

PARLIAMENT OF KENYA**THE SENATE****THE HANSARD****Monday, 26th June, 2023****Special Sitting**

*(Convened via Kenya Gazette Notice
No.8224 of 22nd June, 2023)*

*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 quorum?

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

(Several Senators walked into the Chamber)

Hon. Senators, kindly take your seats.

(Loud consultations)

Senate Majority Leader, you can consult after the--- Sen. Gataya Mo Fire, Sen. Okenyuri, Sen. Tabitha Mutinda and Sen. (Dr.) Murango, you are out of order. Clerk, kindly proceed to call out the first Order.

COMMUNICATION FROM THE CHAIR

CONVENING OF SPECIAL SITTING OF THE SENATE TO CONSIDER
REPORT OF THE SPECIAL COMMITTEE ON PROPOSED REMOVAL
FROM OFFICE, BY IMPEACHMENT, OF HON. (DR.) WILLIAM
ODUOL, THE DEPUTY GOVERNOR OF SIAYA COUNTY

The Speaker (Hon. Kingi): Hon. Senators, I welcome you to this Special Sitting of the Senate. On the request of the Senate Majority Leader *vide* letter Ref. No. SEN/MLS/4, dated 21st June, 2023, and with the support of the requisite number of Senators, I appointed today, Monday 26th June, 2023, as a day for a Special Sitting of the Senate *vide* Gazette Notice No.8224, dated 22nd June, 2023.

In the Gazette Notice, I indicated that the business to be transacted at this Special Sittings shall be the consideration of the report of the Special Committee on the proposed removal from office, by impeachment, of Hon. (Dr.) William Oduol, the Deputy Governor of Siaya County.

Hon. Senators, you will recall that by a letter Ref. No. CASADM/33/04, dated Friday 9th June, 2023, and received in my Office on Saturday, 10th June, 2023, the Speaker of Siaya County Assembly informed me that at a Sitting of the County Assembly held on Thursday, 8th June, 2023, the County Assembly approved a Motion, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, for removal from office, by way of impeachment, of Hon. (Dr.) William Oduol, the Deputy Governor of Siaya County.

In terms of Article 181 of the Constitution, Section 33(3)(a) of the County Governments Act and Standing Order No.81(a) of the Senate Standing Orders, upon receiving the notice of the resolution from the Speaker of Siaya County Assembly, during the Sitting of the Senate on Thursday, 15th June, 2023, I read the charges against the Deputy Governor.

Consequently, the Senate, on Thursday, 15th June, 2023, pursuant to Section 33(3)(b) of the County Governments Act and Standing Order No. 81(b)(i), by resolution, established a Special Committee comprising 11 of its Members to investigate the matter of the proposed removal from office, by impeachment, of Hon. (Dr.) William Oduol, the Deputy Governor of Siaya County, and report to the Senate within 10 days of appointment on whether it finds the particulars of the allegations to have been substantiated.

Hon. Senators, for avoidance of doubt, the ten days prescribed by the County Governments Act and Senate Standing Orders lapsed yesterday, Sunday, 25th June, 2023.

However, Article 259(7) of the Constitution states as follows-

“If in any particular circumstances, the period of time prescribed by the Constitution ends on a Sunday or a public holiday, the period extends to the first subsequent day that is not a Sunday or a public holiday.”

This Sitting is therefore properly convened and the Senate is within the statutory timelines to consider this matter.

Hon. Senators, for your information, both Section 33(6) of the County Governments Act and Standing Order No. 84 provide as follows-

“If the Special Committee reports that, the particulars of any allegation against the deputy governor, have not been substantiated, no further action shall be taken under the section in respect of the allegation or have been substantiated, the Senate shall, after according the deputy governor, an opportunity to be heard, vote on the charges.”

The Chairperson of the Special Committee will shortly lay on the Table the Senate, the Report of the Committee. Once it is laid, hon. Senators will have time to

peruse it. No action will be taken immediately, but the Senate will be suspended for 30 minutes, in order to allow Hon. Senators some time to go through the Report.

This is so because, at the point at which the Report will be laid, it is not known to the House which of the two procedures provided in section 33(6) of the County Governments Act and Standing Order 84 will be applied. The Committee Report will determine the procedure to be applied thereafter.

After Hon. Senators have had the opportunity of perusing the Report and establishing the findings of the Special Committee, in the event that the Special Committee reports that any particulars of the allegations have been substantiated, a Motion will be listed for Business in a Supplementary Order Paper which once prepared, will be circulated when the when we reconvene after 30 minutes.

Debate will then ensue in the usual manner and at the conclusion thereof, the Senate will proceed to vote on each of the impeachment charges after according the Deputy Governor, the opportunity to be heard.

Hon. Senators, in this regard, an invitation has been extended to the deputy governor of Siaya County, to sit in the Gallery during debates on the Motion. At the appropriate time before I put the question to the Motion, the deputy governor will appear, if present, before the Senate and be heard either by himself or his legal representative.

I wish to inform Hon. Senators that, if the deputy governor chooses to exercise this right to appear and be heard by the Senate, he shall be heard here, either by himself or his legal representative in total silence.

The deputy governor's speech shall not be followed by any question or comment, and the Senate shall thereafter immediately proceed to vote on each allegation found to have been substantiated.

Hon. Senators, in the event that the Special Committee finds that the charges against the deputy governor have not been substantiated, further proceedings on this matter shall not be taken and I will give further guidelines on how to proceed. Kindly be guided.

Next Order.

The Chairperson, Special Committee on the Proposed Removal from Office by Impeachment of the Deputy Governor of Siaya County, please to lay the Papers.

Sen. Kinyua, Sen. Cheptumo and Sen. Kisang', you are out of Order.

PAPER LAID

REPORT OF THE SPECIAL COMMITTEE ON THE PROPOSED
REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HON. (DR.)
WILLIAM ODUOL, THE DEPUTY GOVERNOR OF SIAYA COUNTY

Sen. Kisang: Hon. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, 26th June, 2023 - Report of the Special Committee on the proposed Removal from Office by Impeachment of Hon. (Dr.) William Oduol, the deputy governor of Siaya County.

