

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 4th November, 2015

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

[The Deputy Speaker (Sen. Kembi-Gitura) in the Chair]

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, I have a number of Messages to communicate to you.

(Sen. Obure remained up standing in his place)

Take your seat, Senator.

Order, Senator! I allowed you to take your seat, not to come in and stand up.

MESSAGES FROM THE NATIONAL ASSEMBLY

APPROVAL OF THE CONSTITUTION OF KENYA (AMENDMENT) (NO.2) BILL (NATIONAL ASSEMBLY BILL NO.26 OF 2013)

Hon. Senators, this is a Message from the National Assembly on the approval of the Constitution of Kenya (Amendment) (No.2) Bill, National Assembly Bill No.26 of 2013.

Hon. Senators, I wish to report to the Senate that on 29th October, 2015, and pursuant to Standing Order No.40(3) and (5), I received the following Message from the Speaker of the National Assembly regarding the approval, by the Assembly, of the Constitution of Kenya (Amendment) (No.2) Bill (National Assembly Bill No.26 of 2013). I quote:-

PURSUANT to the provisions of Standing Order Nos.41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly.

WHEREAS the Constitution of Kenya (Amendment) (No.2) Bill (National Assembly Bill No.26 of 2013) was published in the Kenya Gazette Supplement No.115 of 6th August, 2013, as a Bill to amend Article 204 of the Constitution regarding the disbursement of the Equalisation Fund.

AND WHEREAS the National Assembly, in accordance with the provisions of Article 256 of the Constitution considered and passed the said Bill on Wednesday, 1st October, 2015 in the form attached hereto;

NOW THEREFORE, in accordance with Articles 110(4) and 256 of the Constitution and the provisions of Standing Order No.142 of the National Assembly Standing Orders, I hereby forward the said Bill to the Senate for consideration.”

Hon. Senators, Article 256(1) of the Constitution provides that a Bill to amend the Constitution may be introduced in either House of Parliament. Standing Order No.148 requires that a Bill which originates in the National Assembly be proceeded with in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order No.129.

I now, therefore, direct that the Constitution of Kenya (Amendment) (No.2) Bill (National Assembly Bill No.26 of 2013) be listed for First Reading tomorrow, Thursday, 5th November, 2015.

I thank you.

Hon. Senators, there are three more Messages.

(Sen. (Prof.) Anyang'-Nyong'o stood at the Bar)

Sen. (Prof.) Anyang'-Nyong'o because I do not want you to sit without authority, I will allow you to take your seat.

(Sen. (Prof.) Anyang'-Nyong'o proceeded to sit)

CONCURRENCE OF THE SENATE ON THE FISHERIES MANAGEMENT
AND DEVELOPMENT BILL (NATIONAL ASSEMBLY
BILL NO.18 OF 2014)

This is another Message from the National Assembly on the approval of the Fisheries Management and Development Bill (National Assembly Bill No.18 of 2014).

Hon. Senators, I wish to report to the Senate that on 29th October, 2015, and pursuant to Standing Order No.40(3) and (5), I received the following Message from the Speaker of the National Assembly regarding the approval, by the Assembly, of the Fisheries Management and Development Bill (National Assembly Bill No.18 of 2014). I quote:-

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

WHEREAS the Fisheries Management and Development Bill (National Assembly Bill No.18 of 2014) was published vide Kenya Gazette Supplement No.18 of 4th April, 2014, as a Bill concerning county governments in terms of Article 110 of the Constitution;

AND WHEREAS the said Bill was considered and passed by the National Assembly on 30th September, 2015, with amendments, and in the form attached hereto;

NOW THEREFORE, in accordance with Article 112 of the Constitution and Standing Order No.142 of the National Assembly Standing Orders, I hereby forward the said Bill to the Senate, the object of which is to seek concurrence of the Senate on the said Bill.”

Hon. Senators, Standing Order No.148 requires that a Bill which originates in the National Assembly be proceeded with in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with Standing Order No.129.

I now, therefore, direct that the Fisheries Management and Development Bill (National Assembly Bill No.18 of 2014) be listed for the First Reading tomorrow, Thursday, 5th November, 2015.

I thank you.

(Sen. (Prof.) Lesan and Sen. Mositet stood at the Bar)

Sen. (Prof.) Lesan and Sen. Mositet, you can take your seats.

(Sen. (Prof.) Lesan and Sen. Mositet took their seats)

REJECTION OF SENATE AMENDMENTS TO THE MINING BILL
(NATIONAL ASSEMBLY BILL NO.9 OF 2014) AND
APPOINTMENT OF MEDIATION COMMITTEE

Hon. Senators, the third Message is from the National Assembly on the rejection of some of the Senate amendments to the Mining Bill (National Assembly Bill No.9 of 2014).

Hon. Senators, I wish to report to the Senate that on 29th October, 2015, and pursuant to Standing Order No.40(3) and (4), I received the following Message from the Speaker of the National Assembly regarding the rejection, by the Assembly, of some of the Senate amendments to the Mining Bill (National Assembly Bill No.9 of 2014). I quote:-

“PURSUANT to the provisions of Standing Order Nos.41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly:-

WHEREAS the National Assembly on Tuesday, 27th October, 2015, concurred with the part of the Senate’s amendments to the Mining Bill (National Assembly Bill No.9 of 2014 and rejected the amendments to Clause 4(a) and (c), 7, 16, 30, 33, 34, 37, 40, 49, 59 and 149 of the Bill;

NOW THEREFORE, in accordance with Article 112 of the Constitution and Standing Order No.149 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate and seek the appointment of a Mediation Committee to the said Bill.”

Hon. Senators, Article 112(1)(b) of the Constitution provides that:-

“If one House passes an ordinary Bill concerning counties and the second House passes the Bill in an amended form, it shall be referred back to the originating House for reconsideration.”

Further, Article 112(2)(b) of the Constitution provides that:-

“If, after the originating House has reconsidered a Bill referred back to it under Clause (1)(b), that House rejects the Bill as amended, the Bill shall be referred to a Mediation Committee under Article 113 of the Constitution.”

Hon. Senators, in the circumstances, I concur with the Speaker of the National Assembly to form a Mediation Committee in accordance with Articles 112(2)(b) and 113 of the Constitution.

In this regard, Hon. Senators, I have received communication from the National Assembly that the Speaker of the National Assembly has appointed the following Members to represent the Assembly in the Mediation Committee that will attempt to develop a version of the Bill that both Houses will pass:-

1. Hon. Amina Abdalla,
2. Hon. Ejidus Njogu Barua,
3. Hon. Chachu Ganya,
4. Hon. George Peter Opondo Kaluma; and,
5. Hon. Andrew Mwadime.

In this regard, hon. Senators, I also hereby appoint the following Senators to represent the Senate in the Mediation Committee:-

1. Sen. Lenny Kivuti;
2. Sen. Billow Kerrow;
3. Sen. Isaac Melly;
4. Sen. (Dr.) Agnes Zani; and
5. Sen. Henry Tiole Ndiema.

I thank you.

REJECTION OF SENATE AMENDMENTS TO THE NATIONAL
DROUGHT MANAGEMENT AUTHORITY BILL (NATIONAL
ASSEMBLY BILL NO.42 OF 2013) AND APPOINTMENT
OF MEDIATION COMMITTEE

The final communication is a Message from the National Assembly on the rejection of some of the Senate amendments to the National Drought Management Authority Bill (National Assembly Bill No.42 of 2013).

Hon. Senators, I wish to report to the Senate that on 29th October, 2015, and pursuant to Standing Order No.40(3) and (4), I received the following Message from the Speaker of the National Assembly regarding the rejection, by the Assembly, of the Senate amendments to Clause 4 of the National Drought Management Authority Bill (National Assembly Bill No.42 of 2013) and I quote:-

PURSUANT to the provisions of Standing Order Nos.41 and 142 of the National Assembly Standing Orders, I hereby convey the following Message from the National Assembly.

WHEREAS the National Assembly on Thursday, 22nd October, 2015, concurred with the Senate on its amendments to Clause 8 of the National Drought Management Authority Bill (National Assembly Bill No.42 of 2013) and rejected the amendment to Clause 4 of the Bill;

NOW THEREFORE, in accordance with Article 112 of the Constitution and Standing Order No.149 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly to the Senate and seek the appointment of a Mediation Committee in respect of the said Bill.”

Hon. Senators, Article 112(1)(b) of the Constitution provides that:-

“If one House passes an ordinary Bill concerning counties and the second House passes the Bill in an amended form, it shall be referred back to the originating House for reconsideration.”

Further, Article 112(2)(b) of the Constitution provides that:-

“If after the originating House has reconsidered a Bill referred back to it under Clause 1(b), that House rejects the Bill as amended, the Bill shall be referred to a Mediation Committee under Article 113.”

Hon. Senators, in the circumstances, I concur with the Speaker of the National Assembly to form a mediation committee in accordance with Articles 112(2)(b) and 113 of the Constitution. In this regard, I have received communication from the National Assembly; that the Speaker of the National Assembly has appointed the following Members to represent the Assembly in the Mediation Committee that will attempt to develop a version of the Bill that both Houses will pass. These are:

Hon. Joyce Emanikor,
Hon. (Dr.) Wilbur Ottichilo,
Hon. Chachu Ganya,
Hon. Juma Zuleikha Hassan; and
Hon. Elmi Mohamed Ibrahim.

In this regard, I also, hereby appoint the following Senators to represent the Senate in the Mediation Committee.

