

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Tuesday, 20th December, 2022

Special Sitting

*(Convened via Kenya Gazette Notice
No.15567 of 16th December, 2022)*

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

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

PRAYER

DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

The Speaker (Hon. Kingi): Clerk, can you confirm if indeed we do have quorum?

*(The Clerk-at-the-Table consulted the Speaker
as several Senators walked into the Chamber)*

ADMINISTRATION OF OATH

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

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I have noticed that we have gone through the Order on Administration of Oath. As you know, this is a solemn matter on the Order Paper.

The people of Bungoma County successfully carried out an election. They voted for a Senator and all of them have their eyes glued on the television to witness the swearing in of their Senator. Apparently, the ceremony does not appear to be taking place.

Could it be that the Independent Election and Boundaries Commission (IEBC) has not informed you of the election? If it has not, I can assure you that I was there and the election has actually taken place. Could the Senator of Bungoma County be sworn in?

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, indeed, I am aware that the IEBC gazetted the duly elected Senator of Bungoma County. The Gazette Notice was contained in the same Gazette that we did seeking to have this Special Sitting.

Now, Sen. (Dr.) Khalwale, if you can read Standing Order No.33 (1) and (5). I will read for you Subsection 5 of that particular Standing Order.

“Whenever the Senate meets for a Special Sitting under paragraph (1), the Speaker shall specify the business to be transacted on the day or days appointed, and the business so specified shall be the only business before the Senate during the special sitting, following which Senate shall stand adjourned until the day appointed in the Senate Calendar.”

Therefore, that business having not been specified in the Gazette Notice, I am afraid we may have, and indeed, we have to transact the business as specified in the Gazette Notice, pursuant to our Standing Orders.

Thank you.

(Applause)

Next Order.

COMMUNICATION FROM THE CHAIR

SPECIAL SITTING OF THE SENATE TO HEAR CHARGES ON THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF THE GOVERNOR OF MERU COUNTY

The Speaker (Hon. Kingi): Hon. Senators, I take this opportunity to welcome you to this Special Sitting of the Senate that is convened on the request of the Senate Majority Leader, pursuant to Standing Order No. 33(1) and with the support of the requisite number of Senators. Consequently, vide Gazette Notice No.15567, dated 16th December, 2022, I appointed today Tuesday, 20th December, 2022, at 2.30 p.m., as a day for a Special Sitting of the Senate.

In the Gazette Notice, I indicated that the business to be transacted at this Special Sitting shall be the hearing of the charges for the proposed removal from office by impeachment of the Hon. Kawira Mwangaza, the Governor of Meru County.

As indicated at Order No.3 in the Order Paper, I shall report to the Senate a Message within the meaning of Standing Order No.48 from the Meru County Assembly on the said matter.

Hon. Senators, finally, in accordance with Standing Order No. 33(5), the business specified in the Gazette Notice and as outlined in the Order Paper, shall be the only business before the Senate during the Special Sitting, following which the Senate shall stand adjourned until Tuesday 14th February, 2023 at 2.30 p.m., in accordance with the Senate Calendar.

I thank you.

Next Order.

MESSAGE FROM HIS EXCELLENCY THE PRESIDENT**MEMORANDUM TO THE SPEAKERS OF
PARLIAMENT ON PROPOSED CONSTITUTIONAL AMENDMENTS**

The Speaker (Hon. Kingi): Hon. Senators, I wish to report to the Senate that I have, pursuant to Standing Order No. 47 (1) and (3), received a Message from His Excellency the President.

The Message that is dated Friday, 9th December, 2022 and communicated by way of a Memorandum addressed to the Speaker of the Senate and the Speaker of the National Assembly, was received on 14th December, 2022 while the Senate was on recess.

The President has in his Memorandum urged the two Houses of Parliament to exercise full authority and precisely calibrate the balance of constitutional powers, deepen good governance, enhance inclusion in the democratic space, strengthen parliamentary oversight of the Executive and promote the responsiveness of elected representatives to citizen aspirations.

His Excellency the President specifically seeks the intervention of the Houses of Parliament in regard to -

- (1) Implementation of the two-thirds Gender Rule.
- (2) Constituency Development Fund, Senate Oversight and National Government Affirmative Action funds.
- (3) The position of the Leader of the Official Opposition.
- (4) Parliamentary oversight over the Executive.

Hon. Senators, pursuant to Standing Order No. 47(3) which states that when a Message from the President is read, the Message shall be deemed to have been laid before the Senate and the Speaker may: -

- (a) direct that the message be dealt with forthwith;
- (b) appoint a day for consideration of the message; or,
- (c) refer the message to the relevant committee of the Senate for consideration.

Hon. Senators, in this regard, I refer the matter to the Senate Majority Leader for necessary action and further direct the Clerk to circulate to all Senators the detailed memorandum as received from His Excellency the President, so that you may familiarize yourselves with its contents.

I thank you.

What is your point of order, the Senate Majority Leader?

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I have heard your Message. For a very long time, I have been avoiding to comment on this particular issue because you know very well that this has been a topical issue in our country. Given that this was a Memorandum addressed to you, I am now satisfied that the Communication you have given is that you have referred this matter to one of the legislators in this House, who happens to be the Senate Majority Leader.

Mr. Speaker, Sir, there have been discussions out there about what is our place as an institution? Article 94 of our Constitution gives us legislative authority as Parliament. Unfortunately, that legislative authority vests only in 67 Members of this House and 349

Members in the National Assembly. Anybody else, not including the President himself, can transact any business in this House other than through the way that has been suggested that you can do a proposal.

This House receives petitions and letters from members of the public. Personally, even as a legislator, I get suggestions even on my social media platforms that “you need to change this law or the other.” That is a suggestion that comes to us. However, it is duty-bound on us as legislators to consider and find ways in which we address these particular issues.

Mr. Speaker, Sir, the reason I am impressed with this Communication of yours is that finally this gives us an opportunity as Senate. I know that there is a Constitutional Amendment Bill before the National Assembly. I continue to hold the position that, that constitutional amendment is a nullity in law. This is for the simple reason that you cannot be proposing to put National Government Constituency Development Fund (NG–CDF) at 2.5 per cent and National Government Affirmation Fund (NGEF) at - I do not know what percentage - and give to Senators 0.001 per cent. That is an insult to this House.

That Bill would never have seen the light of the day. In fact, I dare say that Members were planning to disappear with the Mace if that Bill had been brought to this House. However, as it is now, we have an opportunity because three weeks ago before the lapse of the term of this House, we proposed an *Ad Hoc* Committee to look into various proposals that are before the various Houses of Parliament.

I believe that this is our opportunity as Members of Parliament, especially those that serve in this Ad Hoc Committee, that for every Shilling or every coin that Members of the National Assembly will be proposing especially, with regards to NG–CDF and NGEF, there must be a respectable share of resources to be used to carry out oversight in our counties that is proposed to the Senate.

Therefore, I do not want to pre-empt the debate, but I believe that when our Ad Hoc Committee sits, the Senate shall finally get justice.

I thank you.

The Speaker (Hon. Kingi): We rest that matter there.

Hon. Senators, I had three options. One of the options was to allow you to consider this Message, which I did not exercise. The option I did exercise is to refer this Message to the Senate Majority Leader for onward transmission to the relevant committees. Therefore, we are not debating this Message. That option is not open to us now.

(Sen. Mungatana stood up in his place)

Hon. Senators, we have a very heavy agenda in front of us.
Sen. Mungatana, kindly yield.

(Sen. Mungatana spoke off record)

Sen. Mungatana, kindly take your seat.
Hon. Senators, I have another Message to pass.

MESSAGE FROM MERU COUNTY ASSEMBLY**APPROVAL OF MOTION IN THE COUNTY ASSEMBLY TO
REMOVE FROM OFFICE, BY IMPEACHMENT, THE GOVERNOR OF MERU COUNTY**

The Speaker (Hon. Kingi): I wish to report to the Senate that pursuant to Standing Order No. 48, I received the following Message from the Speaker of the Meru County Assembly regarding the passage by the county assembly of a Motion pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, for the removal from office, by way of impeachment, of hon. Kawira Mwangaza, the Governor of Meru County.

The Message was transmitted to the Senate via a letter signed by the Speaker of the Meru County Assembly, Ref. No.CAM/RES/VOL.V/2, dated 15th December, 2022, and received in my office on the same day.

Pursuant to Standing Order 48(4) of the Senate, I shall now report the Message to the Senate:

“This is to inform you that on Wednesday, the 14th day of December, 2022, during the afternoon Sitting of the County Assembly of Meru, vide a Resolution of the Assembly, and pursuant to the provisions of Article 181 of the Constitution of Kenya, 2010, Section 33 of the County Governments Act, 2012, as read together with the provisions of Standing Order No.65 of the County Assembly of Meru Standing Orders, approved the Motion to remove from office the Governor of Meru County by way of impeachment.

The purpose of this letter is to, therefore, inform you of the aforementioned resolution, and to forward the same to your esteemed office in line with the provisions of Section 33(2) (a) of the County Governments Act, 2012 and Standing Order No. 65 (6) of the County Assembly of Meru Standing Orders for your further action.

Attached herewith, please, find a schedule containing the bundle of documents and records containing evidence adduced, notes and records of proceedings before the county assembly for your reference and records.”

Hon. Senator, kindly walk in.

(Sen. (Dr.) Oburu walked into the Chamber)

Sen. (Dr.) Oburu, our prayers were with you. We thank God you are back

(Applause)

Hon. Senators, as stated in the letter from the Speaker of the County Assembly of Meru, the following documents were forwarded to the Senate, being the record of proceedings of the county assembly and the evidence adduced in support of the impeachment Motion-

(1) Approved notice of Motion for the proposed removal from office of the Governor, dated 5th December, 2022.

(2) Order Papers for the county assembly sittings held on Tuesday, 6th December and Wednesday, 14th December, 2022, respectively.

(3) Certified HANSARD reports of the assembly sittings held on Tuesday, 6th December and Wednesday, 14th December, 2022.

(4) Copy of certified signatures of Members of the County Assembly (MCAs) in support of the impeachment Motion against the Governor of Meru County, dated 13th December, 2022.

(5) Copy of roll call vote of Wednesday, 14th December, 2022, on the Motion for impeachment of the Governor of Meru County.

(6) Copy of a Communication from the Chair issued during the county assembly sitting held on Wednesday, 14th December, 2022.

(7) Copy of a letter by Mutuma Gichuru & Associates Advocates, Ref. No.CAM/MCAs/KM/MGA/2022, dated 13th December, 2022, addressed to the Speaker of the County Assembly of Meru.

(8) Copies of newspaper advertisements of Wednesday, 7th December, 2022 and copies of invoices for radio advertisement, calling for submission of memoranda on the notice of Motion for the proposed removal from Office of the Governor of Meru County.

(9) A flash disk containing 20 video clips evidencing the particulars alleged in the Motion as well as voice advertisements on the public participation on the Motion run on *Muuga FM*.

(10) Copy of the report, minutes and other supporting documents of a public hearing meeting for receipt of memoranda on the proposed removal from Office of the Governor of Meru County, held on Tuesday, 13th December, 2022.

(11) Copies of written memoranda both in support and against, from different sub-counties and regions submitted to the county assembly during the public participation exercise on this Motion.

(12) Booklet of the Third Edition of the Meru County Assembly Standing Orders.

Hon. Senators, in terms of Article 181 of the Constitution, Section 33 (3) (a) of the County Governments Act, 2012 and Standing Order No. 80 (1) (a) of the Senate Standing Orders, the Speaker of the Senate is required within seven days after receiving notice of a resolution from the speaker of a county assembly to convene a meeting of the Senate to hear charges against the governor.

As I indicated in my earlier Communication, this Special Sitting has been convened to hear charges on the proposed removal from office, by impeachment, of Hon. Kawira Mwangaza, the Governor of Meru County.

Pursuant to Section 33 (3) (b) of the County Governments Act and Standing Order No. 80 (1) (a) of the Senate Standing Orders, I hereby proceed to read the charges against the Governor of Meru County, as contained in the Motion of Impeachment by the County Assembly of Meru-

Charge 1: Nepotism, illegal appointments, unlawful dismissals and usurpation of the constitutional and statutory functions of County organs.

The particulars of this allegation include-

(1) Appointment of her husband to county offices.

- (2) Roadside appointments of county workers at Timau.
 - (3) Roadside appointments of county workers at Nkubu.
 - (4) Roadside appointments of county workers at Kianjai.
 - (5) Establishment of an illegal committee for the Meru Municipality.
- Hon. Senators, you may walk in.

(Several Senators walked into the Chamber)

Charge 2: Incitement, bullying, vilification and misleading campaigns against other leaders.

The particulars of this allegation include-

- (1) Humiliation of the Meru County Assembly Minority Leader.
- (2) Vilification of the Meru County Assembly Minority Whip and other leaders.
- (3) Vilification of the Senator of Meru County.
- (4) Vilification of the Cabinet Secretary for Agriculture.
- (5) Vilification of the Member of the National Assembly for Tigania East Constituency.
- (6) Vilification of the Catholic Church and Clergy

Charge 3: Forceful entry into the county assembly precincts and mobilisation of unlawful riots against Members of the County Assembly.

The particulars of this allegation are that the governor-

- (1) Forcefully entered the precincts of the County Assembly.
- (2) Falsely accused MCAs and other elected leaders of cartelism, blackmail, greed, corruption and intimidation.
- (3) Organised a violent demonstration against the MCAs at the Assembly precincts.
- (4) Addressed a riotous crowd at the precincts of the county assembly.

Charge 4: Violation of Public Finance Management Laws

The particulars of this allegation are that the Governor-

- (1) Directed the Meru Teaching and Referral Hospital to spend all revenue at source.
- (2) Issued purported waivers on fees at the Meru Teaching and Referral Hospital.
- (3) Directed county officers to participate in advancing the interests of *Baite* TV, a private media station.

Charge 5: Misconduct relating to the nomination of County Executive Committees (CECs)

The particulars of this allegation are that the Governor-

- (1) Vilified MCAs for refusing to approve some nominees to the County Executive Committee (CEC).
- (2) Falsely accused MCAs of short-changing Casty Micheni and other nominees for appointment to the CEC.

(3) Illegally instructed Casty Micheni to usurp the statutory functions of the Igoji West Ward Retention Enhancement Fund Committee by identifying the persons that would benefit from county bursary funds.

(4) Failed to submit names of other candidates to the county assembly for approval for appointment to the CEC.

(5) Reorganized her government to six departments and three CEC Members after the rejection of some nominees, instead of submitting names of other candidates to the county assembly for approval.

(6) Swore to appoint to her government and actively work with losers of the 2022 county elections, instead of duly elected MCAs to stir wrangles within the assembly.

Hon. Senators, in terms of the way forward following the reading of the charges against the governor, Standing Order No. 80 (1) (b) of the Senate Standing Orders, as read together with Section 33 (3) (b) of the County Governments Act, gives the Senate two options on how to proceed with the matter.

The Senate may-

(a) by Resolution, appoint a Special Committee comprising eleven of its members to investigate the matter; or,

(b) investigate the matter in Plenary.

As listed as Order No.6 in today's Order Paper, the Senate Majority Leader will shortly give notice of Motion for the establishment of a Special Committee and the Motion thereon is listed at Order No.8. Should this Motion be carried, the Special Committee will be required, under Section 33(4) of the County Governments Act and Standing Order No. 80 (2) of the Senate, to investigate the matter and report to the Senate on whether it finds the particulars of the allegations against the governor to have been substantiated.

In the event that the Motion for the establishment of a Special Committee does not pass, the fallback position is that the Senate shall proceed to investigate and consider the matter in Plenary. In this event, I will appoint the dates on which the Senate will sit in Plenary to hear and determine the charges against the Governor.

Hon. Senators, it is noteworthy, and I wish to emphasize to all hon. Senators, that when we come to the debate on the Motion for establishment of the Special Committee, debate on the Motion shall be limited to the substance of the Motion, principally, whether or not to establish the Special Committee.