(Sen. Kisang laid the document on the Table)

The Speaker (Hon. Kingi): Now, to allow time for Hon. Senators to acquaint themselves with the contents of the Report that has just been laid on the Table of the Senate, I will suspend the Sitting of this Session for half an hour beginning now.

(The Sitting was suspended for 30 minutes)

(The House resumed at 3:30 p.m.)

(Loud Consultations)

The Speaker (Hon. Kingi): Hon. Senators, kindly take your seats.

(Sen. Beth Syengo walked into the Chamber)

Sen. Beth Syengo, kindly take your seat.

COMMUNICATION FROM THE CHAIR

PROCEDURE TO BE FOLLOWED UPON TABLING OF THE REPORT OF THE SPECIAL
COMMITTEE ON THE PROPOSED REMOVAL FROM OFFICE, BY
IMPEACHMENT, OF THE DEPUTY GOVERNOR OF SIAYA
COUNTY, HON. WILLIAM ODUOL

The Speaker (Hon. Kingi): Hon. Senators, welcome back to the resumption of proceedings of this Special Sitting. I believe you have now had an opportunity to go through the Report of the Special Committee on the Proposed Removal from Office, by Impeachment, of the Hon. (Dr.) William Oduol, the Deputy Governor of Siaya County.

As you may have noticed, the Committee has found -

(1) Charge 1: Gross Violation of the Constitution and other Laws in respect of interference with the procurement process through acts of bid – rigging; and,

(2) Charge 2: Abuse of Office and Gross Misconduct in respect of Allegation 4 – Misleading the public by giving false information against the deputy governor substantiated.

Hon. Senators, the procedure to be followed in this case, is that set out in Section 33(6)(b) of the County Governments Act and Standing Order No.80(4)(b) both of which provides as follows –

“If the Special Committee reports that the particulars of any allegation against the deputy governor have been substantiated, the Senate shall after according the deputy governor an opportunity to be heard, vote on the impeachment charges.”

Consequently, Hon. Senators, a Supplementary Order Paper has been prepared and circulated. In Order No.6, the Chairperson of the Special Committee will give a Notice of Motion for the removal from office, by impeachment, of Hon. (Dr.) William Oduol, the Deputy Governor of Siaya County.

The Motion has been scheduled for debate in Order No.8 of this afternoon’s Supplementary Order Paper. Debate on the Motion will ensue in the usual manner and at

the conclusion thereof, the Senate will proceed to vote on impeachment charges after according the Deputy Governor the opportunity to be heard.

Please, stand guided accordingly.

Clerk, call the next Order.

NOTICE OF MOTION

THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT,
OF HON. (DR.) WILLIAM ODUOL, THE DEPUTY
GOVERNOR OF SIAYA COUNTY

The Speaker (Hon. Kingi): Proceed, Chairperson of the Special Committee.

Sen. Kisang: Mr. Speaker, Sir, I beg to give the following Notice of Motion -

THAT, WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on 8th June, 2023, the County Assembly of Siaya approved a Motion to remove from office, by impeachment of Honourable William Oduol, the Deputy Governor of Siaya County;

AND WHEREAS by a letter, Ref: CASADM/33/04, dated Friday, 9th June, 2023 and received in the Office of the Speaker of the Senate on Saturday, 10th June, 2023, the Speaker of the County Assembly of Siaya conveyed the resolution of the County Assembly, removing from office by impeachment of Honourable William Oduol, the Deputy Governor of Siaya County 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 80(1)(b) the Senate, by resolution on Thursday, 15th June, 2023 appointed a special committee comprising eleven of its Members to investigate the matter on the proposed removal from office by impeachment of Hon. William Oduol, the deputy governor of Siaya County and to report to the Senate within ten (10) days of its appointment, on whether it finds the particulars of the allegations to have been substantiated;

FURTHER WHEREAS, pursuant to Section 33(4) of the County Governments Act and Standing Order 80(2), the Special Committee has investigated the matter and tabled its Report today, Monday, 26th June, 2023;

AND WHEREAS, pursuant to Section 33(4) and (6)(b) of the County Governments Act and Standing Order 80(4) (b), the Special Committee has found that the particulars of: -

- i.) Charge 1: Gross Violation of the Constitution and other Laws in respect of interference with the procurement process through acts of bid-rigging; and
- ii.) Charge 2: Abuse of Office and Gross Misconduct in respect of Allegation 4 – Misleading the public by giving false information.

have been substantiated;

NOW THEREFORE, pursuant to Section 33(6)(b) of the County Governments Act and Standing Order 80(4)(b), the Senate, after according the Honourable William Oduol, the Deputy Governor of Siaya County, an opportunity to be heard, resolves to impeach Honourable William Oduol, the Deputy Governor of Siaya County on the following charges-

- i.) Charge 1: Gross Violation of the Constitution and other Laws in respect of interference with the procurement process through acts of bid-rigging; and
- ii.) Charge 2: Abuse of Office and Gross Misconduct in respect of Allegation 4 – Misleading the public by giving false information.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Clerk, call the next order.

MOTION

THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT,
OF HON. (DR.) WILLIAM ODUOL, THE DEPUTY
GOVERNOR OF SIAYA COUNTY

The Speaker (Hon. Kingi): Proceed, Chairperson of the Special Committee.

Sen. Kisang: Mr. Speaker, Sir, I beg to move the following Motion -

(Interruption of Debate on Motion)

POINT OF ORDER

INAPPROPRIATE DRESSING BY SEN. OKETCH GICHERU

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

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

The Senate Majority Leader (Sen. Cheruiyot): Mr. Speaker, Sir, I apologise to the Chairperson of the Committee. However, there is an increasing habit on the Minority side, of Members coming to this House inappropriately dressed.

Sen. Oketch Gicheru is presently before the House in a shirt that is unbuttoned. That is not the proper way of appearing before the House, unless it is for health reasons.