Sen. Fatuma Dullo,
Sen. (Prof) John Lonyang’apuo,
Sen. Martha Wangari,
Sen. Abdirahman Ali Hassan; and
Sen. Danson Mwakulegwa.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, we have a few statements today. They are listed as an appendix to the Order Paper. Sen. Haji, I notice that Sen. Kiraitu is not here. However, do you have a statement for him on banditry attack in Meru County?

Sen. Haji: Yes, Mr. Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): I request that you hold it a little.

Sen. Obure, do you have a statement for Sen. (Dr.) Khalwale?

Sen. Obure: Yes, Mr. Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Go on.

Sen. Obure: Mr. Speaker, Sir, the Vice Chairperson will issue it.

Sen. Sijeny: Mr. Speaker, Sir I will---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Sijeny, I request that you hold on for a minute. I want to go back a little bit on the Order Paper. Sen. (Prof.) Anyang'-Nyong'o, do you have a notice of Motion?

Sen. (Prof.) Anyang'-Nyong'o: Yes, Mr. Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Give it now.

NOTICE OF MOTION

COMMENDATION TO SEN. HAROLD KIPCHUMBA FOR
BEING THE 2015 UNITED NATIONS PERSON OF THE
YEAR AND FOR HIS EFFORTS IN SUPPORT OF MASS
IMMUNIZATION CAMPAIGNS IN KENYA

Sen. (Prof.) Anyang'-Nyong'o: Mr. Speaker, Sir, I beg to give notice of the following Motion:-

THAT, cognizant that Sen. Harold Kipchumba, a former Senator in the Parliament of Kenya has been instrumental in engaging public support for mass immunization campaign aimed at eradicating and eliminating diseases such as Polio and tetanus as well as the introduction of new vaccines into the Kenya Expanded Programme of Immunization services (EPI);

AWARE, that Sen. Kipchumba has, through dialogue and media appeal, persuaded communities and groups that were, by religious and cultural beliefs or practices, initially opposed to Polio and other EPI vaccines immunization, to embrace the practice;

ACKNOWLEDGING that Sen. Kipchumba's unwavering advocacy and lobbying to various stakeholders both at national and county levels was instrumental in helping to achieve 93 per cent Polio immunization coverage of children under 5 years of age during the August, 2015 Polio campaign;

NOTING that Sen. Kipchumba has become the face of vaccine preventable disease eradication and elimination efforts in Kenya, he has identified 15 Polio survivors as immunization champions and enlisted their support to take his message 'immunization is not a choice, it is a right' throughout the country;

FURTHER AWARE that both the United Nations Children's Fund (UNICEF) and the World Health Organization (WHO) Kenya country offices nominated Sen. Kipchumba for the 2015 Person of the Year award in recognition of his efforts cited herein, and he was subsequently named for the award.;

NOW THEREFORE, the Senate heartily congratulates Sen. Harold K. Kipchumba for being the 2015 United Nations Person of the Year and

records its commendation for his efforts in the public support for mass immunization campaigns in the country.

(Applause)

The Deputy Speaker (Sen. Kembi-Gitura): Thank you, Sen. (Prof.) Anyang'-Nyong'o.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I join Sen. (Prof.) Anyang'-Nyong'o in the congratulatory message to---

The Deputy Speaker (Sen. Kembi-Gitura): Oder, Senator! You are out of order! Sen. (Prof.) Anyang'-Nyong'o has just given a notice of Motion, not a personal statement. It is not yet time to contribute to it. It will come for debate at one time or the other.

There is no any other outstanding notice of Motion. Let us go back to Statements.

STATEMENTS

STATUS OF KAKAMEGA-KABURENGU-WEBUYE ROAD

Sen. Sijeny: Mr. Speaker, Sir, Sen. (Dr.) Khalwale requested for a statement from the Chairperson of the Standing Committee on Roads and Transportation, regarding the status of Kakamega-Kaburengu-Webuye Road. The questions were as follows:

1. When the construction works officially started and when the project was supposed to be completed.

2. What percentage of works has been completed to date and how much money the contractor has been paid, so far.

3. What the original budgeted cost of the project was and the reason for the delay in completion and indicate when the project will be completed.

I beg to reply as follows:

The project commenced on 1st April, 2013 and was set for completion on 31st March, 2015.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, do you have a copy of the Statement?

Sen. (Dr.) Khalwale: Yes, Mr. Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Sijeny, are you going to read the whole of it?

Sen. Sijeny: Mr. Speaker, Sir, it is very brief.

The Deputy Speaker (Sen. Kembi-Gitura): Okay, go on.

Sen. Sijeny: Mr. Speaker, Sir, I beg to reply as follows.

1. The contractor has achieved 2.36 per cent of completion of works and Kshs265,616,083.17 has been certified and paid to him. The original budget for the project was Kshs2,505,925,536.66.

2. The reasons for the delay in completion were due to inadequate and late mobilization of equipment and personnel by the contractor, the apparent cash-flow

problems by the contractor and the litigation entered into by the contractor after he was issued with a notice of termination. In the likely event that the litigation is resolved by December, 2015, then the project will be completed in December 2018.

There was a further clarification sought out by Sen. Wetangula who is not in the House.

So, I will leave it out.

The Deputy Speaker (Sen. Kembi-Gitura): No. Give it. You cannot issue a statement halfway.

Sen. Sijeny: The Senator for Bungoma, Sen. Wetangula, requested for supplementary information from the Chairperson of the Standing Committee on Roads and Transportation regarding the status of construction of Kakamega-Kaburengu-Webuye Road as follows:

1. Whether it is true that the contractor who was contracted to construct this road has abandoned it.

2. Why most of the roads in the western part of Kenya, which were started in the last regime of President Kibaki, have stalled.

3. Why all other roads promised under the Annuity Programme have never taken off.

I beg to reply.

It is true that the contractor of the Kakamega-Kaburengu-Webuye Road has abandoned the works due to cash-flow problems, which led to litigation in court, after which, he was issued with a notice of termination. The Government understands the crucial role infrastructure plays in bringing development in the whole country. As such, it is not only roads in Western Kenya which have stalled, but also in other parts of the country. This is because of the financial challenges involved in accommodating and accomplishing all the projects initiated. However, the Ministry is trying to give priority to major roads as it finds ways to also continue financing other stalled projects within the limited budget.

Tenders for approximately 3,000 kilometres - Phase I Annuity Roads – were processed. Four hundred and thirty five kilometres were fast-tracked for Cabinet approval, pursuant to Public Procurement and Disposal (PPD) Act. Although all the 435 kilometres lots had positive value for money, concerns were raised on fiscal affordability, under the Medium Term Expenditure Framework (MTEF) Budget. Therefore, some of the 3,000 kilometres have been repackaged as designed projects and will be developed using low volume seal roads technology. The Ministry intends to develop some of the 435 kilometres as pilot PPD projects, provided affordability and unit cost targets are achieved for construction and financing.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I want to thank the Chair. It is sad that for the people who use this very important artery to note that a road that should have been completed on 24th April, 2014, is only 2.6 per cent complete as of now. The truth on the ground is that the road has since been rendered completely not motorable. I am also aware that this was a joint venture between the World Bank and the National Treasury.

When the contractor had this problem, there was a ruling by the International Court of Arbitration at The Hague, which directed the Republic of Kenya to seek arbitration. At The Hague, the contractor has offered that he wants to leave the site

amicably. Therefore, he is not the problem. Could the Chairperson tell us why the national Government has refused to take the offer at the International Court of Arbitration by the contractor that he wants to move out amicably, so that they allow him to take his machines, to allow other contractors to come on site?

Secondly---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Dr.) Khalwale, you are seeking a clarification.

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, I have built my clarification and asked one question.

I want to seek a second clarification on this very important project. Since the road is not motorable and tractors carrying cane cannot move, could the Government mobilize even a mere Kshs5 million, so that the diversions that had been created are cleared for traffic to move, especially during the heavy rains?

Finally, the Kisumu-Kakamega-Webuye-Kitale road was a World Bank project and the contractors on the sections between Kisumu and Kakamega, and Webuye and Kitale have done a fantastic job. Could the Chairperson confirm that they are going to pick these tested international contractors to undertake works on this road, so that it can be cleared forthwith?

The Deputy Speaker (Sen. Kembi-Gitura): There are several requests.

Sen. (Dr.) Khalwale: This is a very important road.

The Deputy Speaker (Sen. Kembi-Gitura): Order! Show me one road in Kenya that is not important and I will show you another one.

Sen. Elachi: Mr. Deputy Speaker, Sir, could the Chairperson tell us whether the national Government agreed with the contractor that when he leaves the site, the contractors who started from the Kisumu to Kakamega will take over? Are the funds from the World Bank allocated for the road still available or have they been diverted to another road?

Sen. (Prof.) Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, as the Chair of the Committee was giving her answer, she said that the roads were to be done under the Annuity Programme. I do not think that this particular road was under that programme. I know that there are several roads, including mine - the Masemo-Kombewa Road, which has been in the works since 1974 - which were supposed to be done under the Annuity Programme. No single road in this Republic has been done under the Annuity Programme. Could the Chair tell us whether this Annuity Programme is a myth or, indeed, there is reality that it will ever be implemented in this country? This programme is causing a lot of problems because no road is being done and we do not understand why it was started in the first place.

Sen. Leshore: Mr. Deputy Speaker, Sir, I passed through the Kisumu-Kakamega-Webuye Road and saw that it is in a terrible state. However, could the questioner tell us why he is advocating for an international contractor instead of the local contractors?

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, the Chair has told us that construction on several roads, including Isebania-Ikerege-Kehancha-Ntimaru Road, in the country has stalled due to financial constraints.

Sen. Haji: On a point of order, Mr. Deputy Speaker, Sir. I am puzzled because a Member has said that the road from Kisumu to Webuye is very good. Sen. Leshore says that he has travelled on the same road and it is very bad. Could someone clarify the true position?

