

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 14th August, 2024

Special Sitting

*(Convened via Kenya Gazette Notice
No. 10122 of 13th August, 2024)*

*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, do we have a quorum?

(The Clerk-at-the-Table consulted with the Speaker)

Serjeant-at-Arms, kindly ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

Order, hon. Senators. Kindly take your seats.

(Sen. Tabitha Mutinda and Sen. Maanzo consulted loudly)

Order, Sen. Sen. Tabitha Mutinda and the Senator for Makueni.
We now have a quorum. So, we shall proceed with today's business.
Clerk, you may proceed to call the first Order, please.

(Sen. Githuku stood at the Bar)

Senator for Lamu, can you hasten, please? We are waiting for you.

COMMUNICATION FROM THE CHAIR

CONVENING OF SPECIAL SITTING OF THE SENATE

The Speaker (Hon. Kingi): Hon. Senators, I wish to welcome you to this Special Sitting of the Senate. This Special Sitting has been convened to undertake urgent legislative business, which require us to dispense with.

On the request of the Senate Majority Vide Letter Ref.No.Senate/MLS/COOR/010/2024 dated 12th August, 2024 and the support of the requisite number of Senators, I appointed today, Wednesday, 14th August, 2024, as a day for a Special Sitting of the Senate.

The appointment was made Vide Gazette Notice No.10122 dated 13th August, 2024. In the Gazette Notice, I indicated that the business to be transacted at this Special Sitting shall be the hearing of the charges on the proposed removal from office, by Impeachment, of Hon. Kawira Mwangaza, the Governor of Meru County.

Hon. Senators, in accordance with the Standing Order No.33(5) the business specified in the Gazette Notice referred to above and as outlined in the Order Paper, shall be the only business before the Senate during the Special Sitting. At the conclusion of business today, the Senate shall stand adjourned until Tuesday, 3rd September, 2024 at 2:30 p.m., in accordance with the Senate Calendar.

I thank you.

Next Order.

(Sen. Tobiko stood at the Bar)

Sen. Tobiko, take your seat.

MESSAGE FROM MERU COUNTY ASSEMBLYPROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF
THE GOVERNOR OF MERU COUNTY, HON. KAWIRA MWANGAZA

The Speaker (Hon. Kingi): Hon. Senators, I wish to report to the Senate that I have, pursuant to Standing Order No.48 (4) and (6), received a Message from the Speaker of the County Assembly of Meru regarding the removal from office, by way of impeachment, of Hon. Kawira Mwangaza, the Governor of Meru County.

The Message was conveyed to the Senate via a letter dated Friday, 9th August, 2024, signed by the Speaker of the County Assembly of Meru and received in my office on the same date indicating that the County Assembly had passed the resolution to remove the Governor from office, pursuant to Article 181(1)(a), (b) and (c) of the Constitution as read together with Section 33 of the County Governments Act and Standing Order No.65 of the Standing Orders of the County Assembly of Meru, on the following grounds.

The grounds for removal are as follows-

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(1) Gross Violation of the Constitution and other laws

The particulars of this allegation are that the Governor did the following-

(i) Violated Articles 10(2), 27, 41, 47, 73, 232, 235, 236 and 251 of the Constitution by illegally revoking the appointment of CPA Virginia Kawira Miriti as Secretary/CEO of the Meru County Public Service Board (CPSB) without the requisite vote from the County Assembly, thus usurping the powers of the Assembly;

(ii) Breached sections 10, 15, 19, and 24 of the Public Officers Ethics Act, 2003, sections 3, 7, 8, 9, 10, 11, 13(1)(b), (f), 21, 29, and 52 of the Leadership and Integrity Act, 2012, and Section 4 of the Public Appointments (County Assemblies Approval) Act by failing to appoint the Chairpersons of key county boards and allowing unauthorized persons to oversee public funds without proper accountability;

(iii) Refused to implement the recommendations and resolutions of the County Assembly on the dismissal of the County Secretary, Dr. Kiambi Atheru Thambura, and the Chief of Staff, Mr. Harrison Gatobu Nchamba Mbithi, for gross violation of the Constitution and other laws and failed to submit a report to the County Assembly on the implementation of the said resolutions of the Assembly in direct violation of Article 183(3) of the Constitution; and,

(iv) Illegally dismissed Dr. Ntoiti (CEO of County Revenue Board), Paul Mwaki (CEO of Liquor Board), Kenneth Kimathi Mbae (Managing Director of Meru Microfinance Corporation), and Joseph Kithure Mberia (CEO of MEWASS), contrary to the provisions of the Meru County Revenue Board Act and the Meru County Investment and Development Corporation Act, thereby leading to significant financial penalties by the Employment and Labour Relations Court against the County Government on account of legal costs and damages.

(2) Gross Misconduct

The particulars of this allegation are that the Governor-

(i) Misled the public by falsely claiming that Kshs86 million was raised through a Paybill number after the murder of Daniel Muthiani alias Sniper, while the actual amount raised was Kshs286,516, in violation of the Public Officer Ethics Act and the Leadership and Integrity Act.

(3) Abuse of Office

The particulars of this allegation are that the Governor-

(i) Authorized irregular payments of emergency call allowances to 161 doctors and medical officers using the wrong rates resulting in an overpayment of Kshs74,340,000, contrary to the Anti-Corruption and Economic Crimes Act and other relevant laws;

(ii) Used a manual payroll to pay personnel emoluments amounting to Kshs102.94 million, contrary to established financial regulations in Section 6.7.6 of the County Financial Accounting and Reporting manual;

(iii) Employed a bloated workforce of at least 111 personnel in the office of the Governor, increasing the county wage bill beyond the legal limit, in violation of the Public Finance Management (County Governments) Regulations, 2015; and

(iv) Continued to pay full salary and benefits to a Public Communication Officer accused of murder, in violation of the Public Service Commission Discipline Manual for the Public Service.

Hon. Senators, annexed to the letter conveying the decision of the County Assembly were the following documents-

(i) Copy of Approved Notice of Motion "the Motion" dated 31st July, 2024, laid on the Table of the Assembly on Wednesday, 31st July, 2024 (Afternoon Sitting).

(ii) Copy of Exhibits - Laid on the Table of the Assembly on Wednesday, 31st July, 2024 (Afternoon Sitting).

(iii) Order Papers for the Assembly sittings of Wednesday, 31st July, 2024 (Afternoon Sitting), Tuesday, 6th August, 2024 (Afternoon Sitting) and Thursday, 8th August, 2024 (Morning Sitting).

(iv) Certified Hansard Reports for the Assembly sittings of Wednesday, 31st July, 2024 (Afternoon Sitting), Tuesday, 6th August, 2024 (Afternoon Sitting) and Thursday, 8th August, 2024 (Morning Sitting).

(v) Copy of letter dated 31st July, 2024 Reference Number MCA/GC/VOL.I/24 inviting the Governor Meru County to respond to the tabled impeachment Motion.

(vi) Affidavits of Service-

(1) Copy of affidavit of service by Mr. Benson Kinyua Ngure serving H.E the Governor Meru County with an invitation letter and a copy of the laid Notice of Impeachment Motion on behalf of the Speaker County Assembly of Meru;

(2) Copy of affidavit of service by Mr. Joel Maitehia M'Rukunga serving H.E the Governor Meru County with a copy of the laid Notice of Impeachment Motion on behalf of Hon. Zipporah Kinya; and,

(3) Copy of letter dated 6th August, 2024 Reference Number MCA/GC/I/VOL.V26 forwarding to H.E the Governor a copy of the laid Report on Public Participation on the Notice of Motion.