The Speaker (Hon. Kingi): Yes, Sen. Madzayo.

The Senate Minority Leader (Sen. Madzayo): Bw. Spika, ni jambo la kusikitisha kuona ya kwamba ndugu yangu Sen. Cheruiyot hawezi kumwambia Seneta mwenzake hata pole ijapokuwa kuna Hoja hapa. Kama unavyoelewa, tulipokuwa katika mkutano wa leo wa Senate Business Committee (SBC), tulisema ya kwamba aruhusiwe aje vile amevaa kwa sababu ndio nafasi ya mguu wake ama pale alipofanyiwa *operation* iweze kuwa sawa sawa. Wewe mwenyewe ukapitisha ya kwamba---

(Sen. Cheruiyot) spoke off record)

Kama hukuwa kwenye mkutano, shauri yako.

(Laughter)

Bw. Spika, kwa sababu umepitisha ya kwamba Sen. Oketch Gicheru anaweza kuingia ndani ya Bunge akiwa amevaa nguo ambazo zitaweza kumsaidia kutembea na kuwa sawa pale atakuwa ameketi; ndio sababu unaomuona ameketi leo pekee yake.

Sen. Oketch Gicheru huwa haketi pale, yeye huketi hapa kati kati. Vile alivyosema ndugu yangu, namjulisha kwamba hilo ni jambo tulisema katika mkutano na tumekubaliana.

Asante.

The Speaker (Hon. Kingi): Order, Hon. Senators. We have a very weighty matter before us. I have seen the way Sen. Oketch Gicheru is dressed. I know Sen. Oketch Gicheru has undergone an operation and he is unable to, therefore, wear the kind of dress code that is described in the Speaker's Rules. Therefore, because of his condition, I will allow Sen. Oketch Gicheru to participate in these proceedings.

Proceed Mr. Chairman.

(Resumption of Debate on Motion)

Sen. Kisang: Mr. Speaker, Sir, I beg to move the Motion that the deputy governor of Siaya County be removed by Impeachment.

THAT, WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on 8th June, 2023, the County Assembly of Siaya approved a Motion to remove from office, by impeachment of hon. William Oduol, the Deputy Governor of Siaya County;

AND WHEREAS by a letter, Ref: CASADM/33/04, dated Friday, 9th June, 2023 and received in the office of the Speaker of the Senate on Saturday, 10th June, 2023, the Speaker of the County Assembly of Siaya conveyed the resolution of the County Assembly, removing from office by impeachment of hon. (Dr.) William Oduol, the Deputy Governor of Siaya County 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 80(1)(b) the Senate, by resolution on Thursday, 15th June, 2023 appointed a special committee comprising 11 of its Members to investigate the matter on the proposed removal from office by impeachment of hon. (Dr.) William Oduol, the Deputy Governor of Siaya County and to report to the Senate within 10 days of its appointment, on whether it finds the particulars of the allegations to have been substantiated;

FURTHER WHEREAS, pursuant to Section 33 (4) of the County Governments Act and Standing Order 80 (2), the Special Committee has

investigated the matter and tabled its Report today, Monday, 26th June, 2023;

AND WHEREAS, pursuant to Section 33(4) and (6)(b) of the County Governments Act and Standing Order 80(4)(b), the Special Committee has found that the particulars of: -

(i) Charge 1: Gross Violation of the Constitution and other Laws in respect of interference with the procurement process through acts of bid-rigging; and

(ii) Charge 2: Abuse of Office and Gross Misconduct in respect of Allegation 4 - Misleading the public by giving false information have been substantiated;

NOW THEREFORE, pursuant to Section 33(6)(b) of the County Governments Act and Standing Order 80(4)(b), the Senate, after according the hon. (Dr.) William Oduol, the Deputy Governor of Siaya County an opportunity to be heard, resolves to impeach Hon. (Dr) William Oduol, the Deputy Governor of Siaya County on the following charges: -

(i) Charge 1: Gross Violation of the Constitution and other Laws in respect of interference with the procurement process through acts of bid-rigging; and

(ii) Charge 2: Abuse of Office and Gross Misconduct in respect of Allegation 4 - Misleading the public by giving false information.

Mr. Speaker, Sir, in our sitting, I wish to move the Motion and give the following comments. We sat as a Committee after being given the mandate. Subsection 33(5) of the County Governments Act, Standing Order 83 and Rule 4 Part 3 of the Third Schedule of the Senate Standing Orders, provides that the Deputy Governor shall be invited to appear and be represented before the Special Committee during its investigations.

Rule 4(b) of part 2 of the Third Schedule to the Senate Standing Orders further states that the County Assembly shall be notified of the date of commencement of the investigations and invited to appear before the Senate. Pursuant to these provisions of the law, the Special Committee invited both the County Assembly of Siaya and the Deputy Governor. They appeared and presented before the Special Committee on Wednesday, 21st June, 2023 and Thursday, 22nd June, 2023 respectively.

The County Assembly was represented by the following advocates: Gordon Ogola, Peter Wanyama, Willis Otieno, Peter Okiro, Renny Langat, Leonard Okanda, and Omondi Okoyo Shem. The Siaya County Deputy Governor was represented by Paul Nyamodi, Moses Chelang'a and Patrick Barasa.

The Committee thereafter retreated to consider the evidence submitted by the two parties and to write its report.

Mr. Speaker Sir, I, therefore, wish to highlight and inform this House on the findings of the report of the Special Committee that investigated the matter, pursuant to Section 33(4) of the County Governments Act, 2012 and Standing Order 80(2)(a) and 80(2) (b) of the Senate Standing Orders.

The Committee made the following observations regarding the following charges brought before the Senate against the Deputy Governor of Siaya County, hon. (Dr.) William Oduol.

On Charge one (1) of Gross violation of the Constitution and other laws, the County Assembly set out one allegation of Interference with Procurement Process through Acts of Bid-Rigging. The Committee noted that the deputy governor admitted that he attempted to interfere with the procurement process by instructing the County Director of Supply Chain Management to change the tender categorization on the procurement for the supply and delivery of certified seeds and fertilizers. The Committee therefore found the allegation to have been proved and substantiated.