Sen. (Dr.) Khalwale: Which road?

Sen. Haji: You said that the international contractor did a good job from Kisumu to Webuye.

An hon. Senator: From Kitale to Webuye.

Sen. Haji: Okay.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Haji, are you satisfied?

Sen. Haji: Yes, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): Go on, Sen. (Dr.) Machage.

Sen. (Dr.) Machage: Mr. Deputy Speaker, Sir, I will repeat. The Chair has stated that construction on several roads, including the Isebania-Ikerege-Kehancha-Ntimaru Road in Migori Country, has stalled due to financial constraints. Taking into consideration the fact that the Government is over-borrowing internally, should we, therefore, accept that the Government is actually broke and bankrupt?

Sen. Murkomen: Mr. Deputy Speaker, Sir, I have also travelled on the same road and support the position of Sen. (Dr.) Khalwale. The same road has a connection to my county through Kitale. One can leave Tot and travel through Kapcherop, Kachibora, Kitale, Webuye, Kakamega, Kisumu and go whatever direction they want. Therefore, it is a very important road. But more fundamentally, very important roads across the country, including the Nyaru-Iten-Cheptongei-Kapenguria Road, were part of the roads said to be under the Annuity Programme.

Could the Chair confirm what exactly happened to that Annuity Programme and when it will start? Everytime we go back to our constituents we tell them that several roads are under the Annuity Programme. When will these projects start?

If the Chair is in conformity with us and unable to express and explain herself on the matter of the Annuity Programme, could the Committee also find a way of calling the Cabinet Secretary, the Principle Secretary and the directors of the relevant parastatals, so that we can have a sitting, like the one we had on matters health and security? We can then deal with that matter, once and for all, because we do not want to continue lying to our constituents. Elections are one-and-a-half years away and we have been telling them everytime that the roads will start.

The Deputy Speaker (Sen. Kembi-Gitura): Order! Sen. Sijeny, we have two more clarifications.

Sen. Abdirahman: Mr. Deputy Speaker, Sir, I heard the Chair say that the level of the works done is only 2.6 per cent and the payments that were done total to about Kshs265 million. Is she satisfied that these payments that were made were in line with what was really done? I tend to think that it has gone beyond what is anticipated. If you are not satisfied, what action will be taken against those who made payments that may not be deserved?

Sen. Mositet: Mr. Deputy Speaker, Sir, I heard Sen. Khalwale say that the contractor had gone for arbitration. I believe that there must have been some award.

Could the Chair tell us how much the contractor was awarded for him to leave the site? Since the project stalled how much has the Government paid in terms of variation? I believe the contractor must have made some claims since his equipment is still on site. Again, if we were to engage a new contractor, what will be the new cost of the construction of that road?

Secondly, just as my colleagues sought clarifications on their roads of interest, the road between Isinya and Ngong, in my county---

Mr. Deputy Speaker, Sir, please, allow me to---

The Deputy Speaker (Sen. Kembi-Gitura): Order! I will not allow you because we are discussing a specific road. If you want to talk about the road from Isinya to Ngong, you have every right to seek a statement on your own. You could have placed your request when Sen. (Dr.) Khalwale sought the statement, but it is too late now. How will she deal with the Isinya-Ngong Road?

Sen. Sijeny: Mr. Deputy Speaker, Sir, I have heard the further clarifications sought for by various Senators. I concur that the best way to go about it is to invite the Cabinet Secretary, Ministry of Transport and Infrastructure, to come and answer the statements sought for. We had done that in the past. We were to follow up, but there was a change of guard in the Ministry. That is why the process of calling for another meeting stalled, but we, as a Committee, will follow up. I promise within two weeks' time, we shall have fixed a date for the meeting so that Senators who wish to seek any clarification can do so.

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senator, I have a problem with that because if you had said that in the beginning we would not have spent all that time with you attempting to give answers and with all those Senators seeking clarifications, which you did not have answers for. However, if you had told us that you will invite the Cabinet Secretary, maybe no Senator would have raised the issues that would have been addressed by the Cabinet Secretary in the Committee meeting.

If you have to answer questions which we know require the Cabinet Secretary to come and deal with, the best thing to do is that the Cabinet Secretary should come to the Committee of the Whole, so that he deals with the situation and we spend as little time as possible on clarification. So, many important issues have been raised, but none of them, have been sufficiently answered. If you ask me, that means we have lost a lot of valuable time. However, I understand where you are coming from, but the point I am making is that if you had said at the beginning that you are planning a meeting with the CS, then we would have saved all that time.

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

Sen. (Dr.) Khalwale: Mr. Deputy Speaker, Sir, my point of order is that she has asked for two weeks, but the truth is that there is no traffic moving on that road. I requested that we be allowed a mere Kshs5 million for a bit of murraming of the bad sections so that traffic can flow. As we wait for the two weeks, could she make an undertaking that she will go to the Ministry tomorrow and convey our request as the people of Kakamega County?

To help the Chairpersons of Committees, you will remember the experience in the previous Parliaments is that before a Minister gave an answer to a statement, he was

furnished with specific and general information. Chairpersons of Committees had better be insisting.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senator! You are now doing my work. You rose on a point of order.

Please, proceed Sen. Abdirahman.

Sen. Abdirahman: Mr. Deputy Speaker, Sir, when a statement is sought from a Chairperson of a Committee, ordinarily, after the statement as you have rightly put it, it is time for clarification. I am sure that the Chair, in this case, must answer certain aspects, as you had rightly put, of those areas which she is able to answer. I expect her to say that we invite the Cabinet Secretary to comprehensively address the many issues that were asked. Kindly, if you can allow her to answer the ones---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senator! She has said that she is unable to answer.

Sen. Abdirahman: Mr. Deputy Speaker, Sir, not even a single question?

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Abdirahman! You were here and she sought time to seek further clarification.

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

Sen. (Dr.) Machage: On a point of order, Mr. Deputy Speaker, Sir. With all due respect to the Chair on the observation, it is very difficult for a Chair to anticipate the sort of questions that will be asked by the Members of this House to right away say that, "I will invite the Cabinet Secretary answer the questions that you are thinking." We are a little bit unfair to the Chair.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. (Dr.) Machage! What do you mean that I am unfair to the Chair? The Chairperson of a Committee takes sole responsibility. This is a different system from the one that Sen. (Dr.) Khalwale talked about. When you used to be an Assistant Minister, and I remember those days, you anticipated the clarification. Therefore, the Chairperson of the Committee must anticipate. Otherwise, if they know that they are unable to anticipate, they should confess at the beginning that they are not able to deal with the issues and that they will invite the Cabinet Secretary to come and deal with the issues. That is the point that I am making.

With all due respect, I do not agree with you, Sen. (Dr.) Machage, that I have been unfair to the Chair. I am dealing with a situation the best way I know how. The point I was making is that we have lost time and I cannot go back to that. Sen. Sijeny, you asked for two weeks, but a specific request has been made by Sen. (Dr.) Khalwale that you go back to the Ministry and ask whether they can avail some money to reopen the road in the mean time, pending your getting the clarification that you sought.

Sen. Sijeny: Mr. Deputy Speaker, Sir, I was definitely going to do so. Everything is in the HANSARD. Even as we seek clarification on statements from the Ministry, we can tackle what we can. If this particular Committee had requested of the Ministry of Transport and Infrastructure before and they gave us a detailed report on every road; for example, who were the contractors and how much money was spent. This is now a follow up. If you look at---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Sijeny! Let us not go back to the statement. You sought two weeks, but Sen. (Dr.) Khalwale has made a further request and that is what I want you to deal with.

Sen. Sijeny: Mr. Deputy Speaker, Sir, most obliged.

The Deputy Speaker (Sen. Kembi-Gitura): Please, proceed Sen. Murungi.

Sen. Murungi: Mr. Deputy Speaker, Sir, I have a statement to make which was requested by Sen. Sang.

The Deputy Speaker (Sen. Kembi-Gitura): No. You had sought a statement yourself.

Sen. Murungi: Mr. Deputy Speaker, Sir, I request to give it on Tuesday, next week, when Sen. Sang will be here.

The Deputy Speaker (Sen. Kembi-Gitura): That is fine. How about your own Statement?

INSECURITY ALONG THE MERU-ISIOLO BORDER

Sen. Haji: Mr. Deputy Speaker, Sir, at a sitting of the Senate held on Tuesday, 27th October, Sen. Murungi requested for a Statement on the recent banditry attack at Kithiorone near Kaongo Kambio-Kabachi Location, Amwathi Ward, Meru County, where five members of the public and two attackers lost their lives, over 800 herds of cattle stolen and property of unknown value destroyed. The hon. Senator particularly sought to be informed on---

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Haji, may I request you, please, to raise the voice a little.

Sen. Haji: Mr. Speaker Sir, Sen. Murungi requested on Tuesday 27th October, 2015, a Statement on the recent banditry attack at Kithiorone near Kaongo Kambio-Kabachi Location, Amwathi Ward, Meru County. I wish to state as follows;

On 14th October, 2015, unknown Borana herdsmen shot Mr. Charles Ntoruru resulting to his admission in Maua Hospital. The confrontation was as a result of the Borana herdsmen grazing their animals in the latter's piece of land. Members drawn from the Meru Community responded by rounding up an unknown number of cattle from the Boranas. However, police officers successfully recovered 76 herds of cattle and arrested one suspect, Moses Mutethethia, who was later arraigned in court, Case file No.356/2015 Maua Law Courts.

