) received in the Office of the Speaker of the Senate on 5th September, 2016, the Speaker of the County Assembly of Nyeri informed the Speaker of the Senate of the approval of the Motion by the County Assembly and further forwarded to the Speaker of the Senate documents in evidence of the proceedings of the Assembly;

AND WHEREAS, pursuant to section 33(3)(b) of the County Governments Act, 2012 and standing order 68(1)(b) of the Senate, the Senate by resolution, may appoint a special committee comprising eleven of its Members to investigate the matter;

NOW THEREFORE, pursuant to section 33(3)(b) of the County Governments Act, 2012 and standing order 68(1)(b), the Senate resolves to establish a special committee comprising the following Senators:-

1. Sen. Lenny Kivuti
2. Sen. Peter Mositet
3. Sen. Kimani Wamatangi
4. Sen. Billow Kerrow
5. Sen. Isaac Melly
6. Sen. Joy Gwendu
7. Sen. George Munyasa Khaniri
8. Sen. Stewart Mwachiru Madzayo
9. Sen. Judith Achieng' Sijeny
10. Sen. Moses Kajwang'
11. Sen. Janet Ong'era

to investigate the proposed removal from office of the Governor of Nyeri County and to report to the Senate within ten (10) days of its appointment on whether it finds the particulars of the allegations to have been substantiated

(The Senate Majority Leader)

Debate Arising;

Raising a point of order pursuant to the provisions of Standing Order No. 98 (1), the Senator for Siaya County (Sen. James Orengo) claimed to Move;

That, the Mover be now called upon to reply.

And the Speaker acceding to the claim;

Before the Question was put and pursuant to the provisions of Standing Order 72, the Speaker informed the Senate that the Motion does not affects counties.

Question put and agreed to;

Thereupon, the Mover replied;

Before the question was put and pursuant to Standing Order 72, the Speaker **informed** the Senate that the Motion affected counties and voting would be by delegations;

The House proceeded to a Division;

The Speaker directed that electronic voting be taken pursuant to Standing Order 74 (1) and that the division bell be rung for two minutes;

After the expiry of two minutes, the Speaker directed that the bar be drawn and the doors be locked and requested Senators to log-in for electronic voting;

The Speaker put the Question and directed Senators to cast their votes by pressing either the **"Yes"**, **"No"** or **"Abstain"** button;

Before the results of the Division were announced and pursuant to the provisions of Standing Order 74 (5), the Speaker allowed two Senators to record their vote verbally.

Thereupon, the following Senators recorded their vote as **"Yes"**-

- 1) Sen. Karaba Dickson Daniel
- 2) Sen. Melly Isaac Kipkemboi

The results of the Division were as follows:-

AYES - 7

NOES - 18

ABSTENTIONS - 0

AYES

1. Sen. Chiaba Abu Mohamed Abu
2. Sen. Karaba Dickson Daniel – voted verbally
3. Sen. Kindiki Kithure
4. Sen. Leshore Sammy Prisa
5. Sen. Melly Isaac Kipkemboi – voted verbally
6. Sen. Muriuki Karue Muriuki
7. Sen. Wetang'ula Moses Masika

NOES

1. Sen. Boy Juma Boy
2. Sen. Cheruiyot Aaron Kipkirui
3. Sen. Mohamud Halima Abdille – voted on behalf of Wajir County Delegation
4. Sen. Kajwang' Moses
5. Sen. Khalwale Boni
6. Sen. Khaniri George
7. Sen. Kilonzo Mutula Junior

8. Sen. Lesan Wilfred Rotich
9. Sen. Machage Wilfred Gisuka
10. Sen. Mositet Peter Korinko
11. Sen. Murkomen Onesmus Kipchumba
12. Sen. Musila David
13. Sen. Ndiema Henry Tiole
14. Sen. Njoroge Ben – voted on behalf Nakuru County Delegation
15. Sen. Obure Christopher Mogere
16. Sen. Orengo James
17. Sen. Sang' Stephen Kipyego
18. Sen. Wako Sitswila Amos

Question negatived

And there being no other business, the Speaker adjourned the Senate at five minutes past One O'clock without Question put pursuant to the Standing Orders.

9. SENATE ROSE – at five minutes past One O'clock

MEMORANDUM

*The Speaker will take the Chair on
Thursday, September 8, 2016 at 10:00 a.m.*

--X--