(vii) Certified copy of a form for verification of signatures for Members in support of the Motion for Removal of the Meru County Governor by Impeachment dated 8th August, 2024 made pursuant to the provisions of Standing Order No.65 (4).

(viii) Certified copy of the roll call vote on the Motion for the impeachment of H.E Governor Meru County held during the Assembly sitting of Thursday, 8th August, 2024.

(ix) Documents tabled during the debate on the Motion for Removal of the Governor, Meru County by impeachment:

(a) Appointment Letter for one Matiri Kenneth Mutua dated 13th February, 2023, Reference Number CGM/CPSB/APPT/VOL.3/2023(22);

(b) Copy of letter dated 6th August, 2024, Reference Number CAM/GEN/VOL.VII/40;

(c) Copy of letter dated 31st July, 2024, Reference Number CGM/CS/CA.023/26 Vo1.3(390);

(d) Copy of letter dated 7th July, 2024, Reference Number CAM/GEN/VOL.VII/39;

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(e) Copy of letter dated 15th July, 2024, Reference Number CGM/CS/CA/VOL.3/023/382;

(f) Copy of letter dated 31st August, 2023, Reference Number CAM/GEN/VOL.VI/187;

(g) Copy of letter dated 31st August, 2023, Reference Number CAM/GEN/VOL.VI/188.

(h) Copy of letter dated 20th July, 2023, Reference Number CAM/GEN/VOL.VI/168; and,

(i) Copy of letter dated 18th June, 2023, Reference Number CGM/CS/CA/VOL.I/023/17.

(x) Evidence of Public Participation-

(a) Jhua technology flash disk 32GB containing video annexures evidencing the particulars alleged in the Motion, as well as voice adverts on the public participation on the Motion run on various radio and TV stations.

(b) Pictures and videos of the various public participation fora held on Monday, 5th August, 2024, contained in the accompanying flash disk.

(c) Copy of Public Participation Report dated 6th August, 2024, and laid on the Table on Tuesday, 6th August, 2024 (Afternoon Sitting).

(d) Written/printed memoranda from different wards and regions submitted to the County Assembly during the public participation exercise on the Motion submitted both in support and against the Motion. The memoranda inclusive of submissions received via email. Minutes, attendance registration sheets and registration forms for memoranda of the public participation held on Tuesday 13th December, 2022.

(e) Soft copy of the Third Edition Standing Orders of the County Assembly of Meru contained in an accompanying flash disk.

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 this matter.

The Senate may –

(a) by Resolution, appoint a Special Committee comprising 11 of its members to investigate the matter; or

(b) investigate the matter in plenary.

The Senate Majority Leader will, at an appointed time during this sitting, give a Notice of Motion for the establishment of a Special Committee. 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 to 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 honourable Senators that when we come to the debate on the Motion for the establishment of the Special Committee, debate on the Motion shall be limited to the substance of the Motion, principally, whether or not to establish a 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 issues other than the Motion before the Senate.

In the meantime, and during the pendency of the Impeachment process in the Senate, I wish to caution honourable 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 fifth impeachment hearing in the 13th Parliament, and the third one involving the Governor in question. In undertaking this mandate, the Senate will be sitting as a *quasi-judicial* body and will conduct investigations into the alleged infractions of the Constitution and the law and thereafter make its determination on the matter.

As such, this is a reminder that the impeachment hearing is not just a procedural formality, but a fundamental process that plays a crucial role in upholding the principles of democracy and good governance. This hearing is one of the most crucial oversight tools and singular roles of the Senate.

Hon. Senators, obviously, this matter is one of immense public interest. I wish to emphatically reaffirm that the Senate will deliberate and reach a decision on this case purely based on its merits. The Senate will uphold the integrity of this process by ensuring objectivity and will not be influenced by external pressures or undue influence from parties outside this Chamber.

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

I thank you.

Next Order.

The Senate Majority Leader, proceed.

NOTICE OF MOTION

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

Sen. (Dr.) Khalwale: Thank you, 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 Thursday, 8th August, 2024, the Meru County Assembly approved a Motion to remove from office, by impeachment, Honourable Kawira Mwangaza, the Governor of Meru County;

(Loud consultations)

The Speaker (Hon. Kingi): Order, hon. Members. May the Senator for Kakamega County be heard in silence, please.

Sen. (Dr.) Khalwale: AND FURTHER, WHEREAS by a letter Ref. MCA/RES/VOL.IV/79, dated 9th August, 2024, and received in the Office of the Speaker of the Senate on Friday, 9th August, 2024, 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 11 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-

(Sen. Methu stood up in his place)

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

Hon. Senators, if you have anything to share with your colleagues, pull them out, but let the Chamber be in total silence. This is a very important and weighty matter that we are discussing.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir.

A Special Committee comprising of the following Senators-

- (1) Sen. Wakili Hillary Sigei, MP;
- (2) Sen. Abdul Haji, MP;
- (3) Sen. Wahome Wamatinga, MP;
- (4) Sen. David Wafula, MP;
- (5) Sen. Gloria Orwoba, MP;

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- (6) Sen. Karen Nyamu, MP;
- (7) Sen. Boy Issa Juma, MP;
- (8) Sen. Eddy Oketch, MP;
- (9) Sen. Shakilla Abdalla, MP;
- (10) Sen. Betty Montet, MP; and
- (11) Sen. Beatrice Akinyi, 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.

The Speaker (Hon. Kingi): Next Order

MOTION

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

The Speaker (Hon. Kingi): Proceed, Senate Majority Leader.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. On behalf of the Senate Majority Leader, I beg to move the following Motion-

THAT, WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on Thursday, 8th August, 2024, 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. MCA/RES/VOL.IV/79, dated 9th August, 2024, and received in the office of the Speaker of the Senate on Friday, 9th August, 2024, the Speaker of 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 11 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. Wakili Hillary Sigei, MP;
- (2) Sen. Abdul Haji, MP;
- (3) Sen. Wahome Wamatinga, MP;
- (4) Sen. David Wafula, MP;
- (5) Sen. Gloria Orwoba, MP;
- (6) Sen. Karen Nyamu, MP;

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- (7) Sen. Boy Issa Juma, MP;
- (8) Sen. Eddy Oketch, MP;
- (9) Sen. Shakilla Abdalla, MP;
- (10) Sen. Betty Montet, MP; and
- (11) Sen. Beatrice Akinyi, 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 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, as you pointed out clearly when you were reading out these charges, this is the fifth time that the Senate is being called upon to discharge this oversight responsibility. Since Members are already familiar and this being purely a Procedural Motion, I do not want to belabor it, but to ask colleagues to reflect on this Motion whether we shall be doing the very best of what is expected of us if we allow a Special Committee to inform us or we should go the Plenary way. Whichever way you decide, the office of the Leader of Majority and in consultations with the office of the Leader of the Minority, we will oblige. We have no preferred position.

(Applause)

Mr. Speaker, Sir, I would like colleagues to view the list of the names of these Senators here, not as an attempt to for us to arm-twist them to go the committee way, but a legal and procedural requirement that we had to uphold.

With those many remarks, I wish to request the Leader of the Minority, the Hon. Rtd Justice Madzayo, the Senator of Kilifi, to come and second my Motion. Thank you.