It will not be a debate on the substance of the impeachment or its merits, 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, therefore, not permissible to deviate to any matters other than the Motion before the Senate.

I also wish to inform hon. Senators to desist from publicly commenting on the merits or demerits of the impeachment Motion before the Senate. Doing so would amount to anticipation of debate, which is an infringement of Standing Order No.99.

Therefore, it shall be out of order, within the meaning of Standing Order No.122, for any Senator to make comments, whether written or spoken, in relation to the conduct of the Governor or the impeachment process, which is outside the confines of the

impeachment proceedings, as such comments may prejudice the just outcome of the process.

Hon. Senators, this is the first impeachment hearing in the Thirteenth Parliament. Such a hearing is one of the most crucial oversight tools and singular roles of the Senate. In undertaking this mandate, the Senate will be sitting as a quasi-judicial body and conduct investigations into the alleged infractions of the Constitution and the law, and thereafter, make its determination on the matter.

I conclude by urging all hon. Senators to exercise the highest level of responsibility on this matter.

I thank you.

Let us go to the next Order.

NOTICE OF MOTION

ESTABLISHMENT OF A SELECT COMMITTEE TO INVESTIGATE THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF THE GOVERNOR OF MERU COUNTY

The Speaker (Hon. Kingi): Senate Majority Leader, you may the Floor.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I rise to give Notice of the following Motion-

THAT, WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on 14th December, 2022, the Meru County Assembly approved a Motion to remove from office, by impeachment, Honourable Kawira Mwangaza, the Governor of Meru County;

AND FURTHER, WHEREAS by a letter Ref. No. CAM/RES/VOL.V/2, dated 15th December, 2022, received in the Office of the Speaker of the Senate on Thursday, 15th December, 2022, the Speaker of the Meru County Assembly 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, and Standing Order No.80(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, and Standing Order No. 80(1)(b), the Senate resolves to establish a special committee comprising the following Senators: -

1. Sen. (Dr.) Boni Khalwale, CBS, MP;
2. Sen. Jackson Mandago, EGH, MP;
3. Sen. Karungo Thangwa, MP;
4. Sen. Esther Okenyuri, MP;

5. Sen. Roba Ali Ibrahim, EGH, MP;
6. Sen. Peris Tobiko, MP;
7. Sen. Eddy Gicheru Oketch, MP;
8. Sen. Joseph Githuku Kamau, MP;
9. Sen. Edwine Sifuna, MP;
10. Sen. Agnes Kavindu Muthama, MP; and
11. Sen. Johnes Mwaruma, MP.

to investigate the proposed removal from office of the Governor of Meru County and pursuant to Standing Order No. 80 (2), to report to the Senate, within ten (10) days of its appointment, on whether or not it finds the particulars of the allegations against the Governor to have been substantiated.

I thank you.

The Speaker (Hon. Kingi): Let us go to the next Order.

MOTION

ESTABLISHMENT OF A SELECT COMMITTEE
TO INVESTIGATE THE PROPOSED REMOVAL FROM
OFFICE, BY IMPEACHMENT, OF THE GOVERNOR OF MERU COUNTY

The Speaker (Hon. Kingi): Senate Majority Leader, please, move the Motion.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I beg to move the following Motion on the establishment of a Select Committee to investigate and report on the proposed removal from office, by impeachment, of Hon. Kawira Mwangaza, the Governor of Meru County-

THAT, WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on 14th December, 2022, the Meru County Assembly approved a Motion to remove from office, by impeachment, Honourable Kawira Mwangaza, the Governor of Meru County;

AND FURTHER, WHEREAS by a letter Ref. No. CAM/RES/VOL.V/2, dated 15th December, 2022, received in the Office of the Speaker of the Senate on Thursday, 15th December, 2022, the Speaker of the Meru County Assembly 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, and Standing Order No.80(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, and Standing Order No. 80(1)(b), the Senate resolves to establish a special committee comprising the following Senators: -

1. Sen. (Dr.) Boni Khalwale, CBS, MP;
2. Sen. Jackson Mandago, EGH, MP;
3. Sen. Karungo Thangwa, MP;
4. Sen. Esther Okenyuri, MP;
5. Sen. Roba Ali Ibrahim, EGH, MP;
6. Sen. Peris Tobiko, MP;
7. Sen. Eddy Gicheru Oketch, MP;
8. Sen. Joseph Githuku Kamau, MP;
9. Sen. Edwine Sifuna, MP;
10. Sen. Agnes Kavindu Muthama, MP; and
11. Sen. Johnes Mwaruma, MP.

to investigate the proposed removal from office of the Governor of Meru County and pursuant to Standing Order No. 80 (2), to report to the Senate, within ten (10) days of its appointment, on whether or not it finds the particulars of the allegations against the Governor to have been substantiated.

Mr. Speaker, Sir, this is a very important exercise. The reason the Senate exists is to secure the interests of the county governments and the people. This is one such time that we are being recalled as a House because of a matter that has been brought before us by the people of Meru County through their elected representatives, that is, Members of the County Assembly (MCAs).

As a House, we are being invited to listen to the dispute that exists between the County Executive and the Assembly. There are reasons MCAs have provided for impeaching their Governor, and they are requesting this House to agree with them and send the Governor packing.

Mr. Speaker, Sir, there are two ways of dealing with that. As you have said in your Communication, this being a House of Parliament, it also takes up an extra duty of being a quasi-judicial gathering, where Members of this House can listen and peruse through the evidence introduced before them by way of Plenary or a Special committee, like what we have before us, and guide the entire House.

Mr. Speaker, Sir, I am aware that over the years - and it is good to put matters into perspective, so that many of our colleagues---

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

The Speaker (Hon. Kingi): What is your Point of Order, Senator?

Sen. Okiya Omtatah: My point of order is anchored on Article 181 of the Constitution. I am afraid that we are just about to violate the Constitution of Kenya the way previous Houses have been doing.

Impeachment proceedings under the Constitution of Kenya is the preserve for the Presidency. If you look at the impeachment of the President under Article 144, on medical grounds--- It is only Article 145 that provides for impeachment.

If you look at Article 181(1) (d), how would you impeach a Governor on the basis of physical or mental incapacity? Section 33 of the County Governments Act is an affront on the Constitution of Kenya.

The Constitution cleverly uses the words “removal” and “impeachment.” Removal of the President is where they qualify by saying, “by impeachment”. All other removals are through processes that include tribunals. Just the other day, we saw the National Assembly consider a Motion to remove the Independent Electoral and Boundaries Commission (IEBC) commissioners. There was a tribunal that had been formed. It is a full trial.

There is no provision in the Constitution for putting a governor of any county in Kenya through a political trial. We should not violate the Constitution again. Article 133 needs to be looked at and expunged---

The Speaker (Hon. Kingi): Sen. Okiya Omtatah, you could be raising your points of order at the inappropriate time.

Sen. Okiya Omtatah: I am guided, Mr. Speaker, Sir. Kindly guide me on when to raise them.

The Speaker (Hon. Kingi): Senator, refer to the Third Schedule - Rules of Procedure for the Hearing and Determination of the Proposed Removal from Office by Impeachment of a Governor. I will take you straight, all the way to Regulations 13 and 14.

Such preliminary objections have their space within the procedure. Therefore, if indeed you are inclined to move the way you are, then there is a time when you can bring those preliminary points, and they will be determined at that level.

As we are now constituted, the Senate Majority Leader is moving the Motions as to whether we are going the Plenary way or the Special Committee way. After all that is settled before the hearing, then such preliminary objections can be raised and dealt with before the main hearing actually commences.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir. It is interesting to have Sen. Okiya Omtatah here. At some point, he will have to draw a line and this is with no ill will, malice or bad intent on him. He has carved a space for himself as a public interest litigant, but now he has another platform. Back then, he did not have a platform that he could perhaps raise some of these issues.

Senator, you now have a premium platform as a Member of Parliament (MP) and so, somebody may say that you have a double chance in life; that you can raise issues in court as well as the Floor of the House. I do not think many Kenyans have such privilege, which is a good thing, anyway, if you look at it that way.

I mentioned that this House has handled impeachment of governors many times. This is not the first time. By my calculation, it should be the 11th or 12th time. I am yet to get the right numbers.

In the First Senate - 11th Parliament - we handled six impeachments. Five of them were through Committee and only one was by Plenary; that of the late Governor of Nyeri County, hon. Nderitu Gachagua.

All the other five impeachment proceedings such as the impeachment of Gov. Martin Nyaga Wambora, both the first and the second, were handled by way of

Committee. Sen. (Dr.) Khalwale chaired both proceedings, which is part of the reason we are proposing him to be part and parcel of the Committee. It comes with historical experience.

Of course, the impeachment proceeding against my then Governor, Hon. (Prof.) Chepkowny, was handled by Committee; same to the impeachment Motion against the Deputy Governor of Machakos, Hon. Bernard Kyala, together with Gov. Mwangi wa Iria of Murang'a County. Five out of the six were handled by Committee.

In the last 12th Parliament, five matters were considered by the Senate. Two of the matters; that of hon. Granton Samboja and hon. Ann Mumbi Waiguru, were handled by Committee. The other three; that of hon. Mohamed Abdi, hon. Ferdinand Ndung'u Waititu and the very famous one of hon. Mike Gideon Mbuvi Sonko of Nairobi City County, were handled by Plenary.

My point is that either way, this House can proceed to consider an impeachment Motion that has been brought before us. We want to look at the circumstances, timing and which precedes the other. I do not hold in my mind that there is one method superior to the other.

You will find people asking why we cannot go the Plenary way or the Committee way out of personal experience. I have lots of it and so, I am qualified to give an opinion on this. Both ways are extremely effective. Whichever way we have pursued it in the past, the Senate has returned the decision.

There have been moments where we went through Committee and the Motion was dropped or the charges were upheld and vice versa through the Plenary way. I propose to the Members listening to me this afternoon that we go the Committee route; that we grant a Committee of 11 Members, who have been given an opportunity to listen, read and peruse the documents that have been produced before the Senate. They should then come and convince this House of whatever findings they will get, either to impeach or drop the charges.

As a House, we shall be gathered again and granted the opportunity equally to read a further refined report from our 11 colleagues. These are men and women that I consider to be fully competent.

I love the fact that the language of the Constitution looks us as 67 Senators. I do not, for any reason, entertain the thought that there are Senators who are better than others. We have different giftings and abilities. Some have been here longer than others.

The proposed Committee that has been laid before us, has a mixture of both new Members and ranking Members. It has women, men, elected and specially elected by way of nomination. It has all the shades and colours. However, as it is the nature of human beings, many will ask, "why not me?" I discourage our colleagues from having such a view to life. We shall not be sending a good precedence if we begin transacting the business of Parliament and perhaps saying that any time a Motion comes before the House, and so-and-so or myself is not included, I may not necessarily support.

I want to convince the House and propose to colleagues; given that this matter has come before us during a Christmas break when many of us were home with families, constituents, and loved ones; that a Select Committee of the Senate will be best placed to give it the due attention and listen to the presentations by the County Assembly.

The Committee will also allow the Governor to come and defend herself as well. Once the Committee has concluded the work, by law, and according to the provisions of the County Governments Act, 2012, we have to be gathered here in the next ten days and listen to the presentations of our colleagues on what they establish in this particular case.

I urge Members generally in the respective Committee and even the Members of the Senate not to be intimidated because impeachment is not a very easy procedure. People have their opinions. Others want to cast us into particular paintings and lighting. I have seen so much go around.

Mr. Speaker, Sir, I say this with authority and believe that every time the Senate has gathered itself to consider an impeachment Motion, we are guided by the evidence that is provided before us. There is no need to run a campaign around all the issues that are being brought before us. 'Oh! This is a particular gender issue' or 'Oh! Men you are being biased and things like that.'

I have heard all these things and I felt--- I am not speaking about the substance of the Motion. I am speaking about the placing of the Senate and why it is important to respect us, as an institution, such that when matters are brought before us, you allow us the latitude. These are men and women of integrity. They have the wherewithal to know what is right and what is wrong for the country.

There is no need to run campaigns around us. For example, I have seen men being taunted and reminded--- I am a big champion of women in leadership and I like when the campaign is run right, but also do not run it in a way that you are castigating men for the wrong reasons.

I have followed and seen the debates. We are being told that 'Oh! you know perhaps if this infamous guitar-loving husband was the spouse of a male governor doing the same things that he is doing, you guys would not have a problem.' I, however, want to challenge and ask them to please show me the spouse of a male governor who goes into an altercation with leaders a county. You will not find any.

Therefore, even as we convince the House and speak about the issues brought before the House, allow the Senate the space to carry out its duty without necessarily running any particular theories around us on what should guide us and what should not. Let Members decide, either way, to impeach or not to impeach.

Mr. Speaker, Sir, without taking a lot of time because I believe that we would wish to hear the opinion of our colleagues, I plead with you that given the circumstances we find ourselves in, we allow our colleagues in the Committee to do their work. I do not envy Members who are going to serve in this Committee because the minute you take up responsibility, you forget about Christmas. You are going to spend your Christmas working here in Nairobi perusing the documents because immediately on 24th or even earlier than that, all the way to the 27th, you shall be working.

Perhaps they will break only on 25th December 2022, which is Sunday and on Monday, 26th December 2022. They will be back at work on 27th December 2022 to conclude because, by 30th December 2022, this House must decide either way on this particular matter. Therefore, I do not even envy those colleagues of ours because they have to spend their Christmas working, but what to do because that is the reason for our existence as a House; to protect the interests of our counties. I plead with our colleagues

that let us go this particular way by supporting the establishment of this Special Committee. There will be opportunities in the future. Some people have talked to me and said, 'Majority Leader, grant me an opportunity. I also want to carry out an investigation.'

Believe me, given how many of these governors are behaving - and I have observed governors for a while - we will have very many of them before this House. Perhaps even before February, when we will reconvene, there will be other customers to come and deal with impeachment issues in this House. You will get the chance to serve in select committees until you will be tired.

While I understand that, this is the first one and many people are saying that 'Oh! I wish I was a Member or let us go the Plenary way' we will have an opportunity either way. The statistics that I have given you are that the House actually distributes these things almost on equal measure between Special Committee and Plenary. I am sure that we will have a taste of both.

I undertake this as your Majority Leader; that you allow us to go the Special Committee way. I plead with you that we go that way, then the next one; we will handle it by way of Plenary. It is our duty and we will be convinced.

Mr. Speaker, Sir, with those many remarks, I beg to move and request the Senate Minority Leader, Sen. Justice (Rtd) Stewart Madzayo, to second this Motion.

The Senate Minority Leader (Sen. Madzayo): Asante Bw. Spika. Naunga mkono ndugu yangu, Kiongozi wa Walio Wengi, alivyosema kwamba kuna njia panda; tukilinganisha njia ya Kamati ya Bunge nzima ama sivyo, tuchague Kamati. Tulikuwa tushaongea hapo awali, mimi na yeye na tukakubaliana kwamba njia ya Kamati maalum ndio itakuwa njia mwafaka sana.

Njia ya Kamati teule itawapa nafasi wale Maseneta wataochaguliwa nafasi ya kuipa Seneti njia au mwelekeo kulingana na zile karatasi zote ama stakabadhi zitakazokuwa zimeletwa katika kusikiliza kesi hii. Sio rahisi mtu kuletwa Seneti na haki yake ionekane kupotoshwa. Wale Maseneta tutakuwa tumechagua kuhudumu katika Kamati maalum wafanye kazi mwafaka, ambayo wataangalia zile stakabadhi zote na wazikague, waone ni wapi ambapo watapitia na kutuambia hii ndio njia ya kisawasawa.

Vile vile, tukiifanya yote kwa njia ya Kamati ya Seneti Nzima, itakuwa ni muda mdogo sana ambapo tunaweza kuchukua nafasi hiyo kukubaliana ama ripoti kuwa ile itaweza kuchambua yale mashtaka na yule atavyokuwa amejitetea ili kuweza kuja na mwelekeo fulani ambao utaweza kuangalia ni njia gani utaweza kupitia. Kwa maoni yangu, njia ile ya Kamati Maalum ndio njia ambayo itaweza kufafanua na kubaini kama huyo Gavana ni kweli alifanya yale anayodaiwa ama hakufanya.