On 21st October 2015, suspected Borana tribesmen attacked their Meru counterparts in Kithiorone near Kaongo in Kabachi Location of Igembe North Sub-County resulting in the killing of the following persons: Julius M'Aumuru alias Kanyili, George Muthamia Mbithi, Njiru M'kuranja M'Ithiaba - if I mispronounce the names, I beg for forgiveness - and Stavastino M'Ethiangatha M'Arangaga alias Murungi Karori. Those injured during the incident were Julius Mutuma M'Mauta and John Mwenda while two suspects of the Borana attackers whose particulars are not known were also killed. The bandits ran away with 470 head of cattle while three people; Kiunga Metobi, aged 50 years, Kalaya Karathiu aged 60 years and Maore Murichia aged 55 years were reported missing.

Police officers rushed to the scene and collected the bodies, took them to Meru Level 5 Hospital Mortuary, while the injured were taken to Mutuati Sub-County Hospital. Unfortunately, Julius Mutuma later succumbed to the injuries. Police officers and members of the public initiated the search for the animals and missing persons in Kina, Moliti, Duse, Kolamawe, Bochi, Malkadaga and adjacent areas in vain. Subsequently, on 22nd October 2015, Mutuati Police Station circulated a signal to all police stations in Kenya to help in tracing the missing persons.

The Government has employed measures that are aimed at ensuring peaceful co-existence among the communities residing along the Meru-Isiolo border.

1. On Saturday, 31st October 2015, the Cabinet Secretary, Ministry of Interior and Co-ordination of National Government addressed a public baraza in the affected area, whereby they also met with the leaders. He urged members of the public not to be incited to violence, while the leaders were warned against incitement, and security officers were urged to uphold the rule of law.
2. The two County Commissioners have initiated dialogue between Meru and Borana leaders, established peace committees and elders as conflict mitigation and resolution measures in order to foster a peaceful co-existence and restore order.
3. A joint operation comprising of the General Service Unit (GSU), regular police, Anti-Stock Theft Unit (ASTU), Rapid Deployment Unit (RDU) and Administration Police (APs) were organized and command set up at Ndurumu ASTU Camp under the command of the Regional Peace Coordinator, Eastern. The operation is intended to recover the stolen cattle, apprehend the suspects and eventually ensure peaceful co-existence among the community members and the operation is still on-going.
4. Holding of security meetings between the community members, security officers and local leaders.
5. Arresting and arraigning of suspects before court.
6. Increased police patrols and intensified security surveillance.

Mr. Deputy Speaker, Sir, there are no immediate plans to set up a police post in Bulu, Kiomone, Kaongoka-Mbio and Othaya because already, there are existing police posts in the said areas, which include ASTU Camp at Kachuru, GSU Camp at Ndurumu, Makinya, Mariara and RDU Camp at Mbaturu. These camps are adequate and can police the areas effectively.

Meru County has a total of 77 national police reservists who are distributed as follows: Tigania East Sub-County - 20, Tigania West Sub-County - 8, Igembe North Sub-County - 18, and Buuri Sub-County - 31.

The Meru-Isiolo County boundary dispute has been outstanding for a long time. On 20th December 2013, the then Cabinet Secretary, Minister of Interior and Co-ordination of National Government held a meeting with the leaders of the two counties at Sportsman Arms Hotel in Nanyuki with the aim of resolving the boundary disputes. The leaders requested the Cabinet Minister to facilitate the determination of the boundary. The Government has therefore formed a team which is being chaired by the Assistant

Regional Co-ordinator and comprises of members from the two counties and surveyors, which is mandated to address the boundary dispute. The efforts are ongoing.

Thank you.

(A mobile phone rang)

The Deputy Speaker (Sen. Kembi-Gitura) Order, Senators. Sen (Dr.) Khalwale or whoever it is, please, put your phones on silent mode.

Sen. Murungi: Mr. Deputy Speaker, Sir, this is a very sad story and the Government seems to be helpless in the face of Borana bandits and cattle rustlers who have invaded large parts of Meru.

The measures that Chairman, Sen. Haji, has talked about do not seem to be effective because the same day when the Cabinet Secretary was addressing a rally on 31st, a few kilometers away from where he was addressing, one person was killed and very many animals taken away. The day before yesterday when we were attending a burial of the five people who had been killed about 14 days ago, another person was killed and animals taken away even after mobilizing police into the area as Sen. Haji has narrated.

Are these measures that the Government is claiming to use effective or new measures are going to be taken? He has said that they have 77 Kenya Police Reservists (KPRs) recruited on the Meru side, in a very vast area, you can see that there are only eight, for instance, in Tigania. Could the Chairman tell us how many KPRs are there on the Isiolo side, because the numbers here do not tell us about our complaint which is that the Meru side has already been discriminated against in the recruitment of KPR? There are more KPRs recruited on the Borana side than on the Meru side.

There is a problem with the manner in which we are dealing with banditry. It is very clear in our Penal Code and in the Fire Arms Act that carrying an illegal firearm is a criminal offence whether you commit an offence with it or not. Committing an offence while armed, that is armed robbery. Nobody seems to be arrested despite clear breach of this law. Can the Chairman tell us, in those 14 days when many people have been carrying arms and carrying out raids in Meru, how many Borana cattle rustlers have been arrested by the massive force of police presence in Meru?

Mr. Deputy Speaker, Sir, we have noticed in Meru that the only people who are arrested are from Meru. In fact, one Member of the County Assembly from Meru is from Isiolo. The Merus are arrested not for cattle rustling, but for incitement. All they say is that they blocked the road demanding that the Government takes action. Why are we not arresting those who have killed others? Why are we not arresting those who have taken away animals instead of dealing with superficial crimes like barricading a road, among others? Why is justice dispensed selectively against the Meru people while the Borana bandits are allowed to walk scot-free?

Lastly, my question number five was very specific. I asked when the Government will fix visible beacons to mark the existing boundaries between Meru and Isiolo counties as specified in the Districts and Provinces Act of 1992. The Act is very clear where the boundary between Meru and Isiolo counties is. The Land Registration (LR) numbers,

rivers and mountains are all identified. All we want is the fixed beacons on the boundary which is already specified in the law.

Mr. Deputy Speaker, Sir, the answer we are getting is that the Government has formed a team chaired by Eastern Region Coordinator comprising of members drawn from the two counties which is mandated to address boundary disputes. There is no boundary dispute because the boundary is known. What we have asked for is the boundary to be marked. We have also not asked for a team to address those issues. Could the Chairman tell us, first, who the members of this team and the surveyors are and when the team will commence work?

Mr. Deputy Speaker, Sir, unless this boundary is known, the cattle rustlers will continue grazing their cattle in Meru.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Murungi. You have made your point.

Sen. Murungi: Mr. Deputy Speaker, Sir, can the Chairman tell us when this team will start work because this is the real problem? Until the boundary is marked, this ambiguity and problems will continue.

Sen. Leshore: Thank you, Mr. Deputy Speaker, Sir. First, I sympathise with the Merus. They are very good people. In Samburu, we refer to them as 'ATMs'. When our young warriors want to exercise a raid, they go to Meru. I sympathize a lot with them. The Merus, the Borana and the Turkana have illegal guns. The Cabinet Secretary has said that they are going to mop up illegal guns in that area. When will the exercise kick off? We have three military camps; an Anti-Stock Theft Unit, regular police and GSU in Isiolo. When is the exercise going to start so that we stop losing lives because of cattle rustling?

Sen. Abdirahman: Thank you, Mr. Deputy Speaker, Sir. I thank the Chair for the long response but the Government has never been effective in forestalling the conflicts in these areas or even dealing with existing ones like the ongoing one between the Meru and Isiolo people. Even if you deploy thousands of forces, they have never been efficient. How is the Government investing in the long-term traditional engagement with the local communities? The longer they engage on peaceful settlement, the better. How is the Government engaging directly with the local communities and their leadership to create a long-term solution?

Sen. Mositet: Thank you, Mr. Deputy Speaker, Sir. I have heard from the Chairman, and I sympathise with the situation of the Government there. It is also the duty of the leaders to come up and aid in keeping peace. After what we saw and read about the happenings in Isiolo, quite a number of people are saying that they are going back to their homes. It was something which made Kenyans reflect on what happened in 2008. After that, we read that some leaders in a funeral were asking their communities to arm themselves.

Mr. Deputy Speaker, Sir, we have a Government but we do not see any action being taken against those leaders. If leaders are allowed to tell their communities to arm themselves in retaliation, then we are setting this country on fire. I feel that the Ministry needs to work without any intimidation or bias. Some people make statements and when they are arrested, they record statements with the police and nothing is done. If we allow

that situation, this country will be ruined. It is our duty to talk to our people and tell them even if our aggressors are of some kind, we calm them and we also approach the other side.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senator. You are seeking a clarification.

Sen. Mositet: Mr. Deputy Speaker, Sir, my clarification is---

Sen. Murungi: Mr. Deputy Speaker, Sir, my friend, the Senator for Kajiado, has made a very serious statement; that the leaders who attended the funeral asked the people to arm themselves. I attended the funeral and it was a church service in which we preached peace and requested the Government to be serious. Can the Senator substantiate and name the leaders who told the people to arm themselves? We cannot let him get away with that kind of statement.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Mositet, I think you have heard. What is your response to that?

Sen. Mositet: Mr. Deputy Speaker, Sir, in one of the yesterday's dailies, it was reported that the leaders---

The Deputy Speaker (Sen. Kembi-Gitura): You know the House does not rely on reports in the media.

Sen. Mositet: Mr. Deputy Speaker, Sir, that is what was consumed by the whole nation. The whole world is covered by the media.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Murungi has been specific that you either name the leaders or you withdraw and apologise. That is the thrust of Sen. Murungi's point of order.