The Senate Minority Leader (Sen. Madzayo): Asante Bw. Spika.

Jina langu ni Stewart Madzayo, si kama alivyosema ndugu yangu. Amesema Mathayo kwa sababu ile “d” na “z” ameweka “t” na “h”. Ni sawa kwa matamshi ila amekosea kidogo kwa jina lenyewe.

Bw. Spika, cha kwanza ninachotaka kuunga mkono ni kwamba twende kwa njia ile---

(Loud consultations)

The Speaker (Hon. Kingi): Order, hon. Senators. May the Minority Leader be heard in silence.

(Sen. Cherargei consulted loudly)

Order, Senator for Nandi.

The Senate Minority Leader (Sen. Madzayo): Twende kwa njia ya kamati kwa sababu njia ya kamati au ile njia ya Bunge lote kuhusishwa, uamuzi huo utafanywa na Maseneta. Kila Seneta hapa ana usemi wake. Kuna tetesi tofauti lakini tukiwa kama

Maseneta, ni lazima tuweze kuamua ikiwa tunataka kwenda ile njia ya kamati au Seneti nzima ambapo Maseneta wote wanachangia katika Hoja hii iliyo mbele yetu.

Najua Bunge la Seneti linajulikana kwamba lipo na Maseneta majabali, maseneta ambao wanaweza kuketi wakasikiza kesi na kukata kisawasawa. Sintofahamu ni kwamba pengine kukatokea cheche za maneno kutoka nje na kunakuwa na lawama tofauti tofauti kulinganishana na Maseneta wetu. Hizo huwa ni cheche tu.

Tunaelewa kwamba cheche zingine ni kama maji moto, haiwezi kuchoma nyumba. Kwa hivyo, hawawezi kutuambia maneno yanayowezafanya tukose mwelekeo na pengine tusikate kesi kulingana na zile stakabadhi zilizowekwa hapa mbele; stakabadhi tutakazojadiliana nazo kuona kwamba hatua iliyochukuliwa ni ile kila Mkenya ataona kwamba haki imefanywa na Wabunge wa Seneti. Kwa hivyo, njia itakayochukuliwa ni ile ambayo sisi sote tutafuatilia. Sote tuko hapa, tutajadiliana na kuona ni njia ipi tunafaa kuelekea. Naunga mkono hii Hoja kwamba ni sawa kabisa.

Asante.

The Speaker (Hon. Kingi): Hon. Senators, I will now, propose the Question.

(Question proposed)

The Floor is now open for hon. Members to debate.

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

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

(Sen. Cherarkey spoke off record)

Sen. Wambua: The Senator for Nandi is also making funny signals.

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

PROCEDURAL MOTION

LIMITATION OF DEBATE ON MOTION

Sen. Wambua: Mr. Speaker, Sir, I stand on the strength of Standing Order No.111 on Limitation of Debate. Reading the mood of the House, Senators have almost made up their minds on what they want to do on this Motion. So, we limit debate on this matter.

I am not saying that you put the question. I propose that we limit the debate to maybe three or five minutes, so that Senators can just take a vote on this procedural Motion.

(Loud consultations)

The Speaker (Hon. Kingi): Order, Hon. Senators. There is a Motion that has been proposed to limit debate and we need to discharge it. Ordinarily, hon. Senators, each of

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you has 20 minutes to contribute. We may limit the 20 minutes to three minutes, so that as many of you can take to the Floor.

Do I have your concurrence on this?

Hon. Senators: Yes!

(Question put and agreed to)

The Speaker (Hon. Kingi): We shall now proceed with the debate, with each Senator speaking for not more than three minutes. If you can speak in one minute, the better.

Proceed, Sen. Maanzo.

(Sen. Cherarkey spoke off record)

Order, Senator for Nandi. If you have nothing to say, your colleagues have something to say.

Sen. Maanzo: Thank you, Mr. Speaker, Sir. I had an opportunity to participate in a Select Committee and I also watched the debate go on, on the Floor of the House. In my assessment as a legislator who has been in this House for quite a number of years, there is nothing wrong with the names which have been proposed. There are in fact very well-balanced opinions from the country.

Mr. Speaker, Sir, it is better to have the plenary deal with this matter, bearing in mind that we have had Governor Kawira come here twice.

(Applause)

I do not want to take a lot of time. In the interest of justice, and fairness, the country needs to follow the proceedings clearly and openly, so that when a final decision is made, whether for or against the Governor, everyone finds that the Senate has done justice.

The Senate stands for devolution and we want the County of Meru to succeed. I propose that we go the plenary way. We are looking for justice for Meru County, so that they can have expediency and succeed in its endeavours.

I thank you.

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

Sen. Kinyua: Asante, Bw. Spika. Mimi ninaunga mkono Seneti yote ijumuishwe katika kuichanganua yale mambo yatakayoletwa katika Seneti. Hii ni ndiposa Wakenya waweze kuona mambo yamewekwa paruwaja na yaweze kuangaziwa vizuri kama vile tulivyofanya katika zile *impeachments* zingine.

(Loud consultations)

The Speaker (Hon. Kingi): Order, hon. Senators.

Proceed, Sen. Kinyua.

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Sen. Kinyua: Asante, Bw. Spika. Kwa sababu nimekuwa katika Seneti hii, ni vizuri Maseneta wote wakijumuishwa katika hili jambo kwa sababu ikipelekwa katika Kamati, maoni watakayo yaona haitaletwa hapa katika Bunge na wale watu tutakao wachagua.

Bw. Spika, sina shida yoyote na wale Maseneta waliochaguliwa kwa sababu wanaujuzi na uzoefu na wanaweza kuyaangazia yale mambo. Hata hivyo, jambo hili likifanywa katika Seneti, maneno yote yatawekwa wazi ili watu waweze kuona na itakuwa ni vizuri zaidi.

Asante.

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

Sen. Olekina: Thank you, Mr. Speaker, Sir. I rise to oppose this Motion as presented by the Senate Majority Leader.

(Applause)

Apart from the mood of the House, there is a lot of sensationalization on this matter of impeachment, with severe allegations being thrown by both parties. If we reduce this to a Committee, others might end up arguing that it is a clandestine move to save or impeach the governor. Therefore, in my view, I think it is best if we carry out the exercise in plenary, so that we can sit here. Those who would be patient enough to sit here will listen to the allegations either being substantiated or not and the entire country and the world will be able to observe.

This is a time when we take some matters very seriously. I have received almost Kshs300 in one-shilling each, as “greetings” by the people of Meru.

When I sit here to deal with issues of impeachment, I deal with matters that are brought before me. We need to realise that the County Assembly is the one that impeaches the governor. The Senate sits as a jury. Therefore, that misconception out there that the Senate is the one that impeaches the governor should be corrected.

Mr. Speaker, Sir, with those few remarks I oppose the Motion and vote for this process to go on in plenary.

I thank you.

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

Sen. Mungatana, MGH: Mr. Speaker, Sir, I rise to support the idea that the plenary should sit on this matter, to decide on behalf of Kenyans.

(Applause)

This Motion is so crucial that we cannot afford to let it go to a committee. I am saying this because there was a similar Motion that the National Assembly brought to impeach a Cabinet Secretary. The mood of the House in the National Assembly at that time was that the Cabinet Secretary must go, then, a select committee was chosen and came back and said that the Cabinet Secretary should stay, which was against majority of the people sitting in the House. So, let us not go that way. Let us agree on one issue; that it is too important for us to leave it to a committee, and have the proceedings in plenary.