Pili, sisi Maseneta tuna imani na ile Kamati ambayo tutachagua. Tunajua ya kwamba Maseneta wote walioko hapa wana uwezo wa kuhudumu katika Kamati Maalum. Lakini, kuna sababu zake muhimu ndani ya sheria ni kwa sababu gani tunasema ya kwamba watu wakiwa kama 11, sio kama watu ambao wako zaidi ya 60. Kwa hiyo, wale watu 11 wakikaa katika Kamati Maalum, watakuwa na wakati maalum wa kupitia zile rekodi itakuwa bora zaidi kuliko sisi tukitumia Kamati ya Seneti Nzima ama *Committee of the Whole House*.

Nina imani na Kamati Maalum itakayo chaguliwa. Tuko na imani ya kwamba watatupatia mwelekeo wa kisawasawa. Vile vile, tumekuwa hapa ndani ya Seneti na ni wakati za kuthibitisha ya kwamba Seneti, vile tunavyosema ndio ‘nyumba kubwa’ ya Bunge hili letu la Kenya. Kwa hivyo, tuchukue nafasi hii kuona ya kwamba haki imetendeka kwa mshtaki na mshtakiwa. Mshtakiwa pia apewe nafasi nzuri ya kuangalia stakabadhi atakazojitetea, ili tuone haki iko upande gani.

Kwa maoni yangu, ninahimiza Maseneta wenzangu tuende njia ya Kamati kwa sababu hiyo ndiyo njia ambayo itatupatia uamuzi kamili.

(Question proposed)

The Speaker (Hon. Kingi): Sen. Orwoba, proceed.

Sen. Orwoba: Thank you, Mr. Speaker, Sir. I rise to oppose this Motion simply because the matter at hand has many dynamics. Looking at the Committee that has been put together, I do not think the dynamics will be met.

(Applause)

First, the impeachment Motion of this governor touches on gender issues. This Committee of 11 people who are going to impeach or not impeach a woman governor has only three women. Even if we are pushing for the two-thirds gender rule, the issues being raised on this debate are gender sensitive. I think it was a bit unfair that that Committee did not put into perspective that perhaps they should have had more women.

Another reason for not supporting the Motion is that the governor has already been persecuted by the public. The matters that have been raised here are in the public domain. Everything is out in the public and they have been discussed. In order for us, as a Senate that understands the sensitivity of the matter, we should then provide a platform where we must publicly execute and debate matters and be able to say that we have given a fair hearing and platform.

The divergent views that would have been brought to the House by the Plenary way of impeachment, will not be exercised under the Committee. Perhaps the reason I am not supporting this Motion is that the Order Paper says: “The Senate has resolved”. We came hoping that we would have a *kamukunji* before this or some sort of corroboration.

(Applause)

Mr. Speaker, Sir, nothing of the sort has been done. I hate to be in this position because I support my party but I am also a woman and I am pushing for the two-thirds gender rule. I am also pushing that out of the very few women governors that were elected, if there is a case for impeachment, it should have a fair hearing.

The Committee has two former governors.

(Applause)

This is about impeaching a governor, then you have two former governors sitting in that Committee. I have to raise my eyebrows and ask myself if it is going to be a fair hearing. There is already a conflict of interest to have two former governors sitting and saying that they are going to give a fair hearing.

Finally---

The Senate Majority Leader (Sen. Cheruiyot): On a point of order, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): What is your point of order, Senate Majority Leader? Sen. Orwoba, kindly take your seat.

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, we have very clear rules of debate. When debating, you cannot impute improper motive on your colleagues without a substantive Motion. Sen. Orwoba is now imputing improper motive on me as the Senate Majority Leader and secondly, the Senate Business Committee (SBC).

There are former fishermen, touts, herders and governors here. Please, show me which Standing Order says a former governor should not serve in any particular Committee of this House. However, that is a less substantial matter. I want her to tell me---

(Loud consultations)

My neighbour, I am on a point of order. Allow me to make my point.

(Sen. Cherarkey spoke off record)

Mr. Speaker, Sir, I want Sen. Orwoba to explain. Otherwise, she would be imputing improper motive on me. I want her to explain how having these two Senators, who are former governors, points to a general direction on how this Committee is supposed to conduct its work.

Until that is properly explained to me, then it will have been left on the HANSARD of this House, that at one time when I moved a Motion, I moved it with an already pre-determined position. I do not take that kindly.

The Speaker (Hon. Kingi): Sen. Orwoba, to that extent, you are out of order. You may proceed to abandon that line of argument or contribution---

Sen. Orwoba: Mr. Speaker, Sir, I retract my comments that two former governors will be sitting in the proposed Committee, although they will be sitting.

Mr. Speaker, Sir, ---

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

The Speaker (Hon. Kingi): What is your point of order, Sen. Wambua? Sen. Orwoba, please take your seat.

Sen. Wambua: Mr. Speaker, Sir, I hate to disrupt the flow of her thoughts. She has raised an issue and because this is a House of records, every Senator is responsible for the accuracy of the statements that they make on the Floor.

For clarity, both the Plenary and Committee way are public engagements. A wrong impression should not be created here that if you go the Committee way, it is going to be a sitting in camera. It is a public engagement as much as the Plenary way would be. For accuracy and for purposes of record, that is important to note.

The Speaker (Hon. Kingi): Proceed Sen. Orwoba. I hope you have been fully informed.

Sen. Orwoba: Yes, Mr. Speaker, Sir. I have been fully informed. Allow me to also put this across. You have seen the manner in which this gender, the female gender – the women senators, have to fight in this House. It becomes war in this House for them to even be called by their title like Sen. Gloria.

My concern is that, when putting together a Committee that is going to consider an issue of impeachment on the basis of gender sensitive matters that have been brought and---

(Loud consultations)

Mr. Speaker, Sir, you must protect me from the House. As I said, we need protection. I would like to execute my case.

The Speaker (Hon. Kingi): What is your point of order, Sen. Sifuna?

Sen. Sifuna: Mr. Speaker, Sir, I listened to you carefully when you read the charges against the governor. I do not recall any accusation against her based on her gender.

I would want to understand where Sen. Orwoba is getting the impression that the question of the impeachment of the Governor of Meru County has anything to do with her gender.

Perhaps, for her benefit, you could repeat the charges against the governor because I did not hear anything touching on her gender when you read the charges.

(Laughter)

The Speaker (Hon. Kingi): Sen. Orwoba, I know how passionate you are on gender issues, but please do not bring it up when it is not. Proceed.

Sen. Orwoba: Mr. Speaker, Sir, I have said that the matters that are arising in this case are gender sensitive issues.

I honestly would like to invite the House to a capacity building on gender mainstreaming. Gender sensitive issues means that the issue might appear black and white to the male Senators. However, in perspective and in a court of law, in an investigative institution or a Committee, it may not be the same. One can already see that there are Senators who might not catch the gender sensitivity of the matter.

If indeed we are pushing to go the Committee way, I do not support. This is because I think it already disadvantages the subject matter who has already been publicly persecuted by the other gender.

We only have five elected women governors and we are putting together an eleven-Member Committee that is only constituted of three women Senators. Can we at least get a 50-50 representation in the Committee?

If not, can we find a way to ensure that the gender sensitive matters that keep reappearing on this impeachment---

I am guided and I know that I am not supposed to talk on the issues but they are gender sensitive matters including the issue of the Office of the First Husband. It is a gender sensitive matter.

We need to have a Committee which we, as the other Senators, believe and trust that it will execute these matters with the awareness of its gender sensitivity nature. It is a fact that this is the first time we are experiencing the Office of a First Husband.

Most of the issues being brought up are actually attached to gender matters. It is morally improper that a select few Members came together and put an eleven-Member Committee without holding a *kamukunji* of any sort. They did not talk to the Senators. They did not say, 'this is the weight of the matter' and neither did they get divergent views. Instead, we have come to the Floor of the House thinking that we are coming to execute our duties only to be informed through the Order Paper that the Senate has already resolved to put up an eleven-Member Committee.

I oppose this Motion and I urge my fellow women Senators--- There is a poem that has the following lines, "first, they came for the Communists--- then they came for me." By the time they will come for them, there will be no one to fight for them.

I urge them, including the three women Senators who have been put in the Committee, to come together and ensure that governor Kawira gets a fair and equal platform where we can listen and execute our duties as Senators of this House. This is a matter that is bigger than them. I thank you.

The Speaker (Hon. Kingi): Sen. Olekina, you have the Floor.

Sen. Olekina: Thank you, Mr. Speaker, Sir. I rise to support this Motion for the following reasons.

First, I empathise with my colleague who just left, Sen. Orwoba. Sen. Orwoba, let me go on record as a person who respects women because I have worked so hard to respect women all my life.

The issue that we have today is something which is very emotive. I know where you are coming from but what the Speaker has proposed is for us to consider either going the Committee or the Plenary way.

Mr. Speaker, Sir, listening to your Communication---

(Sen. Cherarkey stood up in his place)

The Speaker (Hon. Kingi): Sen. Cherarkey, please take your seat. Proceed Sen. Olekina.

Sen. Olekina: Thank you, Mr. Speaker Sir. Let me reiterate and I hope I can be protected from---

The Speaker (Hon. Kingi): What is your point of order, Sen. Cherarkey?

Sen. Cherarkey: Mr. Speaker, Sir, a point of order is a right, it is not a privilege. Standing Order No.91---

(Sen. Olekina spoke off record)

Stop shouting, you are not in a Maasai market, stop---

The Speaker (Hon. Kingi): Sen. Cherarkey, you are out of order. You have the Floor. Address the Chair and make you point.

Sen. Cherarkey: We have Standing Order No.101 on contents of the speeches and Standing Order No.1. Therefore, the Senator of Narok County, my good friend, who happens to be the Senate Deputy Minority whip, should stop engaging a Member directly. Instead of addressing Sen. Orwoba directly, he should address her through the Chair. That is what I am saying.

This is not a protest. *Hii sio maandamano*. He should engage Sen. Orwoba through you, Mr. Speaker. We need protection. If there are people who want to do *maandamano*, they can go to *Kamukunji*. This is a House of rules and regulations. He should just address Sen. Orwoba through the Chair. He is out of order.

The Speaker (Hon. Kingi): Very well, Sen. Cherarkey.

Sen. Olekina, kindly proceed

Sen. Olekina: Thank you, Mr. Speaker, Sir. I know people are excited to go on holiday but being cantankerous should not be one of the excitements.

Earlier on, I had indicated clearly that I support this Motion. This will not be my first impeachment proceedings or rather removal proceedings that I participate in. I have sat here and I know the reasons why I proposed that we go the Committee way.

I sat on this very chair when we were removing Governor Mike Sonko and my colleague who was sitting on the right – the then Senate Majority Leader, said to me that this is a political process. He said that it was not a legal matter.

On that day, I was naive. I sat there, took my pen and paper and was following the arguments which were being made by the legal counsels for both parties. Ultimately, when it came to the point of voting, I was not given an opportunity. Our Standing Orders did not give us an opportunity to contribute and say the reasons why we were voting to impeach Governor Mike Sonko or the reasons as to why we were not voting to impeach him. It was simple; come and vote.

Article 123 of the Constitution of Kenya--- and this is to inform my dear sister, the nominated Senator. What is her name?

(A Member spoke off record)

Okay, Sen. Orwoba. Ultimately, when it comes down to voting, only heads of delegations will vote - the elected Senators. That is according to the Constitution, and not Sen. Olekina.

It does not matter whether the issue is emotive. In fact, what will give the governor an opportunity for a fair hearing is when a Committee sits, looks at the issues and goes through the evidence.

When I sat here - I had my pen and paper and could read very fast - I never got an opportunity to examine the evidence which was being presented for the removal---

(Loud consultations)

The Speaker (Hon. Kingi): Hon. Senators, consult in low tones.

Sen. Olekina: Mr. Speaker, Sir, I know this is an emotive issue but for the first time, let us be seen to have given justice an opportunity. I said that I would never participate - although it is my duty- in a plenary session to remove a governor. What do we do? We sit here, the two parties argue their matter; they bring here matters of law, yet we are not a court of law. It is a *quasi*-judicial process. In fact, it is purely political. It has nothing to do with the law.

When I listened to the charges that have been read out, I would read Article 207 of the Constitution and Section 109 of the Public Finance Management (PFM) Act. Sitting down here as a Senator, will I get an opportunity to ask for the evidence, go through it, the receipt that the governor authorized for spending of money at source?

Those are accusations. It is important for our colleagues to remember that this Senate does not impeach a governor. Impeachment happens in the county assembly. It is the county assembly that impeaches the governor. Our job is very simple. As per Article 181 of the Constitution, our job is to go through the law that was set up by this Parliament, which is the County Government Act, and go through the process of removal.

It will come to a point where we will not be looking at whether it is a man or a woman, or whether the Members of the Committee were former governors. I dare say that the two distinguished Senators, who are former governors, are well thought out; intelligent leaders who can be able to guide this process.

As emotive as the matter might be, let us remember that we might decide today to change that Committee and put all the nominated women Senators but when it comes to voting, will they vote? The fact is, they will not vote. We talk about this issue of men *versus* women; that is a very emotive issue. However, when it comes to a process that is clearly defined by the Constitution, the only people who will vote are the leaders of the delegations.

By design and how things are in this country, unfortunately, most of the people elected as Senators are men. It is a very sad situation but this is something whereby we have to go back to the voters and tell them make sure that in future they elect women who want to become Senators. We are talking about the two thirds gender issue, but should it be a big argument when we are discussing about allowing 11 of our colleagues to be in the Committee?

Mr. Speaker, the Senate Majority Leader sitting here is a very intelligent gentleman. He is not a member of that Committee. He chose other Members of his party who he thought would be able to give justice to this lady.

The Senate Minority Leader also chose Members on this side without looking at the gender. The only thing we emphasize on is that you - an elected Senator who traversed the entire county to seek for votes - are removing a governor from office. However, that governor also traversed the entire county for votes.

If you remove that governor and ultimately you do not have a vote to determine whether she goes home or not, what will it help? I beseech my colleagues not to trivialize this matter. Let us not bring the issue of two thirds gender rule to determine how we are going to defend devolution.

It is quite sad that we are sitting in this House on a Special Sitting, barely three months since the Hon. Governor took office. These are very emotive matters that require sober minds to sit down in a committee, go through all the evidence and ultimately bring back the matter to plenary. When it comes to Plenary, I want to hear, whoever is going to be elected as the chairperson of that Committee, convincing me whether I should vote that the governor goes home or retains her seat.

My job is not to impeach the governor. There is no Senator here who can impeach a governor. A governor can only be impeached by the Members of the County Assembly (MCAs). Our job is to just to go through--- Our job is similar to that of the jury. We will be sitting here and asking if they first followed the law. If they presented evidence that the governor spent the money at source, is it true? Then we leave matters of the court to be dealt by the court.

In conclusion, I would like to beseech this House to support the Committee way. Let us give the men and women who have been put in that Committee an opportunity to go through the evidence and investigate the matter. Let us listen to the content of the Motion and determine whether or not the assembly followed the law.

As I sit down, there are issues of preliminary objections that will come. The House sitting in Plenary will not give the governor an opportunity for the lawyers to argue as to why we should not proceed with this matter. When we sit in a Committee and a preliminary objection is brought from the High Court, you will get an opportunity to go through it.

We have a very able secretariat who will be able to tell us matters that are either *sub judice* or we are barred by the court and stop the political process and the matter ends there.

We had a case of Taita Taveta County. When it was brought before this House, we chose the Committee way. The first order of business for the Committee was to find out whether there was a court order. When they saw a court order, that matter rested there. There is no one who will be prejudiced by us going through the Committee.

I plead with my colleagues, let us go the committee way and give these distinguished Senators an opportunity to be able to investigate and save devolution.

Mr. Speaker, I thank you.