On the second Charge of abuse of office and gross misconduct, the County Assembly set out four allegations as follows: -

Bulldozing officers to renovate the office of the deputy governor outside approved budgetary provisions; misuse of public resources; bullying; and misleading the public by giving false information.

On the first allegation of bulldozing officers to renovate the Office of the deputy governor outside the approved budgetary provisions, the Committee found the allegation not to be substantiated.

The Committee takes great exception to the cost of the deputy governor's chair in which it was demonstrated from the evidence adduced that a comprehensive market survey was not undertaken.

As a committee, we considered that to be wasteful and urge counties to procure goods based on properly assessed market value.

On the second allegation, which is misuse of public resources, the committee found the allegation not to have been substantiated. On the third allegation of bullying, the committee found the allegation not to have been substantiated.

From what we gathered, there is a lot of infighting across the counties between governors and their deputies. We might need to amend some laws because it appears that during campaigns, governors and deputy governors get into marriages of convenience to get votes. As soon as they are elected into office, the fights start after the inauguration.

There are issues that this House needs to look at so that devolution is protected. If governors and deputy governors fight for five years, it is unfair because they agree during campaigns. You wonder why they start fighting. They should not fight and instead work. If you were elected together as governor and deputy governor, why---

(Interruption of Debate on Motion)

POINT OF ORDER

ACCESSIBILITY OF CHAMBER DOCUMENTS TO PWDS

Sen. Crystal Asige: On a point of order, Mr. Speaker, Sir. I do not mean to interrupt the Chairperson on this report. However, there is an issue that I am getting increasingly frustrated with in this House and I thought this is an opportunity for me to voice it.

This is not the first, second, third, fourth or fifth time I have brought it to this House, through the Clerk's Office, that documents need to be made accessible to Persons with Disability (PWDs) specifically, those with visual impairments like myself.

Mr. Speaker, Sir, you began this resumption by saying that you trust all Senators have been furnished with the report after adjournment for 30 minutes. However, nobody has furnished me with this report. So, it is becoming hard for me to follow these proceedings.

As you know, according to our Constitution, PWDs need to be included. It is not something I am requesting as a visually impaired person. It is something that is in our Constitution. Reasonable accommodation must be made for PWDs, so that we can participate fully and meaningfully in all areas.

I have personally gone through this with the Clerk and other Senators in this House as well. Maybe not specifically with you, Mr. Speaker, Sir, but I am going to do it now because I cannot follow the proceedings.

Somebody might argue that I am a nominated Senator and so I will not vote and therefore it is not important. However, I strongly refute that by saying that I do deserve to participate in these proceedings. Even though I was excluded from participating in the committee because of my disability, I should not be excluded from participating in this House in your presence.

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

Therefore, Mr. Speaker, Sir, I stand on Standing Order No.1 to seek your guidance, not just because of this sitting, but for the four years I am going to be here. If I continue to be excluded in front of you and with your knowledge, then I find that to be egregious.

I seek your guidance and thank you.

(Applause)

The Speaker (Hon. Kingi): Thank you, Sen. Crystal Asige. Indeed, your concern is valid and I fully agree with you.

However, this report was made available the moment it was tabled. Between the time of tabling this report and the resumption of this session, we had 30 minutes. It was not humanly possible to prepare the version that ought to have been prepared. Maybe, when the Special Committee was preparing this report, they ought to have remembered because Sen. Crystal Asige has not just walked into this Chamber today.

Committees have to be sensitive and alive to the constitutional provisions. We have Members who we need to accord due opportunity to take part in our proceedings. Today, Sen. Crystal Asige has been reduced to a spectator and that is unfortunate. Going forward, Sen. Crystal Asige, this will be fixed. It will never recur.

Proceed, Chair.

(Resumption of Debate on Motion)

Sen. Kisang: Mr. Speaker, Sir, I was about to finish. I was saying that governors and their deputies need to find a way of resolving their own issues internally at the initial stages before bringing their own fights to the Senate.

Mr. Speaker, Sir, I do not want to say much. I beg to move and request the Vice-Chairperson of the Special Committee, Sen. Montet to second.

Sen. Montet: Mr. Speaker, Sir, I rise to second the Motion which my able Chairman has tabled in this House. I would like to say that it has not been easy. It has been a few days of hard work. I also thank other Members of the Special Committee.

We had an opportunity to examine exactly what is happening in other counties. As my able Chairman has said, we should take this opportunity to look at our laws and see what can be done so that governors and their deputies can work together.

I urge this House to look at the report. We spent a lot of time to look into every allegation. Let us not look at it on party lines so that we can deliver good results for the people of Siaya County.

The essence of the Senate is to make sure that devolution does not die. Let us not be the first people to kill devolution. So, I urge all Members to put party lines aside so that we look at this report conclusively.

I beg to second.

(Applause)

The Speaker (Hon. Kingi): Hon. Senators, before I propose the question, let me address myself to the concerns of Sen. Crystal Asige. I have just been informed by the Clerk that a PDF version has been transmitted to the Senator and I believe you can now access it, so that you stop being a spectator and join this debate.

I will proceed to propose the question.

(Question proposed)

The Speaker (Hon. Kingi): Hon. Senators, now the Floor is open for debate.

Sen. (Dr.) Lelegwe Ltumbesi: On a point of order, Mr. Speaker Sir.

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

Sen. (Dr.) Lelegwe Ltumbesi: Thank you, Mr. Speaker, Sir. I beg to move – THAT pursuant to Standing Order No.111(1) debate on the Motion be limited to a maximum of five minutes for each Senator while contributing.

I thank you.

The Speaker (Hon. Kingi): Now, Hon. Senators, before we started, after the resumption, the two sides consulted, led by the Senate Minority Leader from the Opposition side, and led by the Senate Majority Leader on the Government side on this particular matter.

An agreement had been reached by both sides that we will limit the debate to five minutes when a Senator rises to speak and that each side will have six Senators speak to this Motion. Is the agreement still standing?