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Mr. Speaker, Sir, I want to emphasize that it is the county assembly that impeaches, and the Senate convicts or acquits. We sit here as a court. In fact, in the United States of America (USA), during the impeachment of the President, it is the chief justice who sits in your place to do the trial of the impeachment. From the experience that we take from that side, in fact, we cannot leave this to a committee. Let us not have too much debate. Let us agree that the matter is too important for us to leave it to a committee.

I support that we should have the proceeding in plenary. I thank you.

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

Sen. Sifuna: Mr. Speaker, Sir, I happen to be a Member of the Senate Business Committee (SBC). There has always been debate when we come to this juncture on which of the two methods is superior. I have held the position that the committee way is a far superior way of interrogating these issues than the plenary. I have four reasons to advance in support of this thinking. First, the Senate is on recess, and I know that people had committed to do other things. It is not fair to drag the entire Senate to sit here just to listen to these allegations.

Secondly, we have been with many of the people who are shouting plenary way through these processes before. You will be sitting there, and there will be three people in this Chamber. Many of them do not even sit through those proceedings as much as they want to make noise at this moment and say they want the plenary way.

Thirdly, we saw some---

The Speaker (Hon. Kingi): Sen. Sifuna, your colleagues certainly cannot be said to be making noise.

Sen. Sifuna: You can hear them shouting, Hon. Speaker. What do you mean?

The Speaker (Hon. Kingi): I am referring to their contribution. It cannot be termed as noise.

Sen. Sifuna: Mr. Speaker, Sir, let me proceed, Hon. Speaker. I want to address the question of interrogation and the cross-examination of witnesses. This is a frustration that Members shared last time when we had the proceedings in plenary. I have experienced both of those methods. It is my humble view that it is easier, better and there is greater opportunity to cross-examine witnesses and ask supplementary questions when you go the committee way.

A question was raised on the involvement of our nominated colleagues in decision making when it comes to this issue. In my view, the nominated Senators get a greater opportunity to participate in the decision-making when they are members of a committee as opposed to plenary. At plenary, they all know that only the elected Senators will get to vote. It is something that you can also give your view.

When I look at the colleagues who have been nominated to this Committee, there is Sen. Wakili Sigei, who is the Chairperson of the Justice, Legal Affairs and Human Rights Committee; Sen. Wamatinga, who is the Chairperson of the Standing Committee on Energy; Sen. Abdul Haji, who is a Member of the Speaker's Panel; and our fellow colleague, Sen. Wafula and Sen. Orwoba. Of course, we also have Senators from our side who include, Sen. Shakila, Sen. Betty Montet, Sen. Oketch Gicheru, Sen. Issa Boy and

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Sen. Ogola. I have all the faith that this team of 11 can execute this assignment on behalf of the House.

Lastly, I join my colleague, Sen. Olekina, in saying, there is no other influence other than the evidence and allegations that is going to bear the decision of this House when we sit to determine this matter. So, people should stop sending us messages. I do not understand why people are sending us messages from Meru and all sides telling us, this is so and so---

(Sen. Sifuna's microphone went off)

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

(Applause)

Order, hon. Senators.

Sen. Munyi Mundigi: Asante Bw. Spika. Kenya, kuna Kaunti ya Meru ambayo iko na wapiga kura takribani elfu mia nane. Leo sio siku ya kwanza kuongea kuhusu mambo ya Kaunti ya Meru. Leo ni mara ya tatu.

Nashangaa sana nikisikia wenzangu wakisema tuchague Kamati ya watu kumi na moja. Kaunti zote arobaini na saba nchini Kenya zitafuatilia tutakavyoamua kesi hii ya Kaunti ya Meru. Kwa miaka miwili, watu wa Meru wamehangaika na kuumia. Hii sio mara ya kwanza Gavana Kawira Mwangaza kuletwa hapa. Hii ni mara ya tatu.

Wakati aliletwa hapa mara ya pili, tulimpatia onyo. Katika Bibilia, kitabu cha Isaya, sura ya kwanza, msitari wa kumi na nane, unasema, "Haya njoni, tusemezane, asema Bwana". Tulimwambia aende aongee na makanisa, *Members of Parliament (MP)* na *Members of County Assembly (MCAs)* na wasemezane waone jinsi watasaidia Kaunti ya Meru.

Sasa ni mara ya tatu analetwa kwetu. Kama Seneta wa Kaunti ya Embu, naunga mkono tusikilize Hoja hii tukiwa Maseneta sitini na saba kwa sababu tuko na ujuzi wa kuamua kama amefanya makosa kwa mara ya tatu au la. Sioni kwa nini hawa MCAs wanaweza kuwa wanamuekelea gavana Kawira Mwangaza mashtaka usiku na mchana. Ni vizuri tuangalie kama atakuwa amefanya makosa, atimuliwe na Maseneta sitini na saba, na kama hajafanya makosa, arudishwe.

Asante.

(Loud Consultations)

The Speaker (Hon. Kingi): Order, hon. Senators. Order, Sen. Munyi Mundigi.

Hon. Senators, in my Message that I read to you, and I believe that Sen. Munyi Mundigi was in the House when I was passing that Message, our contribution should be limited on whether we should go the committee way or not. Leave Meru County out of this debate for now.

Sen. Wambua, proceed.

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Sen. Wambua: Thank you, Mr. Speaker, Sir. I do not know what the excitement is about. I stand to oppose the Motion on the appointment of a select committee to handle the impeachment of the Governor of Meru County for good reason.

The Senate does not exist in a vacuum. We live in a society. We have ears that listen and hear what the people are saying, and see what is happening. The impeachment Motion of the Governor of Meru County has attracted immense interest beyond Meru and the Eastern region.

It would be better that everybody gets to see the proceedings on the floor of the Senate. As this happens, I want to borrow from the case of O.J. Simpson. The jury said, if the gloves do not fit, acquit. If the gloves fit, you convict. Guided by the evidence and facts that shall be brought on the Plenary, that decision will be made. I vote for the plenary way.

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

Sen. Chute: Thank you very much, Mr. Speaker, Sir. Let me also take this opportunity to oppose this Motion. We have had over 10 impeachment Motions for the last 10 years. Out of those, Governor Kawira Mwangaza is coming here for the third time.

The first time the proceeding was done in a committee that was chaired by Sen. (Dr.) Khalwale. The second one was done in plenary. This should also be done in the plenary because Kenyans are looking at the Senate now, and we want to participate fully.

I take this opportunity to completely disagree with the Senator for Nairobi City County. He referred to this House as empty most of the time, and that you can find only three people. If the three people are found here, the Senator for Nairobi County will not be here because he is always absent. Let him not pretend to be here.

Mr. Speaker, Sir, I support the plenary way. I thank you.

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

Sen. Dullo: Thank you, Mr. Speaker, Sir. I oppose the Motion because having been around for some time, I have the experience of both the committee and the plenary way.

I will give a good example of a committee that brought down a Senator in this country when we chose this route. It was during the impeachment of the former Nyeri Governor. I sat in that Committee and we went well up to the very end. At the last minute, we were the only two Members who were left supporting the impeachment. When it came to the House, the Senator was devastated and he ended up losing his seat because the impeachment touched him.

Secondly, this Meru matter is very serious. It is not a matter of people choosing the plenary or the committee way. This is a matter that affects the Meru people seriously. We must look at it critically.