Sen. Mungatana, MGH: Thank you, Mr. Speaker, Sir, for giving me this opportunity to share my thoughts.

President Woodrow Wilson, the 28th President of the USA was quoted as saying:

“When Congress is in plenary, Congress is in exhibition. When Congress is in Committee, Congress is at work.”

Let us put politics aside. Let us look at what is before us. What is before us is for us to determine whether we shall uphold the will of the people of Meru as opposed to the will of 68 MCAs of the County Assembly of Meru. I want to urge my colleagues that none of us here is an expert in everything.

No Senator is an expert in everything. That is why we recede to committees so that we can have the benefit of expertise of people who know this stuff. There are audit queries amongst the charges that you have read. Some here are lawyers, some are social

scientists, engineers and traders. You cannot claim to be so knowledgeable that you are a lawyer and an audit person and prosecute the matter in-depth as is required.

I urge my fellow colleagues, that if we have trust in the capacities of our fellow Senators, let us give them that opportunity. I request my sister, distinguished hon. Sen. Orwoba, “her highness” to think about this issue of whether the former governors, who have been selected to sit in that Committee, balances. You can have one or the other way of looking at it. The other way is that, these governors have lived through these life experiences. They will be of great use and will help the Committee.

Sen. Orwoba: Mr. Speaker, Sir, on a point of order.

The Speaker (Hon. Kingi): What is your point of order, Sen. Orwoba. I thought you have been decorated.

Sen. Orwoba: Mr. Speaker, Sir, while executing my point on the Floor of the House, I was reprimanded for mentioning that two former governors will be sitting in that Committee. The same has been done by a male Senator and it is okay with the House. These are things that I am talking about. You should retract your statement, referencing any former governor sitting in any Committee with regards to impeachment. That is what we are talking about, gender sensitivity.

The Speaker (Hon. Kingi): Sen. Orwoba, I think Sen. Mungatana was trying to look at the wealth of experience each of these proposed names bring to the Committee.

Sen. Mungatana, proceed.

Sen. Mungatana, MGH: Mr. Speaker, Sir, I do not wish to be distracted in my train of thought. I urge my fellow friends and colleagues in this House to please not be emotional about this thing. Let us put the correct people.

I am not out of order to look at this list and comment on the competence of the Membership that has been proposed. There are legal issues and we have lawyers. There are governance issues and we have people who have been governors before.

I also want to point out that whenever we are forming Committees, we should try to bring in regional balance. I have looked at the proposed list and seen that the categories of regional balance, new and older Members of the Senate have been met.

The category of people who have been in the situation that is the subject matter of this Motion and those who have not been have also been met. I do not see why we should spend time on this matter.

Mr. Speaker, Sir, I urge this House---

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

Sen. Mungatana, MGH: Sen. Cherarkey, sit down. You have not been given the Floor.

(Sen. Cherarkey spoke off-record)

Sen. Mungatana, MGH: What is the problem? Sit down. You are out of order. No, you cannot harass the Speaker. Sit down!

The Speaker (Hon. Kingi): Sen. Mungatana, kindly have your seat. Thank you.

Sen. Cherarkey, kindly go through your Standing Orders. You cannot come to the Chair, through combative ways. You can only raise a point of order, if the Chair allows.

Proceed, Sen. Mungatana.

Sen. Mungatana, MGH: Mr. Speaker, Sir, the category of balancing the Membership in terms of regional balance has been reached. I urge this House ---

Sen. Cherarkey: Mr. Speaker, Sir, on a point of order.

The Speaker (Hon. Kingi): Sen. Mungatana, have your seat.

Sen. Cherarkey, I refer you to Standing Order No. 121(2)-

“The Speaker may call a Senator whose conduct is disorderly – which you are - to order, and-

(a) caution the Senator; or

(b) order the Senator to withdraw from the precincts of the Senate for the remainder of that day’s sitting”

I am going to be lenient. I am going to caution you. That you still proceed to take part in today’s proceedings, kindly.

Sen. Mungatana, proceed.

Sen. Mungatana: Mr. Speaker, Sir ---

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

The Speaker (Hon. Kingi): What is your point of order, Sen. Onyonka?

Sen. Onyonka: Mr. Speaker, Sir, I thank you for looking this way. If you listened to the argument that Sen. Mungatana is making, he is actually giving a legitimization and expression as to why he thinks we need to go and hold this exercise in Committee.

Already, the presentation has been made by none other than the Senate Majority Leader, who said that both options are on the table. I do not understand why he is arguing that according to him, the best way to conduct this exercise is through Committee and yet as Members of the Senate, we must be allowed to vent and discuss this matter because we have issues which are outstanding.

Mr. Speaker, Sir, I do not want to be a rubber stamp in this exercise. Allow us to vent and explain why we disagree with the Senate Majority Leader. He may have his way but allow us our say.

The Speaker (Hon. Kingi): Sen. Onyonka, that is exactly what is happening now. Sen. Mungatana has taken a position. He wants to persuade you we go the Committee way. Let us allow Sen. Mungatana to make his contribution.

Sen. Onyonka: Thank you, Mr. Speaker, Sir. I hope you will also allow us make our case.

The Speaker (Hon. Kingi): Proceed, Sen. Mungatana.

Sen. Mungatana, MGH: Mr. Speaker, Sir, as I take my seat, we have been told in submissions by previous speakers that we are carrying out a *quasi*-judicial function of this Senate. Every person who has appeared in the court of law knows ---

The Speaker (Hon. Kingi): Hon. Senators, may Sen. Mungatana be heard in silence, please?

Sen. Mungatana, MGH: Mr. Speaker, Sir, can I be protected from Sen. Cherarkey? He is deliberately doing this, so that I do not get to persuade other people.

The Speaker (Hon. Kingi): Sen. Mungatana, proceed. If a Senator has any intervention, please press the button and not shout.

Sen. Mungatana, MGH: Much obliged, Mr. Speaker, Sir. I am making my last point before I sit. The process we are engaged in is not an ordinary Senate Sitting. It is a *quasi-judicial* function.

Any person who has been in court knows that people must be given an opportunity to be heard, present their case and say why they think those charges are right and the other side says why they are wrong. You also know this because of your legal background. I wonder if it is possible to do that, where all of us are seated.

Traditionally, that is why in every court, you give an opportunity to only one person to speak.

Sen. Cherarkey: On a point of order.

The Speaker (Hon. Kingi): Sen. Cherarkey---

Hon. Senators: Throw him out! Throw him out!

The Speaker (Hon. Kingi): Sen. Cherarkey, I am afraid. This should serve as a final caution to you. In the next few minutes, if you do not conduct yourself in an orderly manner, you may have to watch these proceedings from outside. Sen. Mungatana, proceed and conclude your contribution.

Sen. Mungatana, MGH: Mr. Speaker, Sir, a *quasi-judicial* process means that we are like judges in this situation. When a judge is sitting, it is a different situation. It is better when there are fewer of us than when we are many. The mood becomes different when we are many. That is when you have the Cherarkeys and such people intervening.

If it is possible---

(Loud consultations)

The Speaker (Hon. Kingi): Order Members. Sen. Mungatana, kindly retract your statement.

Sen. Mungatana, MGH: Mr. Speaker, Sir, I retract.

Normally when people are many in a group, it is not possible to get all the necessary information. Let us calm down and have an opportunity to receive all the information through our colleagues.

If we have trusted our colleagues to bring us information on Bills regarding the Constitution, why not this one? We also have serious Bills on money and other matters that pertains to our duties here.

Let us trust our colleagues who are in this Committee to do the right thing. We will debate the report that they will table. We can agree or disagree. Let us give them an opportunity to receive the evidence, sit with experts and give us a proper report.

I support.

The Speaker (Hon. Kingi): Sen. (Prof.) Tom Ojienda, SC, proceed.

Sen. (Prof.) Tom Ojienda, SC: Thank you, Mr. Speaker, Sir. Under Standing Order No.80(1)(b)(i), this House may appoint a Special Committee to determine a Motion of this nature, which is removal from office, of the Governor of Meru County.

Under Standing Order No.80(1)(b)(ii), this House may proceed by way of Plenary. This afternoon, the Senate Majority Leader has been particular because of the charges that have been brought under the provisions of Article 181. I think Sen. Okiya Omtatah got it wrong.

Under Section---

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

The Speaker (Hon. Kingi): What is your point of order, Sen. Methu? Sen. (Prof.) Tom Ojienda, SC, kindly take your seat.

(Sen. (Prof.) Tom Ojienda, SC, took his seat)

Sen. Methu: Mr. Speaker, Sir, I would not have wished to disturb the flow of thought of the good professor. However, he is quoting a non-existent Standing Order. He is talking about Standing Order No.81, which is not relevant. Standing Order No.81 talks about the right to be heard.

Sen. Orwoba: He talked about Standing Order No.80(1)

Sen. Methu: Alright. Thank you.

The Speaker (Hon. Kingi): Sen. (Prof.) Tom Ojienda, SC, proceed. We will not dwell on that.

Sen. (Prof.) Tom Ojienda, SC: I know my Standing Orders.

The Speaker (Hon. Kingi): I know you know your Standing Orders. Proceed.

Sen. (Prof.) Tom Ojienda, SC: Mr. Speaker, Sir, the Chairperson of the Committee on Land, Environment and Natural Resources has not looked at the Standing Orders properly. Under Standing Order No.80(1)(b)(ii), this House may proceed by way of Plenary.

An impeachment undertaken under Article 181 on the basis of gross violation of the Constitution, commission of national or international crimes, and or abuse of the Constitution has thresholds. I am happy that I am not a Member of the Special Committee because I have defended one impeachment successfully. That was the latest impeachment of Governor Abdullahi. We defended him successfully in court and the proceedings of this House were thrown out.

I am also happy because I defended another impeachment of Governor Waititu. I was also involved in the impeachment of Governor Wambora. So, I have a history of impeachments but from the other side.

The reason why Members are protesting this afternoon is not because the choice of a committee under Standing Order No.80(1)(b)(i) is not good. I have told the Senate Majority Leader, Sen. Cheruiyot, that it is not about the substance of the choices of Senators who are in the committee, or whether they have been former governors. The question is the process.

The process could have been righted by holding a *kamukunji* or some form of consultation, so that Members on either side are informed of who will be part of the committee. It is not about who sits in the committee.

None of the Members who have spoken this afternoon has spoken to the inappropriateness, for instance, of Sen. (Dr.) Khalwale or any other Senator sitting in the committee. The Senate Minority Leader, who is sitting here, should have convened a *kamukunji*. I believe the same should have applied on the other side. You should have convened a *kamukunji*. That way, we would have been aware of the names on the Order Paper.

I would not say that either method is better. However, a plenary affords all Members, including first time Members like Sen. Okenyuri and myself, an opportunity to follow proceedings from an impartial front. I am informed that such a proceeding affords all Members an opportunity to listen to accusations instead of just waiting for a report to be tabled before the Senate.

Sen. Methu was sharing with me this morning - He whispered to me that he would be happy to listen to the proceedings, so that we can have a fair process of removal from office under Section 33 of the County Governments Act. The process must be fair. This is the second time a woman is appearing before the Senate for impeachment. We had Governor Anne Waiguru during the previous Senate.

Although the gender card may not be the strongest in the constitution of this committee, I believe that a number of five, for women Senators and 6, for men Senators would have been a fairer balance in this Committee.

I speak for women not just because I have been a teacher advocating for gender issues, but because there is need to have some level of fairness for both women and men who sit in this Senate.

I wish to remind Sen. Orwoba that should we proceed by way of plenary, she will not have a right to vote at the end of the process. However, it is fair to make this process all-inclusive.

Ultimately, whether we decide to have a committee or go the plenary way, we should have a process that is fair and that which will give Governor Kawira Mwangaza an opportunity to defend herself.

This is so that finally, if she is found to have breached the Constitution or not, it would have been a fair process that would speak to what the Senate will do from now and in the future.

However, let me point to this, it is not about the 67 Members of the County Assembly (MCA). I am informed that out of those 67 Members, at least 21 of those are from the United Democratic Alliance party (UDA) and another 20 from the Devolution Empowerment Party ('BUS').

This means that we are facing an impeachment for the first time where the governor serving in that county does not belong to any party because she is an independent candidate. This is, therefore, a very delicate impeachment proceeding.

It should not therefore be made to appear that any singular party in the Committee that this House forms is from the party that forms the majority in the County Assembly and from the party that therefore was instrumental in the impeachment.

Since I have no interest in this process, let the Committee be one that would speak to the fairness of this process. If it is Plenary, let the process be fair. That is all I would say with respect to this matter.

I thank you.

(Applause)

The Speaker (Hon. Kingi): Hon. Senators, notwithstanding the provisions of Standing Order No. 1(11), in view of the number of Senators wishing to speak to today's Motion; may I propose, subject to your concurrence, that we limit the time per speaker.

Currently, we are doing 20 minutes per speaker and with the number that I am seeing on the screen, we may go beyond midnight. So, with your concurrence, can we limit the time from 20 minutes maybe to five minutes?

Do I have your concurrence?

Hon. Senators: Yes.

Clerk, the time given is five minutes per Senator. Kindly, proceed Sen. Cheptumo.

Sen. Cheptumo: Thank you, Mr. Speaker, Sir. I rise to support this Motion.

This Special Sitting is to achieve two things – one, to be read the charges preferred against the governor which we have done. Secondly, for this House to decide whether we will proceed through a Special Committee or the Plenary.

Mr. Speaker, Sir, this is the first impeachment in this 13th Senate. So, the country is watching and listening. Our function under Article 96 of the Constitution is to represent the counties and the county governments. This function today is in exercise of that Article.

However, I support the Committee way for a very simple reason that the function of the Committee or Plenary, is to investigate the matter. What is to investigate? If you read the Oxford Dictionary, investigate means- “carry out a systematic formal inquiry to discover and examine the facts so as to establish the truth.”

I put this question to my colleagues and to this House. If we go the Plenary way, can it be able to carry out a systematic and formal inquiry? The answer to that question in my view is a big, no. Will it be able to discover and examine the facts with the intention of knowing the truth? Again, the answer is, no.

Mr. Speaker, Sir, that can be achieved through a Special Committee because they will have time to inquire systematically and formally. They will be able to discover and examine the facts laid before the Committee.

From the impeachment Motion, there are seven charges preferred against the governor. It will be difficult for this House using the definition of that aspect of investigation to undertake that process and achieve a fair process.

It may be interesting to debate this matter but remember a whole county is listening. A Kenyan by the name of the governor, is going through this situation. This Committee if approved by the House, would be able to have a better time and that is the reason why I support the Committee way.

Mr. Speaker, Sir, going the committee way again does not prejudice the Members’ right to again discuss this matter when the Committee tables a report. So, none of us will suffer prejudice of not being able to discuss this matter when the Committee brings a report. What is important, in my view, is for the Committee to be fair by systematically and formally inquiring into the issues in a fair manner.

This House is a special institution on matters devolution. After this impeachment process, should there be any other impeachment thereafter, we should be seen as a House that---

(Sen. Cheptumo’s microphone was switched off)

The Speaker (Hon. Kingi): Proceed, Sen. Faki.

Sen. Faki: Asante Bw. Spika kwa kunipa fursa hii kuchangia Hoja ya kuchagua Kamati Maalumu ya kuchunguza madai yaliyoletwa katika Seneti hii na Bunge la Kaunti ya Meru.

Kifungu cha 80(1) ya Kanuni za Kudumu zetu kinasema kwamba Seneti inaweza kwenda kwa njia ya Kamati ya Seneti Nzima ama kwa njia ya Kamati Maalumu ya kuweza kuchunguza madai haya.

Kuna kile tunaita umuhimu katika njia zote mbili katika kuchunguza suala hili. Mpaka sasa, nafikiri yaliyoletwa mbele ya Seneti hii ni madai tu. Wakati Seneti Nzima au Kamati itakapokaa, ndiyo ule ushahidi wa kuthibithisha madai yale utafikishwa mbele ya Kamati ile ama Seneti Nzima ili kuweza kuamua kama kweli mashataka yana uzito ama hayana.