Sen. Mositet: Mr. Deputy Speaker, Sir, the way the papers had put it; it was that the leaders have asked their people to arm themselves. That is exactly what I repeated here.

The Deputy Speaker (Sen. Kembi-Gitura): But you have not produced any newspaper, authority or evidence. So, you either bring a substantive Motion against the leaders who did this or you will withdraw and apologise because you are imputing improper motive on your colleagues.

Sen. Mositet: Mr. Deputy Speaker, Sir, I withdraw and apologise but I was saying it so that, at least, leaders should not be allowed to talk like that. They never challenged the media that they did not say that.

(Interruption of Statement)

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

COMMUNICATION FROM THE CHAIR**VISITING DELEGATION OF STUDENTS AND
TEACHERS FROM GITUAMBA PRIMARY SCHOOL**

Hon. Senators, I wish to recognise the presence of students and teachers from Gituamba Primary School in Nyeri County seated in the Public Gallery. In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate, and on my own behalf, I wish them a fruitful visit.

The issue of recognising people in the Public Gallery arose, as Sen. (Dr.) Khalwale will recall. When it is schools and teachers – because they come here to learn – we recognise their presence and, particularly, wish that it will be a learning curve for the young students. We hope that they will learn something from visiting the Senate, particularly, the debating Chamber, to see how we operate business here. Therefore, I wish to welcome them very sincerely and hope that they will learn something from their visit this afternoon.

Thank you.

(Applause)

(Resumption of Statements)

Sen. Haji, there are several issues you need to respond to.

Sen. Haji: Mr. Deputy Speaker, Sir, first and foremost, I wish to send my condolences to all the bereaved families.

Mr. Deputy Speaker, Sir, the question asked by the distinguished Senator for Meru regarding the number of police reservists in Isiolo is all together a very new question. I do not have the answer right now but I will talk to him. If he wants me to pursue the Ministry, I will request them to give me the number.

Regarding the 77 police reservists, who the Senator said are not adequate, the Cabinet Secretary (CS), in his answer, tabulated the reason why they will remain 77, because of very many police camps in the area. The CS said that there are no immediate plans to set up police posts. That goes along with the same thing because there is an Anti-Stock Theft Unit (ASTU) Camp at Kachuru, a General Service Unit (GSU) Camp at Ndumuru, Makinya, Mariara and a Rapid Deployment Unit (RDU) Camp at Mbaturu. These camps are adequately reliable to police the area effectively. However, if the hon. Senator is not satisfied with this answer, we can jointly approach the CS and see whether the number of police reservists could be increased.

Concerning how many Boranas were arrested since the operation began, that is also totally new, and I do not have the answer. However, I will pursue the answer from the Ministry if the hon. Senator wants me to do that.

Regarding the selective arrests against the Merus, that question is also totally new to me, and I do not have an adequate answer.

Mr. Deputy Speaker, Sir, I agree with him that the boundary dispute between Isiolo and Meru counties did not start on 20th December, 2013, when the former CS is said to have met Embu leaders. When I was the Acting Minister for Internal Security, I also made arrangements for leaders to meet and discuss in order to resolve the issues.

Mr. Deputy Speaker, Sir, the question on boundary dispute rages all over the country. I agree with the Senator that the Ministry - although a committee which will look into that matter has been set up - should fast-track and make sure that surveyors identify the boundary and the communities are informed on that, once and for all. In any way, that is not enough reason for people to kill each other. The Government should use its muscle to make sure that people do not take the law into their hands. Almost everybody knows where the boundary is, but they still arm themselves and kill each other.

I will also report to the CS that there is need for him to give a timetable on when the process will start and when the work will be concluded.

The question raised by Sen. Abdirahman is also valid. I am aware of the issue of Garissa and Wajir South boundary dispute. It is time we called a spade a spade. A solution must be found so that the wanton killing of people and stealing of cattle is arrested once and for all.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Murungi, are you not satisfied?

Sen. Murungi: Mr. Deputy Speaker, Sir, I thank the Chairman, Sen. Haji, because he is a very hardworking and honest person. However, I will be interested to know how much more time he requires to bring the additional information which he has said he does not have now.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Haji, I heard you say that you are willing to get more information. How much time do you require?

Sen. Haji: Mr. Deputy Speaker, Sir, if it were within my power, I would have brought the answers even tomorrow. However, since I have to get the answers from other people, I request for one week.

The Deputy Speaker (Sen. Kembi-Gitura): That will be Wednesday, next week. It is so ordered.

The last Statement was requested by Sen. Elachi and it was directed to the Committee on Finance, Commerce and Budget.

STATUS AND PERFORMANCE OF THE LEATHER INDUSTRY IN KENYA

Sen. Mositet: Mr. Deputy Speaker, Sir, I have just received the Statement now and I have not even shared it with Sen. Elachi. I discussed with her and she agreed that I could give the response tomorrow.

The Deputy Speaker (Sen. Kembi-Gitura): Is the Statement ready?

Sen. Mositet: Yes, it is ready. However, neither Elachi nor I have gone through it. We have agreed that I issue it tomorrow.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Elachi, what do you say about that?

Sen. Elachi: I second, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): You are not seconding something; are you? You have to say something regarding the Statement.

Sen. Elachi: I agree, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): What are you agreeing with?

Sen. Elachi: That Sen. Mositet will give a proper Statement tomorrow, since he has just received it.

The Deputy Speaker (Sen. Kembi-Gitura): It is so ordered, since it is your Statement.

Since nobody is seeking for another statement, could we go to the next Order?

Sen. Mositet: On a point of order, Mr. Deputy Speaker, Sir. I wish to seek a Statement, which was approved--- Could I continue?

The Deputy Speaker (Sen. Kembi-Gitura): If it was approved, go on.

GOVERNMENT EXPENDITURE ON ROADS
IN KAJIADO COUNTY

Sen. Mositet: Mr. Deputy Speaker, Sir, pursuant to Standing Order No.45(2)(b), I rise to seek a statement from the Chairperson of the Committee on Finance, Commerce and Budget on Kenya's External Debt totaling Kshs2.3 trillion.

In the Statement, he should explain the following:-

(1) How much was spent on the infrastructure?

(2) How much has been spent on the infrastructure, in total, in Kajiado County and on which specific projects?

(3) Given the external debt and the population figures in Kajiado County, how much *per capita* is each person expected to repay and for how long?

(4) Given the syndicated loans financing signed recently, how much will be shared with Kajiado County?

Thank you, Mr. Deputy Speaker, Sir.

The Deputy Speaker (Sen. Kembi-Gitura): The Chairman of the Committee. Where is the Chairperson of the Committee? Sen. Keter, you can give direction as the Senate Deputy Majority Leader. You can undertake to refer it to the Committee.

Sen. Keter: Mr. Deputy Speaker, Sir, I will pass it over to the Committee. Let us, maybe, give them to weeks or so. I think it would be okay because of the questions that he is asking and in particular, he really wants the details as pertaining his own county. He has asked a question which is overall and then specifically touching on his county, which may also extend to other counties. So, I will refer that to the Committee so that they may also expound and cover all the counties in the country so that we do not have many questions arising from that.

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Mositet, are you satisfied with that?

Sen. Mositet: Mr. Deputy Speaker, Sir, yes. However, may be he could be specific whether it is two or three weeks?

Sen Keter: Mr. Deputy Speaker, Sir, since the honourable Member seems – he sits in that Committee – to be suggesting three weeks, I think we will go by that; three weeks.

The Deputy Speaker (Sen. Kembi-Gitura): So, ordered.

COMMUNICATION FROM THE CHAIR

SPECIAL SITTING OF THE SENATE ON
SATURDAY, 7TH NOVEMBER, 2015

Hon. Senators, I have a communication to make. As you may be aware on Wednesday, 28th October 2015, the Senate in its morning sitting debated and approved a Motion for the establishment of a Special Committee on the proposed removal from office of the Governor of Murang'a County. The Committee, thereafter, commenced its sittings.

Under Section 33(4) of the County Governments Act and Standing Order No.68(2) of the Senate, the Special Committee is required to investigate the matter and report to the Senate within 10 days on whether it finds the particulars of the allegations against the Governor to have been substantiated.

Hon. Senators, I wish to inform you that pursuant to Standing Orders No.29(1) on the request of the Senate Majority Leader and the support of the requisite number of Senators, have appointed Saturday, 7th November, 2015 as a day for a special sitting of the Senate. The sitting shall be held in the Senate Chamber, the Main Parliament Buildings, Nairobi, commencing at 11.00 a.m.

The business to be transacted at the sitting shall be the consideration of the Report of the Special Committee on the proposed removal from office of the Governor of Murang'a County. In accordance with Standing Order 29(5), this shall be the only business on that day and, thereafter, the Senate shall adjourn to the next sitting day as per the approved calendar.

A *Gazette* Notice on the matter has been issued and I urge honourable Senators to attend the Special Sitting of the Senate.

Thank you.

Sen. Abdirahman: On a point of order, Mr. Deputy Speaker, Sir. While I respect the decision that you have taken as the Chair, it is in order---

The Deputy Speaker (Sen. Kembi-Gitura): As the Chair of which Committee?

Sen. Abdirahman: Mr. Deputy Speaker, Sir, I am saying that, as the Chair of the House - As the Deputy Speaker, it is very important that when we are reconvening on a special day like this, it is the prerogative of the Speaker. However, it is also very traditional and usual to consult the leadership collectively. We are not in the picture. However, I will still abide by your decision.