I believe that if we go the plenary way, Meru County will see what is happening with the impeachment of their governor, but if we go the committee way, they may sometimes not watch to see what is transpiring at the committee hearing. Having been around for some time and participated in both plenary and committee sittings, I fully support the plenary way.

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

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Sen. Joe Nyutu: I thank you, Mr. Speaker, Sir. I join my colleagues and I feel we should go the plenary way. This is because, we have twice prosecuted impeachment matters here in the plenary. The last time Governor Kawira was brought here, we went the plenary way and we made a decision to retain her as the Governor of Meru County. Later on, there were impeachment proceedings of the Deputy Governor of Kisii and the Plenary impeached him.

I am driving to the point that this House has proved itself that it can impeach and it can also stop an impeachment, depending on the evidence that is tabled before this House. The competency or otherwise of the plenary has already been proven.

Mr. Speaker, Sir, the other reason that makes me support the plenary proceedings on this matter is that it accords all Senators an opportunity to train on how to carry out impeachment proceedings. Some of the evidence that will be tabled here by the County Assembly of Meru might have a bearing on what happens in our counties. This will be an eye-opener to all Senators, so that they can see what transpires in counties, good or otherwise.

I therefore strongly feel that we should give every Senator an opportunity to participate in these proceedings, so that they can get training and also see whether there is a bearing on what will be brought here and what happens in our counties.

Mr. Speaker, Sir, I stand here to support the idea of having plenary and oppose the Motion on the Floor.

The Speaker (Hon. Kingi): Senator for Vihiga and Deputy Party Leader.

(Applause)

Sen. Osotsi: Thank you, Mr. Speaker, Sir, for recognizing my new role as the Deputy Party Leader (DPL) of the Orange Democratic Movement (ODM). I will speak as the Senator for Vihiga and not the DPL of ODM.

The Motion is for us to either agree to a plenary or a committee. Whereas I fully agree with the Members who are saying we go the plenary way, there is a small problem. This is because, the outcome of a committee is usually a report. I have seen some reports from these committees and they go beyond the question of impeaching or not.

The situation in Meru is a very complex one. It requires serious thinking because we do not want to make a decision and the next time, we are told to deal with the same issue of Meru. My view is that there should be instances where we need to look at the provisions of Article 192 of the Constitution; whether to suspend this County and we send everyone home or not.

Mr. Speaker, Sir, that can be dealt effectively in a committee report that can be sent to the President for action as per the provisions of Article 192.

(Applause)

Our Standing Orders are limited because they do not allow us to produce a report, which can be sent to the President for action.

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I, therefore, urge Members because I know the plenary way is the most popular one, but the most effective one in these circumstances, is the committee way. I would like to ask Members to agree we support the committee way because it is going to help us deal with this problem of Meru, once and for all.

I support.

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

Sen. (Dr.) Murango: Asante, Bw. Spika. Moja ya jukumu ambalo Bunge la Seneti limepewa na ni jukumu ambalo halijapewa Bunge la Taifa, ni kuangalia malalamiko baada ya gavana kung'atuliwa. Ndio maana nimesimama hapa siku ya leo kupinga Hoja iliyo wasilishwa leo hii kwenda njia ya kamati. Ningependa twende Bunge nzima, tukae kitako na tuvalie njuga jambo hili.

Ninapingana na msemo uliosema na Seneta wa Vihiga ya kwamba, kuna mambo tunafaa kuangalia.

(Sen. Olekina consulted Sen. Osotsi)

The Speaker (Hon. Kingi): Sen. Olekina and Sen. Osotsi, take your seats.

Proceed, Sen. (Dr.) Murango.

Sen. (Dr.) Murango: Bw. Spika, ningependa kutoa kauli kulingana na mapendekezo ya Seneta wa Vihiga, Sen. Osotsi ya kwamba tunafaa kuangalia kama tunaweza vunja Kaunti nzima. Ninamwambia kwamba, panya akiingia kwa ghala, huchomi ghala ila unatoa panya.

(Applause)

Kwa hivyo, ninaunga mkono tuvalie njuga swala hili mpaka mwisho. Asante, Bw. Spika.

The Speaker (Hon. Kingi): Sen. Ogola Beatrice.

Sen. Beth Syengo.

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

In this House, we are 67 of us and we are unique. Each of us processes information differently. We need the matter to be brought to the plenary, so that each of us will process the information and the evidence provided and make a good decision about Meru County.

Mr. Speaker, Sir, the Governor of Meru County has been impeached five times. We must end this issue. Meru County needs services delivered and move forward like the other counties.

Secondly, while I appreciate the proposed committee members, who are indeed good Senators, it is crucial to remember that the issue in Meru County is not just a local concern. The entire country, not just Meru, is keen to understand and address what has been ailing the county.

The third reason for opposing the Motion and supporting the plenary way is that as leaders of women in this nation, they are interested in the Meru issue. They want to see

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whether it is the Governor of Meru who is failing or if other issues could be addressed by other women who are giving themselves to leadership in this nation.

Therefore, I oppose the Motion and support my colleagues who have said we should go the plenary way.

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

Sen. Wakili Sigei: Thank you, Mr. Speaker, Sir. I rise to oppose the Motion to establish a special committee. I am aware that I stand a chance to chair this committee. However, the interest of the people of Meru and the entire House is paramount. Even though the hon. Members nominated to that committee are great leaders and Senators who can give us the best decision, I still believe that the best way to serve justice to the people of Meru in this Motion is to have this matter dealt with by a plenary.

A plenary, with its collective wisdom and fairness, is the most crucial and effective way to address the concerns that have already been raised. The Hon. Senator from Narok, whom I know because I sit in the Senate Business Committee (SBC), has raised concerns regarding the trolling that has already occurred. The only and best way to serve this concern is to ensure that the whole House deals with this matter in a plenary session.

I therefore oppose the Motion.

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

Sen. Mumma: Thank you, Mr. Speaker, Sir, for the opportunity to contribute. I rise to oppose the Motion. This matter should be heard in plenary because it is more serious than we think it is. It is a precedent-setting matter because Governor Kawira Mwangaza is being brought to this House for the third time.

However, it is the fifth time she has been impeached. It is important, particularly during this time in the country, that we operate and discuss issues transparently. Every Senator should be given an opportunity to contribute to the allegations from an informed point of view.

I suggest that every Senator prepares and reads properly. Let the Constitution and the law guide us. Let us ensure that we deliver justice in this matter to whichever of the groups that are coming. As we do so, I request that you pay attention to something Sen. Sifuna has raised.

Sen. Sifuna raises the fact that the plenary may inhibit everybody's participation. As we discuss this, we should pay attention to the fact that nominated Members can also contribute to this debate even if they are not going to vote. I suggest we manage the time, so that nominated Senators are given ample time to contribute to this debate.

The last time we had an impeachment by plenary, a few of us tried to put our hands up, but could not contribute. I know it might have been because of time, however, I am putting this out there, that we consider that the Senate comprises 67 Senators.

I, therefore, support the plenary way.

The Speaker (Hon. Kingi): Sen. Kisang', proceed.

Sen. Kisang': Thank you, Mr. Speaker, Sir. I also rise to join my colleagues in opposing this Motion. If you remember, the last two impeachment Motions we had, the one for Kawira and the deputy governor for Kisii County, were done in plenary. Senators

were able to follow the substantiation of the allegations. We made our own decisions in the two impeachments.