Si kweli kwamba Seneti hii siyo mahakama. Sasa, itakaa kama mahakama kuweza kuchunguza ukweli wa madai ambayo yamewasiliswa na Bunge la Kaunti ya Meru.

Bw. Spika, kuna uzito kuhusiana na madai ambayo yameletwa, kwamba jinsia moja imepunjwa katika uteuzi wa Kamati hii. Kuna uzito fulani na hatuwezi kupuuza.

Kwa kuwa hii ni Seneti mpya na ni mara ya kwanza suala kama hili linafika hapa, ipo haja ya Wabunge waweze kukaa na kukusikiza. Nimeona leo japo kuwa ni Kikao Maalumu tumeweza kupata karibu *full House*. Kila Seneta ameweza kuwacha kazi zake akaja katika Kikao hiki.

Nina imani kwamba iwapo itafanywa kwamba ni Seneti Nzima ikae kusikiza madai haya, Seneti hili litaweza kuvunja kazi zao waweze kukaa hapa kusikiza kwanzia mwanzo mpaka mwisho ili uamuzi utolewe.

Bw. Spika, ili kuwapa Maseneta wapya fursa ya kuangalia masuala kama haya, ingekuwa bora tuwe na Kamati ya Seneti Nzima kuchunguza suala hili sababu hii ndio kesi ya kwanza ya kuchunguza Magavana tunasikiza katika Bunge hili. Uamuzi utakaotoka, utakuwa funzo kwao ambao hawajapata fursa ya kuchunguza Magavana.

Ile kesi itakayofuata inaweza ikafanywa katika njia ya Kamati Maalum lakini hii ya kwanza katika Bunge hili, itakuwa bora tuichunguza kama Kamati ya Seneti nzima ili kila Seneta apate fursa ya kusikiza kesi hii. Kuna wengine katika Bunge hili wamelala na hawajui kitu gani kinachoendelea.

Kwa hivyo, dai kuwa baadhi ya Maseneta hawatakuwa na hamu ya kusikiza ushahidi katika Kamati ya Seneti nzima ni singizio la kukataa mfumo huo. Tunajua Kamati zetu nyingi za Seneti zikikaa kwa vikao vyao, ni wachache wanaochangia masuala yaliyo mbele yao.

Bw. Spika, hii haitakuwa mara ya kwanza kufanya hivyo. Naomba Hoja hii izingatiwe katika Kamati ya Seneti Nzima ili wale hawajapata somo kama hili wapate ujuzi au uzoefu wa masuala kama haya.

Bw. Spika, asante kwa kunipa fursa hii.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, proceed.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. This Parliament has a history and a tradition of handling emotive and sensitive issues. I remind colleagues that when Josiah Mwangi (JM) Kariuki and Robert Ouko were killed, the matters were handled by Parliament through Committees. When we are dealing with the greatest oversight role of

this House, we do it through the Committees of Public Accounts and Public Investments. It is not by accident that such emotive issues are taken to Committees.

Today we are deciding whether the Governor of Meru County should be tried yet she is on trial already. Whether she should be tried in the Committee of the Whole or through this Special Committee. Learning from traditions, customs and practices of this House, the natural thing would be we drink from the glass of wisdom of the Members of Parliament who came before us.

Mr. Speaker, Sir, my second comment is that the people of Meru County and the entire Republic of Kenya are anxiously waiting for what we are doing, glued to their television sets waiting to see and following what we are doing. They would like to find out if Senators can rise to the apex enough to be trusted not with impeaching a Governor, but with a trial of removing a President, if such a day were to come. This is what the dress rehearsal is all about in the eyes of Kenyans.

If what Sen. Orwoba has said is true, she should not blame the plenary. She has a majority leader who went through a process that informed him to take certain people on this side and leave others. Let her not bring it here. This also applies to the Minority side. The matter is so important to us, otherwise, we would be cat-walking today if we thought that we are meeting to make decisions on gender.

Mr. Speaker, Sir, you have read all the charges and none of them are about gender. They are about issues we do not know about.

(Sen. Orwoba spoke off record)

Sen. Orwoba, kindly allow me to finish. I did not interrupt you.

The Speaker (Hon. Kingi): Sen. Orwoba, the Senator for Kakamega County has his time; he will be heard in silence.

Sen. (Dr.) Khalwale: Sen. Orwoba, allow me to finish. I did not interrupt you.

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, proceed. Do not start a debate.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, Sen. Orwoba has promised to school me in gender matters. Really? Over 250,000 men and women in Kakamega elected me. Women were the majority. I know issues of gender. I have many children; majority of them are girls. I have more than one wife, but I know matters of gender.

The Speaker (Hon. Kingi): Order! Order, Members!

Sen. (Dr.) Khalwale: She cannot school me! Excuse me my daughter! She ought to apologize to the bullfighter of Kakamega.

The Hon. Speaker (Hon. Kingi): Order, hon. Members! Sen. (Dr.) Khalwale, you are an hon. Senator to us. We do not see you as a bullfighter. Kindly conclude.

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, in conclusion, I look at the eleven distinguished Senators who have made their way to this Committee. I single out Sen. Mandago and Sen. Ali Roba.

(Sen. Orwoba spoke off record)

Mr. Speaker, Sir, give me just one minute, my time was wasted.

The Speaker (Hon. Kingi): Sen. Orwoba, allow the Senator to conclude.

I am afraid that your time is spent.

Sen. Sifuna, you have the Floor.

Sen. Sifuna: Mr. Speaker, Sir, I thank you for the opportunity to also contribute to the Motion. For the record, I rise to support the Motion that we proceed by way of Committee. I understand the mandate of this Committee as submitted by my colleagues is to investigate, find out and report to this House whether the allegations read out against the Governor are substantiated.

If the accusation is that there has been nepotism exercised by the Governor, the Committee should report to the House and say that the accusation has been substantiated. On the question of illegal appointments, the work of the Committee will also be to report to the House on whether it has been substantiated or not.

I encourage Sen. Orwoba to understand that the percentage of having three women out of a Committee of eleven is greater than three women out of 47 elected Senators deciding on a matter.

Sen. Orwoba: On point of order, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Orwoba, what is your point of order?

Sen. Orwoba: Mr. Speaker, Sir, there are Senators misleading the House on facts and numbers. I point out to Sen. (Dr.) Khalwale and Sen. Sifuna that one cannot come to Senate and institute discrimination by trying to convince this House that there is a formula where there are less women at the table of representation, this formula should be accepted because it works better for gender.

This is not a matter about bullfighting or many wives. This is a matter of representation. You should not allow the conversations that are going on in this House to continue. This is a House of order, it respects women and will ensure that Governor Kawira Mwangaza gets a fair hearing.

Sen. Sifuna is misleading the House by saying that the formula of three women Senators out of 11 is the best formula for women to be represented in this Committee.

Mr. Speaker Sir, you can see why we have an issue with this. This is exactly the reason why we cannot entrust people who are disregarding women in this House.

The Speaker (Hon. Kingi): Order, Sen. Orwoba!

Sen. Orwoba: That is my point of order.

The Speaker (Hon. Kingi): Sen. Orwoba, you cannot stand on a point of order---

Sen. Orwoba: My point of order was---

The Speaker (Hon. Kingi): Kindly proceed and conclude. Please, allow Sen. Sifuna to recover his time.

Sen. Sifuna: Thank you, Mr. Speaker, Sir. I am not a mathematics teacher, but I will help the House. It is not misleading because you have the list of the number of women Senators elected out of the 47 counties. We only know the Senator for Nakuru County, my sister from Machakos County and the good lady from Isiolo County. If you do a basic arithmetic, three out of 47 is smaller. It is actually six per cent compared to three out of 11 which is a bigger fraction.

Sen. Orwoba: Point of order, Mr. Speaker, Sir.

Sen. Sifuna: Mr. Speaker, Sir, that being beside the point, let it be known that I am not trying to mislead this House. I am a firm believer in equality. In fact, every woman has the same capacity to misconduct herself as the men. This is not a question that should be viewed through the lenses of gender.

Whether we establish the Committee or proceed by the Whole House, what we need to do is to find out if, indeed, the allegations laid against the Governor are true. In this particular question, we are supposed to be blind. Justice is blind. We do not see colour, gender or ethnicity. We are just looking at the allegations that have been leveled *vis-à-vis* the law.

I am also a firm believer that there is no grace period for misconduct. It is the question of how long it should take before you start raising this question as it has been raised in the public forum. I have seen people misconduct themselves even when they are taking the oath of office.

Sen. Orwoba: Point of order, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Orwoba, may the Senator be heard in silence, please.

(Sen. Orwoba spoke off record)

Sen. Sifuna, kindly proceed and conclude your contribution.

Sen. Sifuna: Mr. Speaker, Sir, since I was feeling the weight of responsibility as a person who has been proposed to sit in this Committee and as somebody who is supposed to miss Christmas with his family, I can see the mood in the House is that maybe we all should miss Christmas. That is okay for me and I do not have a problem. I just wish I was not part of that Committee. I wish it was Sen. Orwoba to spend her Christmas here.

Sen. Orwoba: Point of order, Mr. Speaker, Sir.

Sen. Sifuna: If you want all of us to spend Christmas here, it is also okay.

Sen. Orwoba: Point of order, Mr. Speaker, Sir.

Sen. Sifuna: In conclusion---

The Speaker (Hon. Kingi): Sen. Orwoba, we are not in some market in the outskirts of Nairobi City County. If you need to make a point of order, you press the button. It will be upon the Chair to give or deny you the platform.

Kindly proceed, Sen. Sifuna.

Sen. Sifuna: Mr. Speaker, Sir, can I conclude? A few weeks ago, we were with you here when the East African Legislative Assembly (EALA) games were going on. It is a similar thing with the Christmas holiday. We had problems raising quorum in this House, if you remember. It is because most of the Members chose to go to Juba. We are going to have the same problem. This people are just saying that they want the whole House.

However, we know the Members who are committed to come and prosecute matters here. We might have better success---

(Sen. Cherarkey spoke off record)

Mr. Speaker, Sir, I need your protection. This is something we have experienced. In fact---

The Speaker (Hon. Kingi): Sen. Sifuna, just take your seat.

Hon. Senators, it is not the wish of the Chair to send any Senator out of this Chamber. However, that is my wish and may not necessarily carry the day today. The Standing Orders will carry the day today.

(Applause)

Sen. Orwoba, I am cautioning you under Standing Order No.121. Should you proceed in the manner you are proceeding, I am afraid the Standing Orders may have their way.

Conclude, Sen. Sifuna.

Sen. Sifuna: Thank you, Mr. Speaker, Sir. Previous experience has shown that, in fact, we might get a lot more work and ground covered in Committee than in Plenary because of the issues that I have raised regarding the question of quorum.

To conclude and allow my colleagues to also contribute, I rise to support this. It is not because I am a Member of this Committee. I would very happily cede this position to anybody else who wants to release me to go and have Christmas with my children. It will not be a bad thing.

The Speaker (Hon. Kingi): Sen. Methu, proceed.

Sen. Methu: Thank you, Mr. Speaker, Sir. I rise to support the Motion of having 11 of us look at the evidence that has been brought by Meru County Assembly.

First and foremost, all of us in this Senate enjoy the same space and scope of duty. Looking at the list of Members nominated to serve in the Committee, I am satisfied that they will do the work ahead of them.

I am particularly impressed that the SBC and the Leadership of the House, have given first timers and young Senators an opportunity to serve in this Committee. My colleagues Sen. Thang'wa, Sen. Okenyuri, Sen. Oketch Gicheru and my brother Sen. Githuku will serve in this Committee. They are young people who are ambitious and they want to learn. They will be able to tap into the experience that has been spoken about.

I hear by extension that Sen. Sifuna is a young man. I do not know, but I only hear so.

(Laughter)

He does not appear to be what people impute. However, I will include him in that list of the young people because he is also coming in as a first timer.

Mr. Speaker, Sir, it is not really fair for anybody to impute that because the Governor for Meru is a woman, then women senators be given special consideration. It then means that next time when a male governor is here, he will be allowed to be dealt with by *akina* Methus, Olekinas and Cherakeys of this world. There should be no problem. It is not fair to say that since this is a woman involved in this case, that we should treat her in a special way and have more women serving in this Committee. I

would then propose that the next time we have a male governor, we probably demand that more male Senators serve in that Committee so that we take care of men.

I am a gender sensitive person. I do not need the schooling that was offered by our colleague. I actually do it from home. I am a father of three girls and one boy. So, the lessons are just around my home and I am able to take care of them.

Mr. Speaker, Sir, finally, the Senator for Nairobi City County has spoken about it that our colleagues are taking the burden off our shoulders. I have seen the many charges levelled against Governor Kawira. The Committee is supposed to consider the charges and adduce evidence one by one. After that, they will need to decide whether the charges meets the threshold or not of removing the Governor from the office.

I wish all the best the 11 Members who will serve in that Committee. It is quite unfortunate that they will not enjoy Christmas with their families, but it is the cost of service. That is why they elected to serve as Senators.

I do not know what lenses the Senate Majority Leader he is using, but he said that from his preliminary observations, we may be getting more customers in the coming days in this Senate. I really hope that we do not get more customers in the next five years because our counties will be unstable.

Mr. Speaker, Sir, I wish the Committee all the best. I will be here to help and support them in whatever way. I might attend their proceedings as a friend of the Committee because I am just a neighbour. Nyandarua County is just here.

Thank you very much, Mr. Speaker, Sir.

I support.

The Speaker (Hon. Kingi): Sen. Okiya Omtatah, you may have the Floor.

Sen. Okiya Omtatah: Mr. Speaker, Sir, thank you for the opportunity to address this honourable House. First and foremost, I would like to correct an impression created by Sen. (Dr.) Khalwale that this is a rehearsal for impeaching the President. It is not. The consequences of an impeachment are not a rehearsal because somebody is banned from public office for life.

This is not a rehearsal. It is matter of life and death for the Senator of Meru County.

(Several Senators spoke of record)

The Governor.

(Laughter)

Sen. Okiya Omtatah: I am entertained. Secondly, it is a matter of life for the Governor of Meru County and we should give it the seriousness it deserves; it is not a rehearsal.

(Sen. Cheptumo spoke off record)

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

The Speaker (Hon. Kingi): What is your point of order, Sen. Cheptumo?

Sen. Cheptumo: Mr. Speaker, Sir, the Senator of Meru County is seated here. It is scary for the Member to say that it is a matter for life or death for him. This is a House of record. The Senator of Meru County is not in any danger. Is it not fair for him to withdraw that part? It is important.

The Speaker (Hon. Kingi): Sen. Okiya Omtatah, kindly do not instill fear in your statements.

Sen. Okiya Omtatah: Mr. Speaker, Sir, I think the Hon. Sen. Cheptumo had taken a nap because I withdrew and corrected. He had taken a nap and missed my withdrawal. However, it is understandable. We are around Christmas time.

(Laughter)

(Sen. Cheptumo spoke off record)

Sen. Cheptumo: Did he withdraw?

Sen. Okiya Omtatah: I withdrew. Mr. Speaker, Sir, may I say---

The Speaker (Hon. Kingi): Sen. Cheptumo, may the Senator be heard in silence kindly.

Sen. Okiya Omtatah: Mr. Speaker, Sir, for the benefit of my friend, Sen. Cheptumo, I withdraw and apologize profusely to the Deputy Speaker---

(Loud Consultations)

(Sen. Methu spoke off record)

Sen. Methu: And to him also.

Sen. Okiya Omtatah: And to him for having missed out on what I said earlier.

The problem we have in this House is the text of Standing Order No. 80(1)(b) and Sen. (Prof.) Tom Ojienda, SC, touched on it. What is disturbing some of us is the process; being called to this House to endorse a list. That is why I am opposing this Motion partially. That list should be thrashed and the Senate by resolution makes the list if we have to go the Committee way.

(Loud Consultations)

(Sen. Cheruiyot spoke off record)

The Senate Majority Leader (Sen. Cheruiyot): There is leadership in the House.