The Deputy Speaker (Sen. Kembi-Gitura): Thank you. I was just reporting. I made a communication and maybe I need to let the House know that the reason that that decision was taken – I am saying this as the Deputy Speaker of the Senate and not the Senator for Murang'a County – is because the 10 days as reckoned end on Saturday. So,

if you sit on a day after Saturday, we shall be outside the 10 days as provided for in the County Governments Act. That was the reason why that date was taken.

Sen. Abdirahman, I do not know about the consultation but I have taken note of what you have said. I will see whether or not and why – if that is correct – you were not consulted on that issue.

Sen. Haji: Mr. Deputy Speaker, Sir, we are sitting on Saturday because we have to make a decision within 10 days. Was it envisaged that even on a public holiday, we will be meeting to discuss? Saturday is a holiday for everybody.

The Deputy Speaker (Sen. Kembi-Gitura): Saturday is not a holiday.

Sen. Haji: Mr. Deputy Speaker, Sir, it is not a working day for the House.

The Deputy Speaker (Sen. Kembi-Gitura): I hear you, Sen. Haji--- If you look at the ---

(Loud consultations)

Order, Senators! If you look at the Constitution – we have to look at how days are reckoned – and Chapter Two of the laws of Kenya on the general interpretation on how days are reckoned, you will find that you reckon even Saturday and Sunday; the only time that you do not do so is if it falls on a Sunday or a public holiday. In that case, then you can push it to the next day. Saturday in the Constitution is set as a day that has to be counted under the Constitution and under Chapter Two of the laws of Kenya.

Sen. (Dr.) Khalwale: On a point of order, Mr. Deputy Speaker, Sir. It is nice that you brought up this matter when the Senate Majority Leader is here. He solicited for our signatures yesterday requesting that we ask the Speaker to convene the House on Friday, which we signed. Could he clarify how the Friday that we signed became Saturday? Had he asked us to sign for Saturday, we would not have given our signatures.

The Deputy Speaker (Sen. Kembi-Gitura): That is an important point of order.

Sen. (Dr.) Khalwale: Yes.

The Senate Majority Leader (Sen. (Prof.) Kindiki): On a point of order, Mr. Deputy Speaker, Sir. I had even asked for the Floor earlier, first and foremost, to clarify that the assertion by the Senator for Wajir about consultation is not true. His boss, the Senate Minority Leader, had been consulted.

The Deputy Speaker (Sen. Kembi-Gitura): I think the words “not true” are not correct.

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

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Abdirahman! I gave you the Floor. He is on a point of order.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, sorry ---

The Deputy Speaker (Sen. Kembi-Gitura): Go on but I would not use the words “is not true”. I would use the words, “is not correct”.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, the assertion by the Senator for Wajir about consultation is not correct because the Senate Minority Leader was fully and extensively consulted.

In terms of the arrival at that date, it was arrived at after considering so many factors, including what the Deputy Speaker has just said, namely; that Saturday is the last day. It was also as a result of consultations of the Speaker and his Panel because you need a Chair on that day. Their availability in terms of which one of them would be available including considering, for example, that the Deputy Speaker cannot chair the session, being the Senator for Murang'a County. It was interplay of so many factors. I do not think any ill will or inconvenience was intended.

Mr. Deputy Speaker, Sir, I, therefore, see no harm in us sacrificing the Saturday for us to discharge very important national duty. In fact, the last consideration in all these considerations was from the Special Committee themselves because they felt that Friday would be constraining for them to produce a quality Report, among other consideration. So, I think this was done in good faith, in full consultation and with due regard to the fact that Senators have other duties but also considering that this is a very critical national duty which we must perform by Saturday.

Sen. (Dr.) Khalwale: Why did you lie on our signatures?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Keter.

(An Hon. Member spoke off record)

Well, there are many requests and all of them are points of order.

(Sen. (Dr.) Khalwale spoke off record)

Sen. Keter: Well, I thought ---

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. Keter. What did he not clarify?

Sen. Keter: Mr. Deputy Speaker, Sir, I think it is not in order to exchange with a Member.

The Deputy Speaker (Sen. Kembi-Gitura): It is wrong.

Sen. Keter: Mr. Deputy Speaker, Sir, let us follow the rules of the House. You have given me the Floor. He has already had his chance to talk about this issue.

(Sen. (Dr.) Khalwale spoke off record)

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. (Dr.) Khalwale! Let Sen. Keter finish. I will give you the Floor.

Sen. Keter: Mr. Deputy Speaker, Sir, there are rules which we all have to abide by.

(Sen. (Dr.) Khalwale spoke off record)

The Deputy Speaker (Sen. Kembi-Gitura): Order, Sen. (Dr.) Khalwale!

Sen. Keter: Mr. Deputy Speaker, Sir, on Saturdays most of us have commitments. However, we do not want to miss this very important business. Is it possible to move this business to Friday afternoon so that we can sacrifice, finish, and then travel? If we do not do this, it essentially means that we will be here the whole of Saturday, hence, we will not attend to some of the engagements which we are required to. The Gazette Notice can be done for a sitting on Friday. I think this is better for us. I can be the Speaker on that day because I do not come from Murang'a County.

It is wrong for my boss to say that he only considered the Speaker's Panel. What about Members? Did you consider the Members who will not be there? The Speakers could be there but if we will not be there, we will lose it. So, is it possible we move the business to Friday so that we can do the gazette notice?

The Deputy Speaker (Sen. Kembi-Gitura): Sen. (Prof.) Kindiki, can you, first of all, deal with the issue raised by Sen. (Dr.) Khalwale?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, it is true that when the signatures were being collected, the suggested date was Friday but as I said earlier, before I could release that letter, these other factors arose and we had to consult everybody.

The Deputy Speaker (Sen. Kembi-Gitura): What is the reason for the sitting not to be done on Friday? That is the question that has been asked even by your deputy.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, it is because it is not possible. That is the information from---

The Deputy Speaker (Sen. Kembi-Gitura): Why is it not possible?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, that is the information I got from Hon. Ethuro, the Speaker of the Senate. I am sure you are better placed to guide the House.

The Deputy Speaker (Sen. Kembi-Gitura): On what?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, on the matter partly because the push came from the Speaker who is an institution. So, among other factors, the push was from the Speaker's office; that, the Speaker will be engaged on an official function on Friday and since his deputy cannot sit, among other considerations, and of course the timing for the Committee---.

Therefore, those were the considerations. As I have said, the House can decide to meet when it wants to.

Sen. (Prof.) Anyang'-Nyong'o: Mr. Deputy Speaker, Sir, I hope the House will listen to me on this matter. I share Sen. Keter's appeal about holding the Special Sitting on Friday even if it means sitting up to midnight. The House risks not having a quorum on Saturday, given the fact that Members are committed to very weighty issues in their counties and elsewhere.

If it is the question of the Speaker being engaged elsewhere, there are enough Senators to sit on that Chair who are both lawyers and non-lawyers but are properly acquainted with the procedure in the House on the matter of Petitions. I am quite sure that the debate on this House will be competitive on Friday in the absence of the Speaker. I do

move that we hold the sitting on Friday. Risking Saturday will definitely invite no quorum in this House.

The Deputy Speaker (Sen. Kembi-Gitura): Okay, I do not think I will allow too much discussion on this. I indicated, and I hope this is taken in good faith, that I made the communication in my official capacity as the Deputy Speaker of the Senate. I hope that is understood; not as Senator for Murang'a County. Several issues have been raised. I have heard what you have said but let me hear from two more Senators.

Proceed, Sen. Mutula Kilonzo Jnr.

Sen. Mutula Kilonzo Jnr.: Mr. Deputy Speaker, Sir, first, the Senate Majority Leader should have been a little forthright in terms of timelines. The only time you do not count Sundays is if the days are less than six, so that we know that we have calculated the 10 days; first of all, correctly. That should have been communicated but the reason I stood up is; the Speaker has invited some Senators for a forum in Mombasa which runs up to Saturday. There are Committees that are running functions in Naivasha up to Saturday. In the case of Mr. Kiala, we could not make a decision because we were not 24; so we had to wait until midnight.

Therefore, it is important that even in your direction, it should be clear. If we will sit on Friday, those functions that are slated for Committees in Naivasha over the weekend beginning Friday are suspended. Those invitations of the Speaker that start on Friday are also suspended, so that we are clear that those engagements are not there anymore.

I agree with Sen. Keter for once, that sitting on Saturday will lead to a mistrial.

An hon. Senator: For once!

Sen. Mutula Kilonzo Jnr.: Mr. Deputy Speaker, Sir, yes, for once.

Sen. Keter: Mr. Deputy Speaker, Sir, so that we can have a decision which we will own, we need to be serious. Even the engagement of any Speaker, especially our Speaker, should be cancelled, wherever he is.

An hon. Senator: Yes!

Sen. Keter: Mr. Deputy Speaker, Sir, if he is in Accra, we still have time to communicate to him tonight to cancel his engagement, he comes here tomorrow and we transact the business on Friday.

We cannot just make a decision for Saturday because the Speaker is not there. What about us? We will also not be there. That is why we are saying, let it be on Friday so that even if we will not finalise the decision on Friday, we will still have Saturday. We can postpone to midnight and finish.

Even we can agree to do a gazette notice for 7.00 p.m., depending, of course, on the Committee. We are flexible; we say for example, 10.00 p.m. if they are not ready we settle for 12.00 a.m.

Let us make a decision.

Sen. Murungi: Mr. Deputy Speaker, Sir, we know that the Standing Orders only require consultation of the leadership of the House and the Speaker in calling that Special Session. Impeachment is the most important and serious business for this House. Given the mood that you are getting from the Members, if we come here on Saturday and we do

not have a quorum of 15 Members, the Senate will have failed miserably. It will have let down the people of Murang'a County.