I have experience with the committee process, which we used for the Deputy Governor of Siaya. I confess that we deliver more justice when we do it in the plenary because all the Senators will follow each allegation and make informed decisions. This is a difficult time for the Meru people. They would like to know how the two parties will defend themselves on the allegations, so that we can make an informed decision.

I believe there must be another way for anybody to petition this House if they are dissatisfied with what we will have done as Senators to dissolve the county. I oppose the Motion and support the plenary way.

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

Sen. Kavindu Muthama: Thank you, Mr. Speaker, Sir, for giving me this opportunity to contribute to this Motion, which I oppose. This is a sensitive and delicate matter. The governor has been brought here three times.

I oppose the committee way because all Kenyans will follow what is happening in this House. It is important for it to be in plenary, so that everyone can follow what the lawyers, the governor, and the county will say and how the Senators will interrogate the matter, including the people of Meru County.

I oppose the Motion and support the plenary way.

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

Sen. Sifuna: Mr. Speaker, Sir, I did not want to shout over my colleague from Machakos County. Nonetheless, I thought she was misleading the public by creating the impression that if a matter is dealt with in committee, the public cannot follow.

The Constitution requires that Parliament and all its committees allow the public to follow in their proceedings. Even in impeachments done by committees, there was still live coverage of those proceedings, which were open to the public. I thought that was a misleading statement.

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

Sen. Wamatinga: Thank you, Mr. Speaker, Sir. I also rise to oppose the Motion. I know that I appear on the list. However, in the new spirit of a broad-based engagement and inclusive approach, it will be important to capture everyone's thinking and the mood in the country. The broad-based approach will bring everyone on board to enrich our debate and engagement with the county assembly and the governor based on the diversity of the Members in this House. The committee way is also effective.

Mr. Speaker, Sir, there is a narrative based on the new mode that larger and bigger is better. That is why we have decided to also include Members of the other side in the Government, so that we can not only be seen to be accommodative, but also capture the spirit of the Gen Z who are tribe less and leaderless, and most importantly, where everybody is included.

I thank you.

The Speaker (Hon. Kingi): Proceed, Sen. Eddy Oketch.

Sen. Oketch Gicheru: Thank you, Mr. Speaker, Sir, for giving me this opportunity. What we are discussing here is provided for under Standing Order No.80 of

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this House on procedure for removal of a Governor. When you read it, it clarifies two scenarios for which an outcome of a special committee would be presented.

Standing Order No.80(4) states that—

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

(a) have not been substantiated, no further action shall be taken under this section in respect of that allegation; or

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

If a governor is impeached, the House should get a chance to further interrogate each of those charges for which the impeachment was executed. I want to call this House to either think about ourselves as Senators or the people of Meru.

I am not saying this because I have been suggested to be in the committee. I am talking about this because if we are not careful, the people of Meru will go through five years without getting services, which were intended. As Senators, we must call ourselves to order and ask ourselves whether we want to be involved or engaged in this process.

An engagement process is just like a plate of bacon and eggs. If you look at a plate of bacon and eggs, the chicken is involved, but the pig is committed. For us to engage with the people of Meru, I believe we must go the committee way.

If we go the committee way, we can interrogate these matters, not only to make a decision on whether the Governor is impeached or otherwise, but to also have a lasting solution for the people of Meru. That will come in a more engaged pattern that allows this House to be informed on broad-based issues in Meru and not broad-based issues within this House.

Therefore, Mr. Speaker, Sir, I support that we go the committee way, so that we can interrogate and come back to this House.

I thank you.

The Speaker (Hon. Kingi): Next is Sen. Methu.

Sen. Methu: Mr. Speaker, Sir, this House has gone both ways on matters of impeachment. We have seen this House deal with impeachments the committee and plenary way.

I have been an ardent supporter of the committee way because I feel they can interrogate issues more closely, just as Sen. Sifuna said. However, this matter is too weighty to be left on the shoulders of 11 Members. If anything, Members who have been proposed to be in that committee are not even willing. They have said that they do not support the committee way. That includes the proposed Chairman, Sen. Wakili Sigei.

More substantively, Mr. Speaker, Sir, there are two matters that inform my decision not to support the committee way. Firstly, as you have correctly put, this is not the first but the third time we are dealing with the impeachment of the Governor of Meru.

We, as Senators, have voted on this particular matter in the past. How certain are we that either the people or the Governor of Meru will get justice if we just have 11 of us, including some who have voted for and against this matter? I feel that justice will be served to the people and the Governor of Meru if we look at this matter in plenary.

Secondly, Mr. Speaker, Sir, I wish to get your direction on this particular matter. Article 123(4)(a) states that-

“Except as provided otherwise in this Constitution, in any matter in the Senate affecting counties—

(a) each county delegation shall have one vote to be cast on behalf of the county by the head of the county delegation or, in the absence of the head of the delegation, by another member of the delegation designated by the head of the Delegation.”

Looking at the membership of this particular committee, I have tremendous respect for all Members who have been proposed. One of them is a Member of my committee and I know her ability and capability. I am inclined to think that the power given to the head of the delegation can only be used by a member of that delegation when the head of the delegation is not there. If these five Nominated Members out of the 11 negate this particular Motion, how will I, as the head of delegation, get an opportunity to vote on this matter?

It is on that basis, Mr. Speaker, Sir, that I feel that you need to give--- I have respect for our Nominated colleagues who are able and willing. However, when the matter comes before this House for voting, they will contribute.

Sen. Mumma has said they would like to contribute to this Motion. However, in terms of making a decision, it will involve 47 delegations. I will only vote and a Member of my delegation---

(Sen. Methu's microphone went off)

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

Next is Sen. Githuku.

Sen. Githuku: Bw. Spika, ningependa kuchukua fursa hii kuchangia mjadala huu unaohusu watu wa Meru. Napinga Hoja hii kwa sababu si vizuri kuwachia Maseneta 11 kuamua hatima ya watu wa Meru ikizingatiwa kuwa hii ni mara ya tatu kwa Gavana huyo kuletwa katika Seneti. Jambo hili linafaa kuangaziwa na Seneti nzima ili kutoa uamuzi. Maseneta 67 wataangazia jambo hili kwa kina na kwa njia itakayosaidia wakaazi wa Kaunti ya Meru.

Kuna mambo ambayo Gavana wa Meru ameshtumiwa kufanya. Tukiwa na vikao hapa, mambo hayo yatakuwa yanaangaziwa si na Kenya pekee bali ulimwengu mzima. Watu watakuwa wakifuatilia ili kuona uamuzi wa Seneti.

Bw. Spika, napendekeza kuwa jambo hili liangaziwe na Seneti nzima ili kila mtu ajue hatima ya Gavana wa Meru, Mhe. Kawira Mwangaza, na watu wa Meru wapate haki.

Sen. (Dr.) Khalwale: On a point of clarification, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Boni, what clarification do you want to seek?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, it is on record that four out of 11 Senators of the proposed committee have opposed and, therefore, technically withdrawn. It will be useful for you to make a ruling on whether in this kind of Motion, if this eventuality is reached, does it mean the Motion has been lost or do we still vote on it? Assuming that

the Motion sails through and four Senators have already technically withdrawn, what are we voting for?

Mr. Speaker, Sir, please, guide us. By default, it means the Motion has collapsed.