Sen. Okiya Omtatah: Mr. Speaker, Sir, I agree there is leadership in the House, but the Standing Order does not say “that the leadership of the House shall” it says “the Senate shall”. You may be having a practice that has been going against the Standing Orders, but it should end here.

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

Sen. Okiya Omtatah: Secondly

(Sen. Olekina spoke off record)

Niko kwenye chemba ya mtu mmoja lakini ni sawa---

The Speaker (Hon. Kingi): Senator, kindly proceed and make your contribution.

Sen. Okiya Omtatah: Secondly, my Lord---

(Laughter)

Mr. Speaker, Sir, much as the Committee process has been praised here, we have the evidence of what happened in the impeachment of Governor Mwangi wa Iria.

(Sen. Cheruiyot spoke off record)

The Senate Majority Leader (Sen. Cheruiyot): Table it.

(Loud consultations)

The Speaker (Hon. Kingi): Hon. Senators, can we hear Sen. Okiya Omtatah in silence. Proceed.

Sen. Okiya Omtatah: Mr. Speaker, Sir, there were heavy complaints that the Committee process did not work. In the Sonko impeachment, the Committee was abandoned and the impeachment proceedings came back to the Plenary. Under Standing Order No. 38, we should be allowed to have a small break for us to have a *kamukunji* and then we agree on the way forward. I am requesting.

(Sen. Okiya Omtatah's microphone was switched off)

The Speaker (Hon. Kingi): The request is declined. Sen. Wakili Sigei, proceed.

Sen. Wakili Sigei: Thank you, Mr. Speaker, Sir. I also rise to support this Motion for very few, but very important reasons. We have heard the reasons as to why we go for the Committee or Plenary from the people who have spoken. When the Senate Majority leader and the Senate Minority Leader were asking the House to support the Motion, they played to the mind and fact that Plenary might not necessarily be able to do a detailed discussion on the matter. I want to dissuade the House from that notion.

I am aware that the whole House is comprised of Senators who are competent enough. They can read, write, analyze and synthesize the issues as per the charges, which you read before the Floor of the House today. Therefore, that cannot be deemed as the reason as to why we should go for Committee or Plenary. I support the Committee because experience has shown us that there is much that can be done by 11 Members and not by 47 Members or 67 Senators.

The 11 Members who have been selected by the House leadership comprise of competent women and men who will distill on the charges that have been placed before the House. Ultimately, it is not in the place of the Committee to make decisions on behalf of the Plenary. It should not be lost on us that at the end of the session after the

Committee, that has been selected, has debated and come up with a report, it is the Plenary that will make a decision on the basis of the report that it will present before the House.

For purposes of comfort of the women Senators here, I would like to bring to the attention of the Hon. Sen. Orwoba that the women and men in this House are all equal. We cannot speak hot on one side and cold on the other side. We cannot say we are equal on one side and on the other side say that we are unable to advance the interests of the other gender because of the lesser number.

I am convinced that the team has not necessarily been picked on the basis of gender. They have been picked because they are Senators, qualified Members of this House and they will prosecute the issue that is before the Senate. Therefore, for her comfort, the three Members of the Committee are competent enough and they will take the issue beyond their gender and that of the candidate, who is the Governor of Meru County.

If we take our emotions beyond the issues which we are supposed to discuss, we will as a matter of fact forget about the charges and will instead deal with the issue of whether it is a woman or a man. I support the setting up of the Committee because at the end of it all, we, as a House, will pass the report in the Plenary. We will discuss and comment on it as to whether they have met the threshold or not.

The choice that the leadership made was not plucked from nowhere. It is provided for in the Standing Orders of this House. That choice has been given because it is better. The people of Meru County are looking up to this House to make a just decision on the charges that have been brought against their Governor.

I support the Motion. I thank you.

The Speaker (Hon. Kingi): Proceed, Sen. Kinyua.

Sen. Kinyua: Bw. Spika, nanikushukuru kwa kunipa fursa hii. Mimi nasimama kuunga mkono Kamati. Kisa na maana ni kuwa Kamati itaangazia kwa undani shutuma dhidi ya Gavana wa Kaunti ya Meru. Mimi nimekuwa hapa kuanzia muhula uliopita wakati tulijadili suala la kumuodoa gavana mamlakani kwa njia ya Seneti Nzima. Nilihisi wakati huo hatukuweza kuangazia shutuma dhidi ya gavana huyo kwa undani.

Kwa hivyo, leo naunga mkono Kamati kwa sababu walioteuliwa ni Maseneta ambao ni wazoefu katika kazi zao. Kamati hiyo iko na Maseneta ambao walikuwa magavana hapo awali kama Sen. Mandago na Sen. Roba. Hao ni viongozi ambao walibobea katika kazi ya ugavana. Kwa hivyo, masuala yatakayokuwa yakizungumziwa katika Kamati hii wataweza kuyafahamu kwa undani.

Nimesikia hapa kulikuwa na vurugu kidogo kwa sababu Maseneta wa kike wengi hawakujumuishwa katika Kamati hii. Itaonekana sisi hatufahamu mambo vizuri kwa sababu Maseneta walio hapa wa kike wamejumuishwa. Angalia Sen. Tobiko amewekwa pale na yeye ni mzoefu. Amekuwa katika siasa miaka mingi. Tuna Seneta Esther na Sen. Kavindu. Hawa ni viongozi ambao wataweza kuyachanganua masuala haya kwa undani.

Hawatakuwa wakiangalia mambo ya jinsia. Watachangua kwa udani tuhuma dhidi ya Gavana wa Meru. Hawa wanakamati watakuwa wakiangalia kwa undani na upana watu wa Meru wangetaka nini kwa sababu ndio walimchagua Gavana wao wakati

wa uchaguzi uliyopita. Lakini baada ya haya masuala yote kuangaliwa na Kamati teule, sisi kama Bunge tutakuja hapa tuyajadili na tuwe na msimamo wetu.

Tuna jukumu lingine, tutapata fursa ya kuangalia ikiwa hii Kamati yenyewe itaona kuna dosari fulani, ama kuna shutuma moja ambayo wameona ni mbaya.

Nina hakika tukiwa na Sen. Sifuna ambaye najua ni mzoefu wa mambo ya kisheria, ninaona kuna vijana kama vile Oketch na Kamau. Sijui ni kwa nini Maseneta wote hawajaridhika na kuunda kwa Kamati hii. Wengine wanasema ya kwamba ile impeachment ikifanywa katika Seneti Nzima tutajua vile masuala dhidi ya Gavana yalivyoendelezwa.

Hakuna jambo linafanywa katika Seneti au Kamati bila kunukuliwa. Hawa ndugu zetu wataandika yote ambayo yatajadiliwa katika Kamati hiyo. Hawa Maseneta ni wasomi. Mimi najua wataweza kusoma na kujua jambo la kufanya. Watasoma hata zaidi.

Jambo ambalo limenishtua sana ni kwamba Seneta wa Busia, Sen. Okiya Omtata anataka kuleta matata. Ameleta mambo mengine mapya ambayo yanataka kutuelekeza kutuambia kwamba tusimamishe shughuli za Bunge tufanye mikutano ya Kamkunji na maandamano. Hatutaki mambo kama hayo siku ya leo. Tunamaliza hii shughuli leo.

Pengine kama kutakuwa na Kamkunji ni baada ya masaa yaliyowekwa na Seneti hii. Lakini kutuambia tutoke kando tufanye hivyo, atakuwa akiongoza Seneti hii katika shughuli ambazo sisi hatujazioea. Lakini namuelewa kwa sababu pengine sasa ndio anajifunza mambo ya Seneti. Amekuwa akishughulika katika korti na hata nimesikia akikuwa Jaji, wewe Bw. Spika.

Asante Bw. Spika.

The Speaker (Hon. Kingi): Sen. Wambua, proceed.

Sen. Wambua: Mr. Speaker, Sir, I thank you for the opportunity to make a comment and contribute to this Motion. From the word go, I want to state emphatically that I support the Motion.

Secondly is to congratulate the Members that have been appointed to sit in the Committee. When you look at the names that have been floated by both the Senate Majority Leader and Senator Minority Leader, these are the names of people who are very competent in many fields. When you are dealing with a matter as a Senate, it is always important to look at the individual competencies of Members that you appoint to committees so that they can bring some expertise and institutional memory into the matter under discussion.

Next time if there is an issue to deal with the media, I want to advise the leadership on both sides to consider including Sen. Enoch Wambua in that list because I am a journalist of long and good standing. It is important to say that having two former Governors in this Committee brings on board expertise on matters governance.

The issues being challenged here are issues to do with governance. Not many of us here have been governors. It is a privilege for this Senate to have Sen. Roba and Sen. Mandago seated here as former Governors. This is because when there are issues of governance, then they come in, not just as Senators, but as resource persons on matters of governors.

Lastly is the issue of procedure. That is where I see a bit of deviation between those who support and those who do not support--- I would all of us, including myself, to

honestly and seriously study and understand the Third Schedule of our Standing Orders dealing with matters of the removal of a governor by way of impeachment.

That Schedule is very explicit. It has two parts; one that deals with using the plenary way of impeachment. If you allow me to make reference, Rule 28 of the Third Schedule states very clearly that-

“Except as otherwise provided in these rules, or as the Speaker may for exceptional reasons to be stated determine, the proceedings of the Senate for the hearing of evidence shall be held in public.”

That is the first part that dwells on plenary. In the second part that deals with the Select Committee, Rule No. 29 states as follows-

“The proceedings of the Committee hearing the evidence shall be held in public.”

So, there is no jeopardy suffered anywhere whether we go plenary or the committee way.

On the issue of the specifics of the names, there are only 11 slots. It is not possible that we go the Committee way and every Senator become a Member of it. There has to be 11 Senators who will be Members of the Committee. The rest of us will sit back and receive the report from our colleagues. We will have an opportunity to speak to that report.

It is important that as we debate the way to go, we are properly guided by our Standing Orders, so that we do not even create wrong impressions that we do not understand---

(Sen. Wambua’s Microphone was switched off)

The Speaker (Hon. Kingi): Sen. Joyce, you may proceed.

Sen. Korir: Thank you, Mr. Speaker, Sir. Allow me to support the Motion that has been brought by the able Senate Majority Leader on the issue of choosing the way to proceed with the trial of the impeachment of the Governor for Meru County.

I have heard my colleagues debate and share several experiences. I want to say that the reason why we support the Committee is that despite the fact that the list has been prepared in advance, any Member from this House is not denied, or restricted to go and follow the proceedings of that particular Committee.

Mr. Speaker, Sir, it is good as at now that the Senate is fully constituted. We have former Members of County Assemblies (MCAs), Speakers and Governors. The list that has been brought up consists of Members who are competent enough to assist us in terms of bringing up a report that can be tabled in this House and allow Members to ventilate on it and have a conclusion.

Mr. Speaker, Sir, the MCAs have the right to do the oversight role. That is why they have done what they have done. The Hon. Governor has a right to also be heard. The Members of public in Meru County have a right to be served. Therefore, the only House that can assist them to get the right service and have everyone play his or her role, is the Senate.

I do not want to say much. However, we support the Committee way to be able to start this trial.

The Speaker (Hon. Kingi): Sen. Onyonka, please proceed.

Sen. Onyonka: Mr. Speaker, Sir, please excuse me. I have a flu so my voice is not very good. I would like to say just a few words in my contribution to this matter. The reason is that the expectation of Kenyans on this matter is very high. The reason for that is that this is the first Impeachment Motion to be tabled on the Floor of this House since the last general election.

I wish that we take the evidence as it would come and analyse it effectively, honestly and with fairness. The presentations that will be made should reflect fairness and the true issues that have happened in Meru County.

Mr. Speaker, Sir, indeed, what you see happening in Meru County, it is not that it is not happening in other areas, there are certain substantive issues that have come up in some of the county governments. Indeed, when you look at the 47 counties, maybe three or four could be having a problem.

I do not have a problem at all having the Committee that has been selected to interrogate this issue effectively and make sure that we conclude this matter fairly where both Governor Kawira and MCAs are handled with dignity and decency. This is because it is the responsibility of the MCAs to oversight the Governor.

Mr. Speaker, Sir, we have borrowed heavily from the American system. If you look at what happened when President Donald Trump was being impeached, it was the whole House that discussed and tabled the evidence. Later on, the then Members of Congress had to vote to decide whether he was guilty or not.

On the issue of 6th January, there was a deliberate attempt to create a Committee. The reason for that is that the Committee had to have expertise, people who were going to analyse the issue point by point to make sure that the matter that was going to be discussed did not get lost.

I was going to be against this Motion. However, for now, I support the Motion. I hope that whatever deliberations you have at the Committee level are fair and the people of Meru County get what they deserve, including my able Senator, the Deputy Speaker of this House.

The Speaker (Hon. Kingi): Sen. Cherarkey, please proceed.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. I rise to oppose this Motion on three facts. One, history will judge us harshly. All impeachment proceedings that have gone to Committee have become negative like laundry processes where governors who face accusations have come back. Many people are not correcting this.

For the benefit of new Members, if the Committee sits and they find out that the charges are negative, that matter rests there. So, I advise my colleagues who are excited that this matter will come back and they will have a second bite of the cherry, that they may be not lucky.

Mr. Speaker, Sir, when you look at Section 33 and Standing Order No.80, the issues that have been raised by Meru MCAs and other stakeholders are weighty. I want each and every Senator to sit in Plenary so that it becomes a learning process and we question. The impression that we are creating outside there is that 11 are better than 67

which is not the position. This is because, in that Plenary session, you will be the one presiding over unless we are casting aspersion outside the 11 Members by saying they are better than others.

Two, there was no consultation on the selection process. When Jubilee was in power, we fought the same thing because people were being selected and there was no consultation. It became very bad. I ask my brother, Sen. Oketch Gicheru not to travel this path. It is very costly and slippery as the Bible says.

Three, I have heard people say they do not have a problem with their colleagues, Sen. Mandago and Sen. Ali Roba since they are qualified. Unless you are telling us who are former butchers that we are not qualified to sit simply because we were butchers in Mosoriot Trading Centre. These Members, including my sister, Sen. Crystal Asige, can sit in that Committee.

Mr. Speaker, Sir, this is a travesty of justice. My worry is that the people of Meru County shall not receive justice. Either Meru County will hang on the guitar strings or in the words of *Beyond Politics: 'A Conversation with Kiraitu Murungi'* who described the accused as both a religion and political fraud.

Four, we give them the skunk the way they came with it.

As a Senate, we protect devolution. How can we tell the nation we are protecting devolution when we have delegated our role to 11 people because we simply want to go for Christmas? History will judge us harshly. I have no problem. All these people are competent. However, the process on how it was arrived at---

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

The Speaker (Hon. Kingi): What is your point of order, Sen. Korir?

Sen. Cherarkey: Mr. Speaker, Sir, I hope you will hold my time.

Sen. Korir: Mr. Speaker, Sir, is Sen. Cherarkey in order to mislead this House that unless their names are in the list, that is when they can talk of having the Committee transact the trials? He is alleging that because he was a butcher, he is not in the list.

(Laughter)

Is he in order?

The Speaker (Hon. Kingi): Sen. Cherarkey, is it true that you were a butcher before you made it here?

Sen. Cherarkey: Mr. Speaker, Sir, some of us who have come from harsh backgrounds had to do everything to survive. With tremendous respect to my sister, I do not want to respond along that line.

My concern is let us stand with the people of Meru County. I want Governor Kawira Mwangaza, the people of Meru County and MCAs to receive justice. However, if we allow this Motion to pass, this will be the greatest injustice that will ever be presided at the inaugural stages of this Senate. Therefore, we do not have a doubt. Then, in future, we should send the former governors to go and do anything that concerns counties then we go and sleep if that is the situation.

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

The Speaker (Hon. Kingi): What is your point of order, Sen. Ali Roba?