(Applause)

So, then we will proceed that way. Sen. Wambua, you may proceed.

(Laughter)

Sen. Wambua: Thank you, Speaker, Sir, for granting me the opportunity to set the pace for this debate. I do not know why there is so much excitement on the side that sits on the right-hand side of the Speaker but there must be a reason for it.

I first want to take this opportunity to congratulate the team.

(Sen. M. Kajwang sat with Sen. Madzayo)

The Speaker (Hon. Kingi): Sen. M. Kajwang', the seats are just meant for one Senator, not two. Kindly occupy your rightful seat.

(Laughter)

Sen. Wambua: Mr. Speaker, Sir, I take the opportunity to thank the Committee that sat in this impeachment proceedings. I thank them for the Report that they brought to the Floor of the House.

I ask myself - I am very sure it is a question that many of Senators here are asking themselves - at what point shall the Senate sitting in Plenary prosecute a matter as important as an Impeachment Motion without undue regard to party positions?

I am not saying that it should happen now or tomorrow. I am saying that on a matter as important and weighty as an Impeachment Motion it is an opportunity that we have to safeguard devolution by debating and voting purely on account of evidence and facts presented before this Senate.

The Committee that we put in place to deal with this matter, has returned two verdicts on the positive impeachment of the deputy governor of Siaya County. On the first verdict, I have not seen a dissenting Report from the Committee. I assume that the Committee has unanimously agreed that the deputy governor of Siaya County has grossly violated the Constitution.

Our impeachment proceedings and the requirements for impeachment are very clear and straightforward. If a person is said to be removed from office by way of impeachment---

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

The Speaker (Hon. Kingi): What is your point of order? Senator Tabitha.

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. I rise on a point of order under Standing Order No.105, on Responsibility for a Statement of Fact.

The Senator, my good Senator from my home county has stated that the decision was unanimous, yet it was not. So, he needs to substantiate where he gets his information from because it was six votes against five.

(Loud consultation)

The Speaker (Hon. Kingi): Sen. Tabitha Mutinda---

(Sen. Omogeni spoke off record)

Sen. Omogeni, you are out of order.

Sen. Madzayo, the Chair is addressing the House.

Senator Tabitha Mutinda, I wish you could have stood on a point of information to inform Sen. Wambua, that indeed as a Member of that Committee, you have the correct information that the Report was not voted unanimously.

I just do not see how that can warrant being called a point of order, and therefore I proceed to overrule it.

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

The Speaker (Hon. Kingi): Yes. Sen. (Dr.) Khalwale. What is your point of order?

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, this is a House of record and I cannot imagine challenging the decision of the Chair, but Sen. Tabitha Mutinda has moved perfectly in order, under Standing Order No. 105.

Sen. Wambua has misled the House. They voted five against and six for.

(Loud consultations)

Therefore---

The Speaker (Hon. Kingi): Sen. (Dr.) Khalwale, just have your seat. I honestly do not see why this matter is generating a debate.

Sen. Tabitha Mutinda has given the information as a Member of that Committee, that there was no unanimity in adopting that Report. Leave it there and proceed.

Sen. Wambua: It is a small thing, really, guys. I hope my time was held during that disruption. There is value in reports that are tabled in this House. It is not a Public Relations (PR) exercise, Sen. Tabitha Mutinda.

They inform the debate. That is why we took 30 minutes to read through the Report that can inform our debate. For the information of Sen. Tabitha Mutinda and those with the same mindset...

(Sen. Tabitha Mutinda spoke off record)

I am addressing the Speaker, Sen. Tabitha Mutinda. On page 11 of the Report, the list of Members that have adopted the Report are eleven. We constituted a committee of eleven Members.

Sen. Tabitha Mutinda, for your information, through the Speaker, you are number nine and you have signed that Report. Just for the record. Our proceedings---

The Speaker (Hon. Kingi): Sen. Wambua, you are referring to what page of the Report?

Sen. Wambua: Page 11 of the adoption Report.

(Loud Consultations)

Mr. Speaker, Sir, can you order that the Senator for Kitui County be heard in silence?

The Speaker (Hon. Kingi): Sen. Wambua will be heard in silence.

Sen. Wambua: Thank you, Mr. Speaker, Sir. I will say two things within the time that I have.

Mr. Speaker, the first one---

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

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

Sen. (Dr.) Khalwale: Mr. Speaker, Sir, I agree with the information referred to on page 11 by the Senator for Kitui. If it is true that page 11 is telling us what transpired during the voting and that the actual outcome of the voting was not unanimous. Then, what else in this Report is not accurate?

The Chair should decide on whether we have an accurate Report of a committee that can allow us to make a decision on a very important constitutional issue of helping the Governor of Siaya to run his office and making sure that the deputy governor of Siaya enjoys his constitutional rights or not.

We cannot make that decision on reports that could either be opaque, inaccurate or deliberately written to confuse the debate.

The Speaker (Hon. Kingi): Order! Order, Senators! We are wasting very important time now. Sen. (Dr.) Khalwale, we are guided by this Report that has been tabled.

Debate shall be based on the Report as tabled by the Chairman.

(Applause)

During his tabling of this Report, he never mentioned that there are some inaccuracies within it. So kindly confine yourself to the Report as tabled. Proceed, Sen. Wambua and finalise your remaining one minute. You have one minute to go.

Sen. Wambua: Surely Mr. Speaker, Sir, I have not even said anything. How can it be one minute really?

Thank you. I believe that you are a very fair arbiter of debate, and you will realise that I have not said anything because of interruptions. I will leave it to the chair to decide whether I have one or four minutes. The Motion as tabled by the chairman of the committee has found the deputy governor of Siaya guilty of gross violation of the Constitution of Kenya 2010.

Mr. Speaker, without looking for any other ground, how can a person that has been found guilty of gross violation of the Constitution by 11 members of the committee, be allowed to continue to serve as deputy governor of a county? There are things we will do in this House that if we are not careful, will come back to haunt all of us.