The Speaker (Hon. Kingi): Sen. Boni, I have listened carefully to each one of you who have stood to contribute to this Motion, but I have not heard any of the Senators who have spoken saying that they have withdrawn. You can give your opinion. Once the House passes the Motion, at that particular time, you may withdraw.

Let us listen to the Senator for Nandi.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. As the champion of plenary proceedings under the Third Schedule of the Standing Orders, I am one of the happiest men. Finally, I have been vindicated on many fronts, even including broad-based issues. I agree and if you look at that Schedule, Page 216 of the Standing Orders, the formation of plenary or committee of impeachment of a Governor is almost the same. In fact, if you look at it word by word, but we are now subsuming ourselves into a quasi-judicial mechanism.

Therefore, all of us will assume the role of being a Judge. It is important so that all of us can learn. Under Article 118 of the Constitution, there is public participation of parliamentary proceedings. When we go for Plenary, the people of Meru County, the Governor, Members of County Assembly (MCAs) and Kenyans at large, will watch the proceedings in an open and transparent manner. I am not casting aspersions on the proceedings of the committees. It is supposed to be open and it is open as per Article 118 of the Constitution 2010. However, to avoid being 'greeted' by the Gen-Z, it is better nowadays to put things in the open, because sometimes the nature of committees can escape the attention of the public. I agree that the issues of Meru County are very unique, complex and diverse. We cannot kneel over under Article 192 on suspension of the county. Meru is working, but some parts of the county are not working.

I remind the Deputy Party Leader of the Orange Democratic Movement (ODM), together with the Secretary General (SG), to organize an induction course at the Kenya School of Government (KSG), so that he understands that we do not have a functional Independent Electoral Boundaries Commission (IEBC) at the moment.

We are still considering the amendments of the National Dialogue Committee (NADCO) Report. We should not envisage the suspension under Article 192 because we have the opportunity to listen, to ventilate through and give a chance. I want to tell the committee members who were proposed that we love you, but plenary loved us most. We wish you well and we will appoint you.

I thank you. I oppose the Motion.

Sen. Kibwana: Thank you, Mr. Speaker, Sir. Simply saying, I support the plenary. Much has been said and I would like to request that you recommend that the report be captured later by relevant committees.

I thank you.

Sen. Abass: Thank you, Mr. Speaker, Sir. I beg to oppose the Motion. It would be fair for the people of Meru County to at least hear the opinion of each and everyone in this House.

According to Article 96(1), the Senate is obligated to protect the interests of everybody in Kenya. If you have all the Senators in this House interrogate and to ask questions, more opinions will be reached and there will be fair hearing for everybody on both sides of the divide; the Governor in question, the MCAs and the public at large.

Mr. Speaker, Sir, it is a very unfortunate situation. As the Chairperson of the Standing Committee on Devolution and Inter-Governmental relations, we have tried our best to intervene in this matter. When Members visited there, we created dialogue and we were promised that it would be the end of that matter. However, it still continues and the people of Meru County are not enjoying their rights and development.

I wish to oppose the Motion and propose that we go the plenary way.

I thank you.

Sen. Gataya Mo Fire: Mr. Speaker, Sir, Meru County is bleeding. This is a very sensitive matter. It is no longer about Meru, but about the whole country. Kenya is watching all of us. As a House, we must prosecute this matter away from the committee. I strongly oppose the Motion. We should not take the committee route; let us go the plenary way, so that maybe people can openly see what we are doing to make sure that Meru is safe and we do not have a repeat of the same again.

I oppose.

Sen. Seki: Thank you, Mr. Speaker, Sir. I also want to oppose the Motion and suggest the option of going plenary way, so that we give a chance to the people of Meru and the entire country to understand and even follow the proceedings and uphold transparency. They will understand how and why this Governor is coming to this House a third time.

I stand to oppose the Motion.

Sen. Nyamu: Thank you, Mr. Speaker, Sir. It is not right for Members to try and invalidate the committee way, yet the Third Schedule of our Standing Orders provide for both the removal by committee and plenary. It is not right to say or imply before this House that one way is more legal or better in any way than the other.

Mr. Speaker, Sir, it is not true that the whole House will not participate in the removal or saving of the Governor because finally when the committee is done with the report, it will be brought here for debate and the final vote by these Members.

I agree that the issue of Meru County has elicited a lot of interest in the country. It is true it is the third time she is being impeached. It is the third time she is coming before the Senate. As a committee, we should be given the opportunity to interrogate these issues and get to the bottom of it. However, reading the mood of the House, I want to agree with majority of the Members that we go the plenary way.

I thank you.

Sen. Chimera: Thank you, Mr. Speaker, Sir. I strongly oppose this Motion in totality for three fundamental reasons. The first reason is that as the Senate, we are a House of order, procedure and precedent.

Mr. Speaker, Sir, I hope you have reserved my time. As to the question of Meru County, this very House has set precedent. Every time the Governor of Meru County has come before us facing such charges, we have always gone plenary. Twice we have gone for plenary. Why then do you want to go---

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An hon. Member: It is only once!

Sen. Chimera: Let me withdraw that---

The Speaker (Hon. Kingi): Order, hon Senators!

Proceed, Sen. Chimera.

Sen. Chimera: Mr. Speaker, Sir, let me go to my second point. The second point is on the contribution by Sen. Methu.

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

The Speaker (Hon. Kingi): Okay, proceed.

Sen. Oketch Gicheru: I rise on a statement of fact under Standing Order No.105. The Governor of Meru County has been brought to this House twice. The first time, the Senator for Kakamega County, Sen. (Dr.) Khalwale, chaired the Committee that looked at these issues. The second time we were in a plenary session. It is wrong to inform the House that the two times that the Governor has been here, it has been taken to the Committee.

Kindly correct Sen. Chimera.

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

Sen. Chimera: Well guided. Under Article 123 and my colleague, Sen. Methu, has already spoken about it; you cannot tell us that if today I, as a specially elected Member, can vote for the impeachment of a Governor at the committee stage, yet the same Member cannot vote for the impeachment of a Governor at a plenary stage, but can still go ahead and nominate five members to that committee. I feel this is double standards in application of this Standing Order. I urge this House and the leadership that, perhaps, there is need to relook at this provision before I probably come with a court order. I hope I will not go there. However, if Articles 145 and 7 of the Constitution allow me to impeach the President, I do not understand why then I cannot impeach a Governor in plenary, but allowed to or not to impeach a governor in committee.

Thirdly, this issue is very weighty. The Governor of Meru County will be appearing before us for the third time. I urge my colleague Senators to be very fair and do the right thing. Let us allow every Senator in this House to have an opportunity to listen to these charges, contribute and make a very informed decision to either the removal or confirming of those charges.

Thank you.

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

Sen. Tabitha Mutinda, proceed.

(Sen. Olekina spoke off record)

Sen. Olekina, how can you raise a point of order when he has long concluded his remarks?

Proceed, Sen. Tabitha.

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. I rise to oppose this particular Motion. I oppose it because I have looked at the list of the 11 Members and just as Sen. Chimera has correctly put, I have noted that five of the Members did not have an

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opportunity to vote last time. Four of the Members voted for the impeachment of the Governor and two of the Members voted to save the Governor.

Therefore, this Committee will not be fair to the Governor. The only fair way for the Governor would be the plenary way, where everyone will have an opportunity to listen to her.

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

Sen. Tabitha Mutinda, there is a point of order.

Sen. Oketch Gicheru: Mr. Speaker, Sir, I do not like rising on these points of orders, but I rise under Standing Order No.101.