Therefore, I would like to plead with the leadership of the House who consulted, so that we have the sitting on Saturday to consult then we have a sitting on Friday afternoon. I understand that the Speaker is not in the country, but he can be reached so that at least by Friday afternoon he is available, so that we can continue with this business. Mine is a plea to those who consulted to consult again.

Sen. Obure: Thank you Mr. Deputy Speaker, Sir. I think we are really in a dilemma. On one hand, we understand that the impeachment Committee was not able to start its work until yesterday because of the appeal that had been made to the High Court and on the other hand – of course the various reasons given by the Senate Majority Leader – Saturday is a very difficult day for some of us because of religious reasons.

I happen to belong to the Seventh Day Adventist Church and that is the day of worship for us, making it very difficult to attend such an important function as attending the proceedings of the Senate. If there is a way in which we can review this date, and bring it forward to Friday afternoon, that would be much more appropriate for most of us.

Thank you.

An hon. Senator: Put the Question!

The Deputy Speaker (Sen. Kembi-Gitura): I am not putting the question. It is not a debate for which a reply is required.

Sen. Wamatangi: Thank you, Mr. Deputy Speaker, Sir. During the debate on the formation of the Special Committee, I raised a very important issue about the time when we receive this report from the Committee and the time when we debate it. Because the norm has been that we receive the report, we go through it for a few minutes and we are asked and required to vote, to contribute to this report before. We had made a request as we discuss this whether it is possible to have an intervention from the Chair so that when this report is ready, it is availed to Members and some ample time is given for Members to be able to go through this report, digest it and make meaningful contributions and vote on something that they have been able to read and understand.

Mr. Deputy Speaker, Sir, as we debate this matter, it is important that we also get some direction from the Chair and communicate to the Committee so that we can have the opportunity to look at this report. During the Kiala and Wambora impeachments, we had a serious problem because Members were trying to find out what they were going to contribute on, vote for or against, because they had not gotten an opportunity to go through the report. So, with your intervention, assist us to resolve this.

Sen. Haji: Thank you, Mr. Deputy Speaker, Sir. As I said earlier, I think the business of the House takes precedence over any other commitment. In view of this, even if it means voting on it, we are very strongly of the view. For us to do justice, we should be meeting on Friday because Saturday, there could be failure of having the quorum. I agree with my colleagues.

Sen. Abdirahman: Thank you very much Mr. Deputy Speaker, Sir. Consultation is an ongoing process. It does not stop at one place and we do not have to fix our minds in one particular position. The fact that a consultation was made at a certain stage does not mean if circumstances change, you cannot change that position. The only factor – the

Senate Majority Leader spoke about several factors – that he explicitly mentioned was that of the absence of the Speaker which can actually be handled without any problem.

We have Temporary Speakers who can sit in if you may not be able to do it because of the situation we know. I fully support the position of meeting on Friday afternoon rather than Saturday because we may not--- If consultation has to happen; it is not only an individual who decides which side of this House you sit. I personally agree with the number of Speakers including my counterpart on the other side, the Deputy Majority Leader who said that we sit on Friday afternoon instead of failing the important issue we have to discuss that particular day.

The Senate Majority Leader (Sen. (Prof.) Kindiki): Thank you Mr. Speaker, Sir. I just wanted to clarify the fact that the issue of the presence of the Speaker of the Senate was not the only factor that was considered. I remember I elaborated about four. In fact, I said that much of the persuasion came from the office of the Speaker, which includes yourself and the entire panel, but if you ask me privately from where I sit as the Senate Majority Leader, my worry is more on giving qualitative justice to this Motion in two ways.

The first, we know how enormous what is going on at County Hall is, the kind of proceedings that come out of there and the kind of pressure that we put the Committee through to produce a report, because it is not going to be an interim report. There is no room for an interim report; it must be a complete report.

Mr. Deputy Speaker, Sir, if you want to do justice, you must give the Committee a day or so to analyze the evidence carefully, judiciously – remember here we are talking about the fate of somebody – whichever way the matter goes, you need to give that person justice and as the adage goes, justice must not only be done but it must be seen to be done; if you ask me; that is a weighty issue.

Sen. Obure pointed out clearly that the Committee begun a little late because of the hiccups which were there. If you ask me, the most important thing is that we had to stretch this to the last day to give the Committee a leeway so that they can, one, complete a good report and, secondly, so that such a report can be available a few hours before the House sits, and for Senators to internalize the report because that plenary will debate and pass that Motion or reject it the same day.

The Deputy Speaker (Sen. Kembi-Gitura): Do they have to accept or reject the same day? What is the legal position?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, am I speaking as a lawyer or as the Senate Majority Leader?

The Deputy Speaker (Sen. Kembi-Gitura): As the Senate Majority Leader.

The Senate Majority Leader (Sen. (Prof.) Kindiki): The Senate Majority Leader has no business in the legal position but as a lawyer, I have business. That is why I wanted to clarify.

The Deputy Speaker (Sen. Kembi-Gitura): Order, Senate Leader of Majority. You and the Senate Minority Leader are the ones to lead the House. You see these 10 days is a function of the law and not something we decide. I am sure everybody would like to have 14 or 21 days but 10 days is a function of the law. So, the question I am

asking is, once the report is made to the Senate on a day within the time frame, does the matter have to be decided that day?

The Senate Majority Leader (Sen. (Prof.) Kindiki): Mr. Deputy Speaker, Sir, I do not want to argue with you, Chair, but the only point I was making is that when it comes to my own understanding of the procedures of this House; when it comes to the position of the law and the regulations, that is the work of the Chair assisted by the Clerks to guide the House. But nevertheless, I am still the lawyer that I am, my own understanding is that the report of the Committee must be submitted to the House within 10 days and a decision made thereon.

That is the way I understand it. A decision has to be made thereon within ten days; you cannot elongate it. We know that the rule around Special Sitzings is that the agenda has to be exhausted the same day. For those two reasons, the business has to be exhausted the same day.

Finally, I plead with my colleagues with a lot of humility and accommodation because the idea is not to acquit a governor who might be guilty by maybe precipitating lack of quorum, but I see a contradiction here. The Senators who are saying that they want a sitting on Friday because they will not be available on Saturday - and the business of the Senate takes precedence - are the same ones who are saying that the inconvenience caused on the Speaker of the Senate is inappropriate. They are using the same argument about availability to reject the suggestion for Saturday.

My plea is that we should do justice because the whole country is watching. We do not want to be seen like people who have made up their mind on something; we want to be judicious. If Friday is not a normal sitting day of this Senate, so is Saturday. If we have to sacrifice Friday, we have to cancel certain commitments outside this Chamber, and the same applies to Saturday. I plead with this House for the reasons I have given, especially the reason of affording the party involved a judicious inquiry, facilitated by a quality report that is well analyzed by the Committee and internalized by Senators for debate. I plead that we proceed in the manner which was communicated by the Chair this afternoon.

I rest my case.

Sen. Mositet: Mr. Deputy Speaker, Sir, with the earlier experience we went through during Wambora's time - and it is good that quite a number of the Senators who were in that Committee are here, that is, Sen. Boy Juma Boy, Sen. Wamatangi, Sen. (Prof.) Lesan and our Clerk, Mr. Nyegenye - it took us four days to interrogate the governor and one-and-a-half days to interrogate the county assembly. We slept for only three hours when we went for a retreat to compile the report.

Going by that experience and the allegations which were read here against the Governor for Murang'a - which were weightier than the ones against Wambora - we will not be doing justice. The Committee started its sittings today. It will also sit tomorrow and compile a report. Even if we hold a Sitting on Saturday, I doubt the quality of what they will have come up with.

Other than that, I also doubt whether Senators will have a chance to interrogate the report. It will come and a consensus built; that since the Committee has come up with particular findings, we will proceed in a particular way.

I feel that we may not have enough Members on Saturday. Again, as Sen. Mutula Kilonzo Jnr. said, on Friday, the Speaker will be in Mombasa with some of us for the International Conference on the Great Lakes Region (ICGLR).

Members of Parliament from 11 countries will start arriving from tomorrow. I know the Senator of Murang'a may not want to take sides in voting, but he will want to see how the House will debate on issues of Murang'a.

The Deputy Speaker (Sen. Kembi-Gitura): Order!

Sen. Mositet: Mr. Deputy Speaker, Sir, we need to address this issue seriously. We may say that we want a Sitting on Friday, but the Committee will not be ready.

The Deputy Speaker (Sen. Kembi-Gitura): You cannot speak for the Committee.

Sen. Mositet: Mr. Deputy Speaker, Sir, I will go with the position of Saturday.

Sen. Keter: Mr. Deputy Speaker, Sir, we are making a request to hold a sitting on Friday, since we have made prior engagements for Saturday. We are ready to sacrifice and sit on Friday, for the sake of executing what is required of us. Whatever we have planned for Friday, we will shift it to Saturday. If some of us travel out of Nairobi on Friday, we will not come back on Saturday.

You and I have been in Parliament for long. We have had constitutional Bills being tabled and we adjourned for an hour for Members to go through them and contribute. We need Members to go through the report. If the Committee completes the report on Friday morning, it will not release it until it is tabled. It is after the report has been tabled by the Committee that we will all get access to it. At that point, we can request to adjourn for one hour, so that we can go through the report.

Mr. Deputy Speaker, Sir, we do not know the verdict of the report. It may say that they disagree with all the allegations and the governor is clean. In that case, there will be no debate about it. Let us not speculate because we do not know what will come out of the Committee. The report may come with a verdict of "no case." If there will be a case, we will adjourn to go and read the report within an hour. We can finish those allegations in one hour; we cannot take the whole day.