On the one hand, the House finds a person holding public office guilty of gross violation of the Constitution of Kenya and on the other hand, gives him another opportunity to serve in a public office. Secondly, the committee has found this deputy governor of Siaya guilty of abuse of office and gross misconduct in respect of the allegation of misleading the public.

Mr. Speaker, Chapter 6 of the Constitution speaks to integrity. Integrity is not just about fiscal discipline. Integrity is also about the relationship that we as public servants and leaders have in this country. It is the way we relate with the people that we lead, the choices we make to either lead or mislead our people.

I would very quickly add that if a section of the committee is uncomfortable with page 11, there is nothing that would have stopped them from moving a Motion to expunge it from their own Report.

So, this---

(Sen. Wambua's microphone was switched off)

The Speaker (Hon. Kingi): Sen. Thang'wa

Sen. Thang'wa: Thank you very much, Mr. Speaker, Sir, for giving me this opportunity to oppose that recommendation and Report from the committee.

I must thank the side of the Minority because as we stand here, we have not been threatened by *maandamano*, in case we go either way. So, on that note, I can say we are safe.

About two years ago, on the Floor of this House, the then Senator for Siaya County, none other than Sen. James Orengo, said that impeachment is generally a political process. The question I am asking the Members of this House is, are we going to be used to sanitize the politics of Siaya?

I want to tell the Members of this House who are talking about page 11, we do not know how they arrived at this, but of course, they signed on a report that was agreed upon by the Majority, just to say, yes, we agreed to what we said, nonetheless, we are not talking about the number six and/or number five.

Mr. Speaker, Sir, when you say you are removing somebody from office because he said in public that a certain County Secretary (CS) was forced to resign, is that a threshold enough to remove somebody from office? How many times have we been lied to by leaders from either side whom we respect?

On that issue of the political process, I keep on asking, are we going to allow this House to be used to play the politics of Siaya? That is why I oppose that report. We are told by that Report that the deputy governor was interfering with procurement processes.

Mr. Speaker, we do have directors of procurement in every county. It is not the deputy governor. If at all you are blaming the deputy governor, the person who is supposed to be here, is the County Executive who is the Governor of Siaya, Hon. James Orengo.

He is the person who is supposed to be on this Floor. The other day I saw---

(Sen. Thang'wa's microphone switched off)

The Speaker (Hon. Kingi): Hon. Senators, especially those from the Government side, we shall still need these chairs after this.

(Laughter)

Sen. Thang'wa: Thank you, Mr. Speaker, Sir. I think I still have my one minute. This House has been discussing important Motions, issues and having Cabinet Secretaries coming here to discuss matters of national importance. The Minority side always walk out of the House. They are now here just to kick out somebody because they said a certain County Secretary was forced to resign. Is that what we want this Senate to go down for, as House that discusses irrelevancies? Do we want this House to be taken as one that only discusses removal of state officers from office? Their side is full. Beautiful; they are here. Look at them.

(Laughter)

However, Mr. Speaker, Sir, when we are discussing issues of national importance, they move out. I urge them to move out even now. Go so that Siaya---

(Loud consultations)

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

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

Sen. Oketch Gicheru: Mr. Speaker, Sir, thank you for giving me this opportunity. I rise on Standing Order No.101(4), which says:

“No Senator shall impute improper motive to any other Senator or to a Member of the National Assembly except upon specific substantive Motion of which at least three days’ notice shall be given, calling in question the conduct of this Senator, or Member of the Assembly.”

Mr. Speaker, Sir, let me first of all, extend my sincerest gratitude to you for your empathy beyond sympathy that you have accorded me in this last week which has been excruciating in the hospital. Other Senators were also supportive. I know Sen. Cheruiyot was just joking but he is my captain in soccer and has been very supportive during my time in surgery. I actually left the hospital this afternoon and I am on very strong painkillers to get through this process.

It is very disappointing to hear the Senator for Kiambu County imputing that Senators on the Minority side are the ones who have brought this case to this House, and that the Senators from the Minority side are the ones who have come to the Floor to prosecute the Deputy Governor of Siaya County.

I have been following this entire process and have been keen not to even call Members of the Special Committee to check on them because of the honour and dignity we give this House.

Mr. Speaker, Sir, is it in order to reduce this debate to an issue of Minority versus Majority? Most importantly, is it in order for the Senator for Kiambu County to suggest that it is the Senators from the Minority side, who are demanding for the impeachment of the Deputy Governor for Siaya County?

Can he give that evidence alluding to all these Hon. Members; who I think are just as honorable, reasonable, passionate and committed to the Constitution the same way I am seeing the Hon. Members from the Majority side – who I really respect-are?

Mr. Speaker, Sir, I request you to rule on that.

The Speaker (Hon. Kingi): Hon. Senators, if we avoid these side shows, we can prosecute the business before us so well.

Sen. Thang’wa, the Senator who spoke and contributed to this Motion from the Minority side is only Sen. Wambua. At this juncture, we do not know whether the rest are supporting or opposing. So, to make a blanket statement that the Minority side has a position and, therefore, imputes motive, to that extent, Sen. Thang’wa, you are out of order.

(Applause)

Proceed to retract that statement that referred to the Minority side as Senators who are here to remove the Deputy Governor and are not there for other businesses. I have

seen a lot of consistency in the faces from the Minority side, debating on other businesses apart from this. Sen. Thang'wa, kindly, proceed to retract that blanket condemnation.

Sen. Thang'wa: Thank you, Mr. Speaker, Sir. All I wanted to show is how important this Motion is. The Senator who is raising a point of order came by ambulance. I am just trying to show how serious they take some of these issues---

(Loud consultations)

The Speaker (Hon. Kingi): Sen. Thang'wa, order!

Sen. Thang'wa: That he would come out of the Hospital---

The Speaker (Hon. Kingi): Order, Senators! Have a sit, Sen. Thang'wa. This matter before us is very crucial. I will be at pain having you watch these proceedings from the Lounge. So, help me. We be orderly, we will all be in this Chamber to the end. The way we are moving, we might end up going to voting with very few of you.