It is so wrong for a Member of this House to cast aspersions on the integrity of other Members. We cannot have names proposed in this list then one Senator stands and says that those Members will not be fair to the process, the Governor and the people of Meru County.

Sen. Tabitha Mutinda who is either from Nairobi City County or Kitui County must be called to order. She must withdraw that statement and apologise to the whole House for casting that aspersion on the Members of the proposed Committee.

The Speaker (Hon. Kingi): Sen. Mutinda, that point of order is sustained. You may proceed to withdraw that particular averment.

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. I withdraw and proceed to state that I believe the plenary will give our people of Meru County justice and it will also give them a bigger hearing than the committee.

The Speaker (Hon. Kingi): Sen. Mutinda, you are still on the edge and you risk going down the cliff. Are you saying that the committee way cannot give justice to the people of Meru County?

Just proceed and conclude.

Sen. Tabitha Mutinda: Allow me to conclude and request my colleagues to be in the House during the plenary sitting, so as to listen to the allegations presented before this House. With that, we will maximally give the people of Meru a fair hearing and also a final justice as far as this particular matter is concerned.

(Sen. Cherarkey consulted loudly)

The Speaker (Hon. Kingi): Order, Senator for Nandi County. May the Senator be heard in silence.

Proceed, Sen. Mutinda.

Sen. Tabitha Mutinda: Lastly, I have just looked at the list of former governors and deputy governors who have gone through impeachment. Apart from the Governor of Embu County, Gov. Wambora, who appeared before this House twice, it is only Governor Kawira who seems to be making history in this House by appearing for the third time.

So, plenary would be the fairest way for the people of Meru County to get justice and, hopefully, settle this matter once and for all.

Thank you.

The Speaker (Hon. Kingi): Sen. Recha Murgor Julius.

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Sen. Miraj, proceed.

Sen. Miraj: Asante, Bw. Spika, kwa kunipa fursa hii. Nasimama kuunga mkono ili kikao hiki kiwe cha wale Masenetea 11 waliochaguliwa. Hii ni kwa sababu wale ambao hawakuweza kuchaguliwa na wananchi wataweza kupata fursa ya kutoa kauli zao. Tutakapo ingia kukiskiza kikao hiki kwa pamoja, sisi kama wawakilishi tulioteuliwa na vyama vya kisiasa hatupati fursa ya kupiga kura na sauti yetu huwa haisikiki.

Kwa hakika, watu wa Meru wamekuwa katika mtihamu mkubwa. Hii kamati itakuwa mzuri kwa sababu maswala yao yatasikizwa kwa ufasaha zaidi. Nasema hivi kwa sababu niliweza kukaa katika kikao kama hiki cha Gatuzi la Siaya. Kwa kweli, tulipokuwa katika Kamati ya Maseneta 11, nilipata fursa ya kuuliza maswali kwa undani. Mara ya mwisho tulipokuwa tumeketi hapa kwa pamoja kama kikao cha Seneti na Maseneta 67, nilipata fursa moja tena ya madakika kidogo kuuliza swali katika mjadala uliokuwa unaendelea. Kwa hivyo, kama Seneta wa Mombasa, napendekeza na kumuunga mkono Sen. Sifuna ili tuweze kuwaachia majukumu haya wale Maseneta 11 waliochaguliwa kusikiliza kesi ya watu wa Meru na haki ipatikane.

Asante.

The Speaker (Hon. Kingi): Take your seat, hon. Senators. I will proceed to put the question.

Sen. Okiya Omtatah, take your seat please.

(Question put and negated)

(Loud consultations)

Order, hon. Senators. Sen. Mundigi, take your seat. Senator for Nandi, the Motion is lost. What more do you want from that?

Hon. Senators, as you may have noticed, the Senate Majority Leader moved the Motion at Order No.8 on today's Order Paper for the establishment of a special committee to investigate the proposed removal from office by impeachment of Hon. Kawira Mwangaza, the Governor of Meru County. The Motion has been negated.

Hon. Senators, as I communicated earlier by way of a Message on the resolution of the Meru County Assembly made on Thursday, 8th August, 2024 for the removal from office by impeachment of Hon. Kawira Mwangaza, the Governor of Meru County, Section 33(3)(a) of the County Governments Act and Standing Order No.80(1)(b) of the Senate, provide that the Senate may, by resolution, appoint a special committee comprising 11 of its members to investigate the matter. We will investigate the matter in plenary.

The Motion having been negated, the route of a special committee is abandoned. That now implies that the Senate will investigate the proposed removal from office by impeachment of Hon. Kawira Mwangaza, the Governor of Meru County, in plenary, pursuant to section 33(3)(a) of the County Governments Act and Standing Order No.80(1)(b)(2).

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Hon. Senators, at this meeting held today, Wednesday, 14th August, 2024, the Senate Business Committee (SBC) considered the provisional dates for this investigation in the event that the matter was to be investigated in plenary.

In line with the schedule of activities for impeachment, hearing in plenary, I hereby give you the following directions-

(1) The Clerk to issue invitations to appear to the parties on Wednesday 14th August, 2024. So, we issued the notice today.

(2) The parties to file their responses with the office of the Clerk of the Senate by Saturday 17th August, 2024 by 5.00 p.m.

(3) The Clerk to circulate documents received from the parties, including the plenary hearing programme, to all hon. Senators by close of business on Sunday 18th, August 2024, by 5.00 p.m.

(4). The Senate shall investigate the matter in plenary on Monday, 19th August and Tuesday, 20th August, 2024.

The Senate is accordingly guided. I thank you.

Yes, Sen. Boni.

POINT OF ORDER

ROLE OF NOMINATED SENATORS DURING IMPEACHMENT PROCEEDINGS

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, because of the respect that we accord Members every time they speak, I have been listening to the contributions and heard two Nominated Senators who have raised a point of common sense. That, if Nominated Senators cannot vote in a delegation; and since it requires a delegation to vote to make a decision on removal of a governor, the point of common sense that I have raised is that we have been carrying out an illegality for them to have been participating in committee decisions.

Mr. Speaker, Sir, I would like you to clarify either now or later, substantially, for clarity that for that reason, Nominated Senators cannot sit in a special committee on impeachment because they have no vote.

The Speaker (Hon. Kingi): Proceed, Senator for Nandi.

Sen. Cherarkey: Mr. Speaker, Sir, further, tied up with Sen. Boni, I would like to invite your interpretation on Article 123 on decision of the Senate and further on the removal of a president as provided for under Article 145(7), where it does not substantively refer to the delegations.

We need your interpretation on what it means. Since the Nominated Senators cannot participate in the impeachment of a governor because it is by division of delegations as per Article 123, what happens in future if a president has to be impeached, yet it says 'members of the Senate?'

Mr. Speaker, Sir, when you retreat into your Chambers to write a Solomonic ruling, seek the interpretation and guide us on whether in future, the head of delegations of those units be consulted before both the minority and majority make certain decisions.

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This is so that we are crystal clear and not to shoot in the dark. I hope you will guide us appropriately.

I thank you.

The Speaker (Hon. Kingi): Hon. Senators, I will render my considered ruling on that matter upon resumption. For now, be upstanding.

ADJOURNMENT

Hon. Senators, there being no other business on the Order Paper, the Senate stands adjourned until Tuesday, 3rd September, 2024, at 2.30 p.m.

The Senate rose at 4.26 p.m.