Sen. Ali Roba: Mr. Speaker, Sir, is it in order for Sen. Cherarkey to make such a statement? We are here in our capacity as popularly elected and constitutionally mandated Senators to execute the functions of the Senate as required by law. Is it in order for Sen. Cherarkey to make any reference contrary to that by saying that in future, we will delegate it to former governors?

We are here in substantive capacity as Senators just like him, mandated legally to execute our mandates. Is that in order?

The Speaker (Hon. Kingi): Sen. Cherarkey, I know you have been in this House for some time. You are now serving your second term and you must be familiar with the basic Standing Orders.

When a Member rises on a point of order, you should yield by sitting down. That is express in the Standing Orders. So, kindly abide by the rules.

Sen. Cherarkey: My apologies, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Regarding the point of order, indeed, to that extent, you are out of order. Kindly, retract that statement and proceed.

Sen. Cherarkey: Mr. Speaker, Sir, I do not want to give credit and contempt to what Sen. Ali Roba has said.

In conclusion, it is always good to stand when you are on the right---

The Speaker (Hon. Kingi): Sen. Cherarkey.

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

The Speaker (Hon. Kingi): You have made a statement that in future, for any matters touching on counties, we can as well just send former governors. It is that statement that you need to retract.

Sen. Cherarkey: Mr. Speaker, Sir, it is a fact that there are former governors in this House. I said “maybe”. It does not mean that they should not be in any Committee. I did not say, “they shall be”. The HANSARD will bear me---

(Sen. Cherarkey’s microphone was switched off)

The Speaker (Hon. Kingi): Sen. Cherarkey, if that is how you will be prosecuting business, going forward, then you will be finding yourself not in the best position. I am not threatening you, but I am telling you as the Chair. I am cautioning you because I have the powers given to me by the Standing Orders.

Sen. Wamatinga, please proceed.

Sen. Wamatinga: Mr. Speaker, Sir, I stand to support the Motion. Whenever I or any other Senator crosses that Bar, I do not look at them in terms of gender; I consider them as hon. Members of this House.

Mr. Speaker, Sir, I am a businessman. I know why we have organizational structures and why you delegate responsibilities. I also understand how to manage the most complex matters. They are better dealt with by a selected team which is dedicated to doing so. I am also alive to the fact that most of the business of this House is conducted through Committees.

The fact that the Senate Minority Leader and the Senate Majority Leader found it fit to constitute 11 Members Committee composed of both experienced and new

Members, which I find it commendable. However, as a new Member in this House, I have realised that at times, points of order interrupt the flow of thought of Members. Some of us who are new here feel intimidated, especially when seasoned Members raise points of order

(Sen Cherarkey walked to the other side of the House)

The Speaker (Hon. Kingi): What is your point of order, Sen. Oketch Gicheru?

Sen. Oketch Gicheru: Mr. Speaker, Sir, I do not know whether you have noticed. Sen. Cherarkey crossed the Floor without doing what is required; bowing to the Speaker. It is irritating!

The Speaker (Hon. Kingi): Sen. Cherarkey.

(Sen. Cherarkey bowed to the Chair)

Have your seat. You are lucky that the Chair did not notice that.

Sen. Cherarkey, you are becoming a habitual disorderly Senator. I have cautioned you many times, but a time will come when I will have to ask you to leave the Chamber. Next time I rise on my feet to address you; I will be sending you out of the Chamber.

Kindly proceed, Sen. Wamatinga.

Sen. Wamatinga: Mr. Speaker, Sir, that is why I think going the Committee way is the most efficient way of doing this because some Members, without wanting to refer to any Senator, have become habitual disturbers who will never let anybody finish anything. It is quite unfortunate.

I was saying that in the business world, we form special teams because we want to be efficient and thorough. It can be almost impossible to peruse all the documents during a plenary sitting. The questions that arise may take ages to be answered. This process is time-bound because there is a time limit. That will only be possible if we go the Committee way.

Mr. Speaker, Sir, as it has been said before, I would like to reiterate that nobody will be barred from attending proceedings of the committee. If you are passionate about following the proceedings or being part of it, I think it is still open. You can join and be part of the eleven-member Committee. If your name is not on the list, you should not assume that you will not stand a chance of delivering what will be fair.

Finally, when the Committee presents its report to the House, I believe that we will have a chance to also give our input depending on the findings. For the sake of time and this being Christmas period where most of us will be engaged elsewhere, it is better that we go the Committee way. The Committee will dedicate time and resources required to come up with recommendations within the stipulated time.

Mr. Speaker, Sir, I support.

The Speaker (Hon. Kingi): Sen. Osotsi, you have the Floor.

Sen. Osotsi: Thank you, Mr. Speaker, Sir, forgiving the opportunity to also raise my voice on this Motion.

I was sympathetic to Sen. Cherarkey's group, but he gave up very first. Many Members who have risen to speak are in support of the Committee option. So, I also support it. However, allow me to make a few comments on the merits of the Committee of the Whole.

As it was pointed out by Sen. Onyonka, this would have been an opportunity for the new Senators to get to understand how the process works if we had the Committee of the Whole. Maybe they can attend Committee sessions as friends of the Committee and learn.

I have also looked at various democratic jurisdictions where impeachment processes are conducted by the Committee of the Whole House like in the United States of America (USA). You will find that a Senate of about 100 Members sitting and conducting an impeachment process and they do it thoroughly. That is something that this Senate should learn, so that in future when we have a Committee of the Whole, we are able to do a neat job without having to subject the process just to a few Members.

Thirdly, I think we need to relook at our Standing Orders. Impeachment is a very important accountability and oversight tool that we use to provide checks and balances in our counties.

I have looked at the proposed names and the Senator for Meru is not included. We have developed a tradition where whenever we engage our county governors, the Member for that area is invited. An example is in the Public Accounts Committee (PAC) and Public Investments Committee (PIC) meetings. They are always invited to come and hear because they understand the issues better and can interrogate and guide the other Members.

It is something we need to look at so that we do not have Senators discussing your governor and you are not represented. You should be given a choice, whether you want to not participate or be a Member. It is very important for that consideration to be put in place.

The Committee should do a thorough job given that this particular impeachment is a unique one because it has come 112 days after election. The proposed Impeachment Procedure Bill proposes that we need a longer period before an impeachment of a governor is brought before us.

This is a very unique impeachment. The Committee should do justice to the people of Meru and to this House by bringing a report that makes sense legally and one we can easily support as a Senate. We need to do a neat job to avoid the challenges we have faced before.

You are aware we have had impeachment Motions passed by this House being challenged in court. The recent one was the impeachment of the Governor of Wajir who ended up finishing his term because of the gaps in the impeachment process that we had.

The Committee has an obligation to do a thorough job that we will all support because it will be strictly within the law.

With those few remarks, I belatedly support the formation of a Select Committee of 11 people. I encourage we do a more bipartisan process in future on such a matter so that we do not have contestations on the Floor of the House on a simple matter that we would have taken a very short time.

The Speaker (Hon. Kingi): Hon. Senators, we are not doing very well, time wise. I can see on the dashboard here that we still have a number of Senators who want to speak to this Motion.

With your concurrence again, can we reduce the time to two minutes so that we do not shut out others? At some point, we may have to shut some of you and I do not think that is good. I think two minutes. Do I have your concurrence?

Hon. Senators: Yes.

The Speaker (Hon. Kingi): Good. Sen. Kathuri.

(Sen. Cheruiyot spoke off record)

Sen. Kathuri: Okay. Should I wait?

Sen. Cherarkey: You can close.

The Speaker (Hon. Kingi): Sen. Kathuri, this matter having emanated from your county, you should be the last to speak.

The Senate Majority Leader (Sen. Cheruiyot): Be very careful what you say.

The Speaker (Hon. Kingi): Sen. Syengo, proceed.

Sen. Beth Syengo: Thank you, Mr. Speaker, Sir. I rise to oppose the Motion for the several reasons.

I have no problem with the membership of the Committee. The question is, how was the membership arrived at? Why was there no *Kamukunji* so that we know who is to go to that Committee? I oppose the Motion.

Secondly, the Senate exists to protect devolution. As one Member has already alluded, this impeachment of the Meru Governor, hon. Kawira Mwangaza, is unique by the fact that it has taken too short a time for her to be impeached. This is denying the people of Meru service.

Allow me to say that the composition of the Committee, having more men than women, is not accepted. We say, "nothing for us without us". There is a popular saying that says that if the hyena is the judge, then the goat cannot get justice. *Fisi akiwa hakimu mbuzi hana haki.*

Allow me to---

The Speaker (Hon. Kingi): Sen. Beth Syengo, choose your language. You started with English, kindly, proceed in and finish in English.

Sen. Beth Syengo: Thank you, Mr. Speaker, Sir. I stand guided. The interpretation or the translation of that is that if the hyena is the judge, then a goat cannot get justice---

(Sen. Beth Syengo's microphone switched off)

Sen. Joe Nyutu: Thank you, Mr. Speaker, Sir, for giving me this opportunity to make my contribution.

When I came to this House today, I was in support of a Committee of the Whole for the reasons that two heads are better than one. Every Senator here could have been able to make a good contribution.

Noting also that the Special Committee will have only 10 days to deliver, I came thinking that the whole House would have been better because the task ahead would have been shared making the job much easier and the time factor much better.

From the history of the impeachments that have been brought before this House, I have not found any particular Member who has said the Committee of the Whole did a shoddy job.

Just like that suitor who convinces a would-be bride, I am convinced that a Special Committee will do a good job especially during this time of Christmas. I am now convinced by those who support the Motion.

I support.

Sen. (Prof.) Kamar: Thank you Mr. Speaker, Sir, for giving me the opportunity to add my voice to this debate.

First, there is no difference between Plenary and the Committee. We need to be fair to the people of Meru, just to the people of this country and do a clean job.

I was listening to the debate and we were giving the country the impression that the Members of the Committee will not do a good job. That is one thing we need to avoid. If we give the impression that committees will not do a good job, it is different.

I agree with the fact that we needed to have done a *Kamukunji*. It helps to ventilate and for Members to give their views that early.

Lastly, I want to mention the fact that the issue of gender is very important. It would have been very fair to increase the number of ladies because there are issues. Her Excellency the Governor has been judged by the public. She needs the comfort of that Committee. She needs to trust it herself. That is why I was worried when we started derailing by debating Sen. Orwoba instead of debating whether we are going for Committee or not.

The issue is about Governor Kawira. We need to be fair to her as much as we need to be fair to the people of Meru and to the MCAs who have issues. We must be trusted as a Senate. For us to be trusted, I challenge the Members who have been nominated to the Committee, they must be seen to be just, now that it looks like we are going the Committee direction. We must be seen to be just, truthful and honest.

Hon. Kawira--

(Sen. (Prof.) Kamar microphone switched off)

The Speaker (Hon. Kingi): Sen. (Prof.) Kamar, your time is up.

Proceed, Sen. Abass.

Sen. Abass: Thank you, Mr. Speaker, Sir. I am confident that every Senator in this House is competent enough. We have argued the whole day about competency. I have no problem with the Committee. However, the paragraph before the names states that 'The Senate has resolved.' This Senate is still debating. We have never resolved it. In future, you have to correct that sentence.

Secondly, this matter falls under the Committee on Devolution and Intergovernmental Relations yet the Chairman is not included. Every Standing Committee of this Senate has been given responsibilities. However, the Chairman of the

Committee on Devolution and Intergovernmental Relations is excluded from this Committee. In future, this should be corrected. The Chairpersons of Committees must be respected and consulted on such issues.

I thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Proceed, Sen. Okenyuri.

Sen. Okenyuri: Mr. Speaker, Sir, I thank you for the opportunity. I also rise to support this Motion. I agree with my colleague, Sen. Wambua that the Committee route will give us a more detailed approach because then, we will benefit from expert opinion. However, if we go the Committee of the Whole route, it will be like a market, where everyone has a leeway to give their point without taking into account expert opinion.

I also have an opportunity to participate, as a new Member. I appreciate the opportunity to serve in the Select Committee. I promise to give the matter the justice that is needed and be fair in the process.

Mr. Speaker, Sir, the Committee is the right way to go, not because I am a beneficiary. I also think as a young person, my region has been factored. I am not only a woman but also a leader in this House. That is how I look at it.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Okenyuri, this House, whether it goes the Plenary way or not, can never be a market. It will always be an honourable House.

(Laughter)

Proceed, Sen. Tobiko.

Sen. Tobiko: Thank you, Mr. Speaker, Sir. I rise to support the Motion. The Standing Orders of this House allows either of the route, whether Plenary or Committee. Therefore, it could go any direction.

Mr. Speaker, Sir, let me address one issue that has come out in this debate; the gender issues. I urge my sisters, hon. Senators, who are here, that even if we feel compelled to speak for the good lady Governor of Meru, we must do it in a shrewd manner because the Bible tells us so. We have neither the numbers nor the vote. Therefore, we must do it in a way that will bring the elected male Senators on board, to agree with us, if we have strong points that would save the lady governor.

The Committee and those who have been bestowed with the responsibilities of being in the Committee, it is a huge responsibility. That may actually put some of us in a precarious situation because it will set a precedence. I imagine sitting there as a Committee Member, that possibly, I may agree with the impeachment of the Governor of Meru and tomorrow, I am a lady aspiring to be a governor in 2027 in a county. I would want justice to be done---

The Speaker (Hon. Kingi): Your time is up, Sen. Tobiko.

Proceed, Sen. Thang'wa.

Sen. Thang'wa: Thank you very much, Mr. Speaker, Sir. I rise to support this Motion.

It is good to inform the House that I am one of the Members nominated to this Committee. However, I would support such a route, whether I am a Member of the Committee or not.

I have heard people say that if we go the Committee way, it will be held away from the public. That is not right. Every Senator is allowed to appear in that Committee and they can contribute through the membership of the Special Committee.

It is also wrong to discuss membership of this Committee, saying that some were governors and others were not. Whether we go the Plenary or Committee way, the governors will be there. That is not supposed to be even entertained in this House. We are all equal in this House. There are no virgins in the maternity. We are all equal. We went through the same process. We are all Senators in this House.

Mr. Speaker, Sir, the issue is not about Hon. Kawira. It is the issue of the people of Meru, over 200,000 who voted for her, plus the whole of the county that she is now serving. Through the Committee, we are going to investigate this matter and give justice to both Hon. Kawira and the people of Meru County.

Mr. Speaker, Sir, having had the experience of going through such a process, I believe I will be an asset to this Committee. I do understand what happens when it comes to such processes. I support women so much---

The Speaker (Hon. Kingi): Your time is up, Sen. Thang'wa.

Proceed, Sen. Murgor.

Sen. Murgor: Mr. Speaker, Sir, thank you very much for giving me this opportunity to air my views, in addition to those of my colleagues. I came in with intentions of opposing the Motion but I have been persuaded by a few facts. One of the facts is that a few people will find facts more than a larger group. That has persuaded me to go with the small group. The small group is also likely to be friendlier than a larger group because a large group is likely to be disorderly and just express themselves very differently.

I also look at people like Sen. Tobiko and others to be very mature. Therefore, reason rather than emotions will prevail. That will be good for the governor, the Members of County Assembly (MCAs) and Meru people at large. I support.

Thank you.

The Speaker (Hon. Kingi): Proceed, Sen. (Dr.) Murango.

Sen. (Dr.) Murango: Mr. Speaker, Sir, thank you for giving me this opportunity. After serious face-to-face dialogue and discussion with the Senate Majority Leader, I support this Motion.

Looking at the Senators who have been proposed to be members of this Committee to look at the matter, I see a lot of experience starting with Sen. (Dr.) Khalwale, a seasoned Senator, who has handled such a matter before. We also have former governors, Sen. Mandago and Sen. Ali Roba; Sen. Thang'wa who was County Executive Committee Member (CECM) in Kiambu and Sen. Githuku, a former MCA in Lamu.

We must have confidence that the Committee will carry out its mandate. I would like to remind them that according to Section 33 of the County Government Act, 2012, if they find the Governor guilty or not, the Senate will bear the brunt of their decision. I call

upon the Committee to be honest in their findings and make sure the voice of the people will be that of the Senators.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Mandago, proceed.