Even if we request that a Sitting be held on Saturday in order for Members to contribute effectively, I can assure you that there will not be enough time to read the report, because it will be tabled on the same day. Let us be serious. My request to my Leader is we do it on Friday afternoon, so that we can be away on Saturday.

The Deputy Speaker (Sen. Kembi-Gitura): As I said, this is not an easy matter for me or anybody sitting here, because I have already made a Communication from the Chair in good faith. However, it is not cast in stone because a gazettment can be de-gazetted. I have heard the views that you have made. Procedurally, it is not a matter that can be put to vote, because you have raised views as points of order on the Communication that I made.

I want to give the House the following direction: I have done a Communication in which I have said that the Special Sitting shall be on Saturday. That Special Sitting has been gazetted, but as the Senate Majority Leader and all of you have said, it can be de-gazetted and re-gazetted. I will request the Senate Majority Leader and the Senate Minority Leader to have further consultations with me. I shall make a direction on this issue tomorrow, at 2.30 p.m.

I have heard your views and I want to thank you. I did not think that this would generate much interest. As I said, this was done in good faith because we sat yesterday at the Rules and Business Committee and we reckoned the days. We saw that the reckoning that had been done ending on Monday, 9th November, 2015, were wrong. The days actually end on Saturday. All of you understand the ramifications of anything done outside the period of the 10 days. This is important. I request for your patience and indulgence so that tomorrow I will be able to issue a final communication on this issue.

Whatever position we now take, the Special Committee has to give a report by the date that the House decides. However, that cannot be argued. They have to give a report on or before the date that this House adopts under the law, as the date for that purpose. Therefore, the Senate Majority and Minority Leaders, we will have further consultations immediately after the rise of the House. We will agree on the way forward so that we can lead the House from the front.

Before you start leaving your seats, we have to reorganize the Order Paper. Yesterday we canvassed at great length the issue of Article 115 of the Constitution and Standing Order No.76. As I said, I will deliver a ruling on the same. I consider it an extremely important Constitutional issue and I am still working on the ruling. It will be delivered. It is not ready.

It will not be possible to vote on items listed as Order Nos.8 and 9 on the Order Paper before that ruling is made. So, I stand down items listed as Order Nos.8 and 9. I also stand down Order Nos.10, 11 and 12. Those items are to be dealt in the Committee of the Whole and we do not have the necessary threshold. We will go to Order No.13, which is resumed debate on the issue.

COMMITTEE OF THE WHOLE

CONSIDERATION OF THE PRESIDENTIAL MEMORANDUM ON THE PUBLIC PROCUREMENT AND ASSET DISPOSAL BILL (NATIONAL ASSEMBLY BILL NO. 40 OF 2014)

(Deferred)

CONSIDERATION OF THE PRESIDENTIAL MEMORANDUM ON THE PUBLIC AUDIT BILL (NATIONAL ASSEMBLY BILL NO. 38 OF 2014)

(Deferred)

BILL*Second Reading*

THE OFFICE OF THE COUNTY ATTORNEY BILL,
(SENATE BILL NO.37 OF 2014)

(Bill deferred)

COMMITTEE OF THE WHOLE

THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL)
BILL (SENATE BILL NO.20 OF 2014)

(Deferred)

THE COUNTY EARLY CHILDHOOD EDUCATION BILL
(SENATE BILL NO.32 OF 2014)

(Deferred)

BILLS*Second Reading*

THE KENYA NATIONAL EXAMINATION COUNCIL AMENDMENT
BILL (SENATE BILL NO.7 OF 2015)

(Sen. Musila on 27.10.2015)

(Resumption of Debate interrupted on 27.10.2015)

The Deputy Speaker (Sen. Kembi-Gitura): Those of you that have requested the Floor, please, clear the screen. What I see here is from the last debate. It appears that there is no further interest on the debate on Order No.13. So, I will put the question, but at my own volition.

Sen. Keter: Mr. Speaker, Sir, on Order No.13, we did not debate it last week because Sen. Musila really wanted to be there. However, as we are aware, Sen. Musila is chairing the Special Committee on Impeachment of the Governor for Murang'a County. It is good to stand down this issue until next week because it is very key to him.

The Deputy Speaker (Sen. Kembi-Gitura): Not just to him, but the House. I will accede to the request because even yesterday I stood it down for the same reason. Thank

you very much, Sen. Keter, for bringing that to my attention. That takes us to the next order.

(Bill deferred)

Second Reading

THE COUNTY GOVERNMENTS DISASTER MANAGEMENT BILL
(SENATE BILL NO.40 OF 2014)

The Deputy Speaker (Sen. Kembi-Gitura): Sen. Haji, this is your Committee Bill and there is no indication of further interest to debate. Do you want to reply now? Right now, I am not getting the requests. Is it possible for you to clear? Okay, Sen. Keter, you have the Floor.

Sen. Keter: Mr. Speaker, Sir, this is a very crucial Bill. Last week when I was responding to the issue of *El Nino*, one of the issues we noticed is that there was no legal framework on how to deal with or manage disasters in this country. That is both in the national and county governments. So, the essence of this Bill is to give a platform whereby all these disasters can be dealt with from a central point.

I urge my colleagues that this is a very crucial Bill. With the legal mechanisms in place, we can address some of the issues. We have had a lot of issues in the country, but they are managed differently. We do not even know who manages some of them. If it is an issue like a collapsed building, they send engineers, fire brigade and any others because nobody specifically has been assigned that role. Therefore, if we have a central point on how to manage disasters, it will be easier in terms of rapid response.

This is a timely Bill. We need it like yesterday, especially now when we are expecting *El Nino*. People are asking who will manage what in case, say, it floods. Under the memorandum of objects and reasons, it gives the principal purpose of the Bill as;

“To provide a uniform legislative framework for effective and comprehensive disaster management by county governments in their respective counties.”

If there was a disaster in my county, Kericho, now, who will respond to that? What will the county Government do? Who will they consult? If we have a national management and a county legislative framework, it will be easier, for example, if we have fire that goes beyond the efforts of the county, they can request for assistance from another county. They can also respond to the national Government.

We have rivers in our areas. If some people drowned, getting access to call anybody in the Kenya Navy or anyone else who would manage is extremely hard. So, if we could have this in our counties, it would be easier to even get the navy officers because they are trained in terms of handling water bodies.

I beg to support.

Sen. Haji: Mr. Deputy Speaker, Sir, the essence of having this Bill is as a result of the fact that whereas the national Government may have a sector which deals with disaster, now that the county governments are there, and they have been given resources,

they should have some legal basis on which they would be doing their work, unlike currently where they deal with disasters here and there on *ad hoc* basis.

We are quite aware that counties have been given money and assistance in the management of disasters in their own areas. Many of the headquarters and urban trading centres in other areas have no fire brigades. They do not have any means of handling such issues. They keep on waiting for the national Government to come and rescue them when such things happen. Under this Bill, they now know what they are expected to do and they will vote money for the purpose of managing disasters in their areas until such a time that the national Government will come to assist them.

Many Members who spoke here raised a lot of issues. However, when the Bill comes to the Committee, we will take care of all those concerns.

I beg to move.

The Deputy Speaker (Sen. Kembi-Gitura): That is the close of that debate. It is a Bill affecting counties and, therefore, voting will be by county delegations. I will put the Question on another designated day.

Is that okay Sen. Haji?

Sen. Haji: Mr. Deputy Speaker, Sir, I agree.

(Putting of the Question deferred)

The Deputy Speaker (Sen. Kembi-Gitura): Let us move on to the next Order.

*(The Deputy Speaker (Sen. Kembi-Gitura)
consulted the Clerks-at-the-Table)*

Hon. Senators, it appears that we still have to reorganize the Order Paper because Sen. Hassan who is supposed to move the Bill under Order No.15 is not in the House. I also notice that Sen. Ongoro who is supposed to move Motion No. 16 on the Order Paper is also not in.

Second Reading

THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF
ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILL NO. 8 OF 2015)

(Bill deferred)

MOTION

NOTING OF THE REPORT OF THE IPU EXPERT MISSION
TO KENYA ON THE FRAMEWORK TO IMPLEMENT
THE CONSTITUTIONAL PROVISION OF THE
TWO-THIRDS GENDER RULE

THAT, AWARE that the Parliament of Kenya is an active member of the Inter Parliamentary Union (IPU) which is the international organization of national Parliaments;

FURTHER AWARE that the IPU provides support to Parliaments in areas such as law and policy-making, as well as representation;

NOTING WITH APPRECIATION that, upon a request by the Speaker of the Senate, the IPU sent an expert delegation to Kenya from 12th to 16th July, 2015 to offer advice on the way forward in implementing the constitutional requirement on the two thirds gender rule;

NOW THEREFORE the Senate notes the report of the Inter-Parliamentary Union Expert Mission to Kenya on the framework to implement the constitutional provision of the two-thirds gender rule laid on the Table of the Senate on Thursday, 8th October, 2015 and extends its appreciation to the IPU for support on the matter

(Motion deferred)

The Deputy Speaker (Sen. Kembi-Gitura): Hon. Senators, in these circumstances, there is no other business for the House today under the Order Paper. Therefore, we will adjourn now.

ADJOURNMENT

Hon. Senators, it is now time for interruption of the business of the Senate. As I said, the business that has to be dealt with now cannot be conveniently dealt with. That is the reason I have decided to reorganize the Order Paper and end the business of the House now at 4.45 p.m.

Therefore, the Senate stands adjourned until tomorrow, Thursday, 5th November, 2015, at 2.30 p.m.

The Senate rose at 4.45 p.m.