(Loud consultations)

Kindly, Sen. Thang'wa, I have ruled. You are to stand and retract that statement. Not to explain on yourself. I have ruled on your statement.

Sen. Thang'wa: Mr. Speaker, Sir, I really respect the Chair and, of course, I cannot argue with the Chair. So, I retract what I said, for me to prove a point later on.

(Applause)

As I conclude – I think I have a minute because I was interrupted – the grounds for removal for either a Governor or Deputy Governor are well stated in Article 181 of our Constitution. It talks of gross violation, abuse of office, physical and mental incapacity and of course if the deputy Governor has committed a crime. When we say---

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

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

Sen. Thang'wa: Mr. Speaker, Sir, I hope I save my minute again.

The Speaker (Hon. Kingi): Can you save the time remaining for Sen. Thang'wa, so that he can have his---

Sen. Sifuna: Mr. Speaker Sir, there is something that my colleague from Kiambu County has said and I believe it cannot be allowed to stick. He must also withdraw the assertion that, in fact, we have been refusing to attend certain sessions.

(Loud consultations)

Mr. Speaker, Sir, kindly protect me. I would want us to refer to Standing Order---

The Speaker (Hon. Kingi): The Hon. Senator is on a point of order. He must be heard in kind.

Sen. Sifuna: Thank you, Mr. Speaker, Sir. Pursuant to Standing Order No.103, we are not allowed to be discussing matters that are the subject of a court proceeding. It is a matter of record that in fact the reason why the Minority side does not attend sessions

including foreigners and strangers to this House is because we have filed a suite on principal, objecting to the presence of Cabinet Secretaries in the Senate.

Mr. Speaker, Sir, as you are aware, the Minority side are the plaintiffs and the Clerk as a representative of this House is a respondent. Therefore, for him to cast aspersions on us, discussing a matter that is before the court; he knows the reasons why we do not attend on Wednesday sittings. He then wants to come and tell us that somehow, we choose which business to attend to or not. I believe he needs to withdraw those particular sentiments as well.

The Speaker (Hon. Kingi): Sen. Sifuna, I am afraid I am going to overrule you because that does not amount to a point of order.

Sen. Thang'wa proceed and conclude your intervention Sen. Thang'wa.

Sen. Thang'wa: Thank you, Mr. Speaker, Sir. I was talking of Article 181 that gives the grounds for removal of anyone from office. On gross violation of the Constitution, abuse of office and physical and mental incapacity, the Governor has committed a crime. All those grounds are laid by the Constitution.

We cannot say that just because the Deputy Governor gave some information on political platform, it can be used as a basis to remove him from office. Sometimes, people talk the same way we do here and we are instructed to retract.

Tell the Deputy Governor to retract if at all he said that and let people continue working. Would you remove me from office because I said they do not come on Wednesdays? I am just saying what is supposed to be said.

Mr. Speaker, Sir, thank you and I do oppose.

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

Sen. M. Kajwang': He should be the last one to speak. That is the practice. *Ataongea wa mwisho!*

The Speaker (Hon. Kingi): The Speaker has called Sen. (Dr.) Oburu to speak. Sen. (Dr.) Oburu, please proceed. If you are not proceeding---

Sen. (Dr.) Oburu: Mr. Speaker, Sir, I am proceeding, Mr. Speaker, Sir.

Sen. Omogeni: On a point of clarification, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Omogeni, what is your intervention? I will allow it under Standing Order No.1.

Sen. Omogeni: Mr. Speaker, Sir, as a colleague, I never want to challenge the ruling of the Speaker. However, there is a tradition that has been set in this House that anytime we have impeachment proceedings, we try as much as possible to leave the host Senator or the Senator whose Governor or Deputy Governor is being impeached, to speak last.

In fact, that has been the tradition in the more than seven impeachments that we have done in this House. I kindly urge that following that tradition and on the request that we had as a caucus, you kindly allow the Senator for Siaya to speak last.

(Applause)

The Speaker (Hon. Kingi): I am informed that the tradition is that the host Senator does not even speak on such a matter. Therefore, if you choose to speak, it is upon the Speaker to determine when you are to speak. However, Sen. Madzayo, when the Chair is speaking, you calm down. Nonetheless, following the request that has been

made by the Minority side through Senior Counsel Sen. Omogeni, we will allow Sen. (Dr.) Oburu to speak last on the opposition side.

(Applause)

Sen. Sifuna, please, proceed.

Sen. Sifuna: Mr. Speaker, Sir, allow me to begin as my colleague has done, by thanking the Members of the Committee for a job very well done. Regarding that small discussion that was going on about page 11 and its contents, I have only one observation to make, that in fact, we have a rule on evidence that is known as the parole evidence rule; that immediately anything has been reduced into writing, oral evidence is not acceptable to explain the contents of a document.

Nothing could have stopped Members of the Committee who felt, for instance, that they do not agree with this particular position that has been taken by the Committee from writing their own report to include that information that was coming orally in this particular document so that we should not hear from them that there was other information that is outside what is contained in this document.

We say you should take pride and responsibility for everything you do in private when it comes to the public. You cannot agree on something in private then when it comes to the Floor of the House, somehow you are embarrassed by some of the decisions that you made.

Mr. Speaker, Sir, going to the contents of the document itself, I laud the Committee for giving the people of Siaya County an opportunity for devolution to work for them. This is because these two indictments are on very serious grounds of violation of the Constitution and the law. I can tell that some Senators who have spoken before me have not read this document.

In this particular document, there is an admission by the Deputy Governor himself. Those of you who know the law, know the weight of an admission of an accused person is heavy. If the Deputy Governor himself, at page 40 and 41 of the Report, has admitted before the Committee that he attempted to interfere with procurement processes, then really we should not be debating it any further. We should take him at his own word. He has accepted to a crime and he should face the consequences of his decision.

These Committee Members are the ones who interreacted with the evidence and the witnesses. They are able to tell certain things that we cannot tell from this Report. For instance, my senior here is a retired judge. He knows that the court that takes the evidence is not the same as an appellate court that only reads the documents because they are able to see the demeanour of the witnesses to tell whether somebody is being truthful or not.