Sen. Mandago: Mr. Speaker, Sir, I rise to support this Motion. Initially, the Senate Majority Leader had put it that the Motion was open for the Senate to decide. However, the matter before hand has nothing to do with gender. It is purely a matter of whether the Senate will concur or disagree with the decision that was reached by Meru County Assembly.

It is not in order for Sen. Orwoba to suggest that the Committee will be biased because it is made up of more male Senators than female. In the recent past in this country, there seems to be a liking by women of the services being given by men. A majority of women who go to the salon prefer a male hairdresser. When they go for massage, they prefer a male masseur.

It cannot be that when male Senators are going to discharge justice, we will be unfair. Having been nominated as a Member of that Committee, I commit that we are going to be fair, just and do the right thing. We know the decision of that Committee will be the decision of the Senate. Therefore, we commit that being former governors does not make us biased in the decisions that we are going to make.

I support.

The Speaker (Hon. Kingi): Sen. Kibwana, proceed.

Sen. Kibwana: Thank you, Mr. Speaker, Sir. If we had a fair gender balance--- When I talk about gender, it is about the balance of numbers. We are aspiring the two-thirds majority. We cannot achieve the two-thirds gender rule if we do not start with the Senate.

I would like to support Sen. (Prof.) Kamar by looking at the merit of gender balance. I trust the Committee way would be right way and I am sure they will make the right decision. However, I am not happy with the balance of numbers. Let us practice that and being in the Senate, this is the opportunity to do it.

I support.

The Speaker (Hon. Kingi): Sen. Kavindu Muthama, proceed.

Sen. Kavindu Muthama: Asante Bw. Spika kwa kunipa fursa kuunga mkono Hoja hii. Ninaamini ya kwamba watu wachache wakitizama na kujadiliana jambo, wana uwezo mkubwa kuliko watu wengi. Kwa mfano, unaweza kuwapa watu wengi kazi na wafanye kazi kidogo lakini ukiwapa watu wachache, watafanya kazi nzuri.

Ninaahidi Seneta kwamba hatutakuwa na mapendeleo. Nimo katika Kamati hiyo na ninatoa hakikisho kwamba tutafanya kazi kwa uwazi na usawa, tukijua sisi ni watetezi wa ugatuzi, magavana, wananchi na mambo yote yanayotendeka katika kaunti. Hatutaegemea upande mmoja. Tutaangalia usawa na kufanya kazi vile inatakikana.

The Speaker (Hon. Kingi): Sen. Miraj, proceed.

Sen. Miraj: Bw. Spika, ninasimama kuunga mkono Hoja ya Kiongozi wa Walio Wengi, kwamba tutumie Kamati Maalum kuamua jambo hili. Vile vile, ninachukua fursa hii kutoa hakikisho langu kama mwakilishi maalum wa kike katika Bunge la Seneti.

Tunazungumza kutaka tu kuonyesha ubabe, lakini lazima tuangalie nchi yetu inaelekea wapi kimsingi, upande wa uwakilishi wa kike. Tumeambiwa ya kwamba hata kama tungepata fursa ya kuwa kwenye Kamati hiyo, hatungekuwa na sauti ya kupiga kura. Ninawaambia akina mama ambao wanafuatilia hili Bunge leo, kungekuwa na hoja za kijinsia katika haya malalamishi dhidi ya Gavana Kawira, sisi akina mama tungekuwa na kura tatu pekee.

Ninawajulisha akina mama kwamba tunapokuja kuwaomba kura, msione eti tunataka tu kuja hapa kuketi katika Bunge hili. Tunawaomba mtupe sauti na nguvu ili wakati kama huu ukifika, tuweze kutoa sauti zetu zisikike.

Sisemi hivi kwa sababu Gavana Kawira ni mwanamke. Ni kwa sababu ya kusimamia haki yake. Yale maneno yaliyozungumzwa kwa mitandao ya kijamii na yale yanayoendelea katika vyombo vya habari, ni wazi ya kwamba ameshtumiwa kwa sababu ni mwanamke.

Kwa sababu niko hapa na nimeambiwa sitapiga kura, ninaunga mkono Hoja hii. Kwa wale wanawake watatu ambao wamepata fursa, ninawasihi kwamba msimwangelie kama mama bali muangalieni kama mama aliyepigiwa kura na wananchi na mzilinde---

(Sen. Miraj's microphone was switched off)

The Speaker (Hon. Kingi): Sen. Oketch Gicheru, proceed.

Sen. Oketch Gicheru: Thank you, Mr. Speaker, Sir. I had intended not to speak on this matter because I am directly affected, given the emotion with which this conversation started. I respect the fact that we are equal Senators. Every issue that Senators bring to this House is equally weighty because people have got different interests and concerns. So, I humbly register my thoughts on this matter.

First, I am grateful and I do not take lightly the task at hand. Making a judgement regarding this impeachment and examining the question at hand is a serious task. I believe my colleagues who have been appointed to be in this Committee will take it seriously.

That said, the emotions that have been expressed in this House with regard to gender, is a serious issue. I would like to invite us, as a House, to be considerate next time. We need to as much as possible, strive to include women, not only on issues that affect women but also other issues that might be of this magnitude.

Lastly, questions have raised about the process of selecting Members to the Committee. I invite the House to trust in our leadership. Under Standing Orders No.22 and 23 that establishes both the Majority and Minority leadership, we must trust them to give us this kind of guidance.

I look forward to engaging in this process---

(Sen. Oketch Gicheru's microphone was switched off)

The Speaker (Hon. Kingi): Sen. Munyi Mundigi, proceed.

Sen. Munyi Mundigi: Bw. Spika, ninaunga mkono Hoja hii ya kuunda Kamati ya kuchunguza madai dhidi ya Gavana Kawira. Kama wanaume, tunamheshimu Gavana Kawira. Hata hivyo na yeye pia aheshimu wanaume.

(Laughter)

Gavana Kawira anapaswa kuheshimu watu wa Kaunti ya Meru. Ninakumbuka siku ambayo kulikuwa na sherehe kubwa ya Rais na naibu wake huko Kaunti ya Meru, nilisafiri kilomita 500 kuenda kushuhudia ziara ya Rais.

Lakini kwa sababu ratiba ilikuwa imetengenezwa na mtu ambaye alikuwa *opponent* wake, hakuhudhuria mikutano hiyo. Kwa hivyo, ninataka kumkosoa Seneta kutoka Mombasa kwamba sisi tuna*respect* akina mama lakini hata akina mama wanafaa watupatie *respect*.

Kwa hivyo, hatuko hapa kwa sababu ya mama ama baba. Tuko hapa kama masenata. Ile kamati itaenda kuangalia suala hili--- Gavana Kawira alichaguliwa na watu wote. Hakuchaguliwa kwa sababu watu walikuwa *independent* ama gani. Alichaguliwa juu ya *leaders* wote.

Kwa hivyo, lazima a *respect leaders* wale wengine. Anafaa awe akienda hata kama anaitwa na nani.

Asante.

(Applause)

The Speaker (Hon. Kingi): Hon. Senators, my dashboard is blank.

Kindly, proceed Sen. Veronica Maina.

Sen. Veronica Maina: Mr. Speaker, Sir, the technicians may need to check this because my button was on all this time.

Mr. Speaker, Sir, the Standing Order No. 80 (1)(b) provides the procedure to be adopted in the event of removal of a governor. It provides that the process can either be taken through plenary or by way of a Select Committee.

Mr. Speaker, Sir, in both processes, none has been stated as being more superior to the other. Which means that a plenary should be as good as a Select Committee. In other words, if this function can be undertaken by the Senate, it can also be undertaken by the Select Committee.

The standard of care required during the process will be the same both at the Plenary and at the Select Committee level. I have listened to the many submissions that have been made before the Floor of this House and it is clear that there are some processes that may need to be improved. For instance, we may need to look at how Committees are constituted and the level of percentage of gender. That can be improved for future processes.

However, without elongating my submissions, I wish to support the Motion that has been brought to the Floor of this House by the Senate Majority Leader. Nevertheless, we implore upon the Select Committee to undertake their duty with much care and without interference.

Additionally, looking at the heated debate that has emanated from the House, everybody will be watching. The Governor needs a fair trial and the standard of proof---
(Sen. Veronica Maina's microphone was switched off)

The Speaker (Hon. Kingi): At this juncture, we will give the Hon. Senator of Meru County five minutes to make his contribution.

Sen. Kathuri: Thank you, Mr. Speaker, Sir.

On the onset, I want to thank you, Mr. Speaker, Sir, and the Members of this Senate for breaking your holiday to come and listen to the cries of the people of Meru. On behalf of the Meru County residents and on my very behalf, humbly receive our gratitude.

The role of the Senate is to represent the counties as per Article 96(1) of our Constitution. The Senate represents the counties and serves to protect the interest of the counties and their governments.

These Senators left their families and some who were even outside the country came back because they follow, protect and defend the Constitution.

I would wish that these impeachments do not come to this House. It is unfortunate that Meru County is the first county to bring this matter. My wish is that both parties; that is the Meru County Assembly, the 67 members who appended their signatures to impeach the Governor, will be listened to together with the Governor.

I request her to appear this time before the Senate because she did not appear before the County Assembly last week as she thought that there was a breach of the court order.

I would urge her to appear before this Committee which will be constituted today so that she can be heard.

Mr. Speaker, Sir, this matter has come at a time that is not so good because it is during the festive season. Due to past experience, sometimes, it can become difficult to get the requisite quorum because we need 15 Senators in the plenary. If we go this route, I am afraid that getting that quorum may be difficult. We want this matter to be expedited as fast as possible.

The people of Meru had thought that we would be listening to all these issues today and make the decision. So, this morning, I was forced to go to all the radio stations and explain to them that today is just the beginning of the process. Therefore, the Meru Community is very anxious and I know that most of them will not enjoy Christmas in their usual manner.

Mr. Speaker, Sir, we must get a system or method which will give commitment. If we have 11 Members committed to this cause, that matter will be expedited in the fastest time possible. If this matter can be heard within five days, that would be okay because the Committee has a maximum of 10 days to listen to all parties and bring the report to this House.

Even if we are recalled earlier than 30th December, 2022, we will be able to come back. Hon. Members should not be worried because we are allowed by our Standing Orders to appear as Friends of the Committee. All Members who feel they should be part of that Committee so as to listen to the issues, either in defence of the Governor or

against, are free to attend those sessions. Even though I am not a Member of the Committee, for the interest of my people, I will be appearing as much as possible before the Committee in order to listen to the issues that will be raised.

Even my friend here, Sen. Methu, will be interested to participate and appear. I am encouraging as many Senators as possible to appear as Friends of the Committee. I do not know who will be elected as the Chairperson of this Committee, but I would like to request the Chair to give Senators who are not Members of that Committee time to interrogate witnesses, ask questions and seek clarifications. That is the prerogative of the Chair.

Mr. Speaker, Sir, as the Senator for Meru, I am happy. I know that whichever way this matter goes; Meru will get justice. I hope that by the end of the month, things will be better and back to business. I also request the Committee to give recommendations in future so that other counties can follow on their work and run smoothly.

With those few remarks, I thank you, Mr. Speaker, Sir. I also wish all the Senators, a Merry Christmas and a happy new year.

The Speaker (Hon. Kingi): Thank you, Senator. At this juncture, I call upon the Leader of Majority, who is the Mover of this Motion, to reply.

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Speaker, Sir, for this chance. I have had the opportunity to listen to almost every Senator make their contribution; the majority who agree that this is the way to go and the few that maybe for one reason or the other thought otherwise, their views have also been listened to and for good reason.

As leadership, we keep on learning every day. People are different and appreciate issues differently. Not everyone is made of the same temperament and cut from a particular cloth. So, you have to understand people. Leading a team as big as the one the Minority Leader or myself leads, calls for balance.

Many things have been said and suggestions have been given including the possibility---. Sometimes people say things and you listen and wonder if they were in my position, would whatever they are saying be practical? That for every decision to be made, you must first call people into a meeting and ask which way. Surely, I do not think we will ever make any progress. It is the reality of life.

We do not take lightly the various opposing views that we have listened to especially on what is justified. To me, the winner of it all is the Senator for Meru County who has just finished on the Floor. He speaks on behalf of the people of Meru County. He has the confidence of this House. He has said that whichever way this House decides, whether Plenary or Committee, he is comfortable in the interests of the greater people of Meru County, to get justice. He has agreed with the Motion as proposed and he believes in the Committees of this House.

Mr. Speaker, Sir, Sen. (Prof) Kamar said something quite profound that if you vote in support of this Committee, you are simply voting to affirm that you believe in the Committees of this House. This Committee is not different from any other of our Committees.

Therefore, we should not set a precedence of saying that we do not trust in committees and this and that may happen. By and large, we are all Members of Committees in one way or the other.

Mr. Speaker, Sir, I therefore plead with my colleagues. Let us vote, support the Motion as it is and tomorrow our colleagues can begin the work and put us on notice as soon as they are ready. We shall come back to hear the findings of this Committee.

With those many remarks, I beg to reply.

The Speaker (Hon. Kingi): Hon. Senators, pursuant to Standing Order No. 84(1), I determine that the matter affects counties and therefore voting will be by county delegations. The vote will be carried when a minimum of 24 delegations vote in favor of the Motion.

At this juncture, I will ask the Serjeant-at-Arms to ring the Division Bell for two minutes.

(The Division Bell was rung)

Hon. Senators, the voting shall be done electronically. So, kindly use your cards to log in.

Hon. Senators, I now put the question, but before I do that, Senators please walk in.

(Several Senators walked into the Chamber)

The Speaker (Hon. Kingi): Hon. Senators, voting starts now. We are going to vote electronically. You can press “Yes”, “No” or “Abstain”.

(Voting in progress)

DIVISION

ELECTRONIC VOTING

(Question, that the Senate establishes a Special Committee to investigate the proposed removal from office, by impeachment, of the Governor of Meru County, Hon. Kawira Mwangaza, put and the Senate proceeded to vote by County Delegations)

AYES: Sen. Abass, Wajir County; Sen. Ali Roba, Mandera County; Sen. Boy, Kwale County; Sen. Cheptumo, Baringo County; Sen. Cheruiyot, Kericho County; Sen. Chesang, Trans Nzoia County; Sen. Chute, Marsabit County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang’a County; Sen. Kathuri, Meru County; Sen. Kavindu Muthama, Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Madzayo, Kilifi County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Mungatana, Tana River County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita Taveta County; Sen. Oketch Gicheru, Migori County; Sen.

Olekina, Narok County; Sen. Osotsi, Vihiga County; Sen. Sifuna, Nairobi City County; Sen. Tabitha Keroche, Nakuru County; Sen. Thang'wa, Kiambu County; Sen. (Prof.) Tom Ojienda, SC, Kisumu County; Sen. Wakili Sigei, Bomet County; Sen. Wamatinga, Nyeri County; Sen. Wambua, Kitui County.

NOES: Sen. Cherarkey, Nandi County; Sen. Okiya Omtatah, Busia County.

The Speaker (Hon. Kingi): Members, can you resume your seats? Members, kindly resume your seats. Voting is complete.

Serjeant-At-Arms, you may now withdraw the bars, please.

(The Bars were withdrawn)

The Results of the Division are as follows: -

AYES: 33

NOES: 2

ABSTENSIONS: Nil

The **Ayes** have it.

(Question carried by 33 Votes to 2)

(Applause)

The Speaker (Hon. Kingi): Hon. Senators, having put this Special Committee in place, the Committee will have ten days to investigate and report back to the Senate on whether it finds the allegations against the Governor to have been substantiated. The Committee should, therefore, table its report in the Senate on or before Friday, 30th December 2022.

(Applause)

ADJOURNMENT

The Speaker (Hon. Kingi): Hon. Senators, there being no other business on the Order Paper, the Senate stands adjourned until Tuesday, 14th February 2023 at 2:30 pm. The Committee meets immediately after the *Kamkunji* in Committee Room No.5.

I thank you.

The House rose at 6:25 p.m.