It would be unfortunate that we can come up with a committee of this House, they utilise all the resources of the House that they have utilised; consider all the hours that the clerks have spent then when they bring a report such as this one, we want to run away from it. I suspect that some Members here have already adopted this Report and have not told us anything else other than what we can read here on this document.

I thank the Chairman of the Committee, Sen. Kisang, for giving the people of Siaya hope that now devolution is going to work for them. I want to thank Sen. Omogeni, Sen. Onyonka, Sen. Maanzo, Sen. Betty Montet, Sen. Abass, Sen. Gataya Mo Fire, Sen.

Mumma and Sen. Tabitha Mutinda, one of my delegates from Nairobi City County. Thank you for giving the people of Siaya hope that devolution can work for them. Sen. Miraj and my friend, Sen. Chimera, thank you so much for standing with the truth.

(Applause)

Where there has been a violation of the law, these distinguished Senators will stand for the rule of law and the Constitution.

Finally, my brother, the Senator for Kiambu County wants to trivialise the giving of false information by public officers. It is the Constitution under Chapter Six that imposes this responsibility on us as elected leaders. There is also a law called the Public Officers Ethics Act. It is a crime under that Act to give misleading information in public. You cannot just tell us because you, people, in your coalition, you are used to giving false promises to Kenyans, you tell us that you can just retract. That is not the law. We were promised six stadia, we never received those stadia. We were promised one million jobs; we were never given those jobs---

(Loud consultations)

Mr. Speaker, Sir, you must protect me. Pause my time, please.

The Speaker (Hon. Kingi): Sen. Sifuna, you are carrying a Report and your debate ought to be confined to the tenets of that Report. I have not seen any stadia or false promises being addressed in that Report. Kindly confine yourself to that Report.

(Loud consultations)

Let the Senator be heard in silence, proceed and conclude.

Sen. Sifuna: Thank you, Mr. Speaker, Sir, there was reference---

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

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

Sen. Sifuna: Mr. Speaker, Sir, can I be heard, please?

The Speaker (Hon. Kingi): Sen. Cherarkey, I am giving you a caution.

Sen. Sifuna: Mr. Speaker Sir, there was an allegation that was made here and that is what I was responding to. Anyway, I am happy that we as Senators got to interact with this particular case. It was very interesting.

For the first time in my life I got an opportunity to see what a Kshs1 million chair looks like. Unfortunately, because I was not a Member of the Committee, I was not invited to sit on it like my brother, Sen. Chimera. Having sat on that seat is when Sen. Chimera realised that resources that are due to the people of Siaya cannot be used for such things. I applaud the Committee for saying that this cannot continue.

Lastly---

(Sen. Sifuna's microphone was switched off)

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

Sen. Methu: Thank you, Mr. Speaker, Sir, for according me an opportunity to vehemently oppose this Report that has been brought on the Floor of this House by the Special Committee.

I do not want to spend much time thanking them because my colleagues have spoken to that.

As a young legislator, I have taken time to interact with Parliament Library. One of the quotes I would like to highlight a quote that was made in 2014 by the distinguished Senator for Homa Bay County. That was the first Senator for Homa Bay under the Constitution of Kenya 2010.

The late Sen. Gerald Otieno Kajwang', during the impeachment Motion of the Governor for Embu County, Hon. Martin Wambora, the good Senator for Homa Bay said—

“It is more difficult to divorce a deputy governor than to divorce a wife.”

We should not take advantage of the instrument of Parliament to settle political scores for political expeditions.

As I speak, the allegation tabled begs the question; how long has the Deputy Governor been in power? The Deputy Governor has been in office for nine months. Nine months ago, the accusers of the Deputy Governor were merry-making with him when campaigning and were happy moving around with him. Nine months later, out of issues I do not want to speak about because they are not part of the Report, we are now here for an impeachment.

I understand where the Senator for Kiambu is coming from. An impeachment is not like any other Motion we speak about in this House. Once you have been successfully impeached – we must understand what we are speaking about – we might destroy the life of a person who could be innocent. Once you are impeached, the law is clear that you cannot occupy another office.

Page 92 of the Report indicates that one of the charges against the Deputy Governor is issues to do with procurement. Indeed, pages 35 to 43 of the Report – one of the Senators was accusing us of not having read the report –speak about issues to do with disjointed procurement in Siaya County.

Section 47(1) of the Public Procurement and Asset Disposal Act states that a procurement function shall be handled by procurement professionals whose qualifications are recognized in Kenya.

If we are speaking about---

Sen. Oketch Gicheru: On a point of order!

The Speaker (Hon. Kingi): What is your point of order, Sen. Oketch Gicheru? Save the remaining time for Sen. Methu.

Sen. Oketch Gicheru: Mr. Speaker, Sir, I seek your indulgence on this issue which is serious. My point of order is based on Standing Order No.104.

Mr. Speaker, Sir, I request Sen. Methu to sit down. Even though I am seated, I have the Floor.

(Sen. Methu took his seat)

Standing Order No.104 states—

“A Senator who wishes to speak on any matter in which the Senator has a pecuniary or proprietary interest shall first declare that interest.”

Mr. Speaker, Sir, I do not know whether you heard the Senator for Nyandarua saying that the impeachment---

(Sen. Joe Nyutu consulted loudly)

The Speaker (Hon. Kingi): Sen. Joe Nyutu, let the Senator be heard in silence.

Sen. Oketch Gicheru: Mr. Speaker, Sir, it is on record that the Senator has said that the Deputy Governor of Siaya County is here for other issues that are not in the Report. He has declared verbatim that this impeachment Motion is here based on other issues other than the issues in the report.

We must respect this House. In as much as people want to use this issue of impeachment of the Deputy Governor of Siaya County as a theatre for political contestation and punching back and forth, the nation is watching. Devolution is under threat if the House---

The Speaker (Hon. Kingi): Sen. Oketch Gicheru, let us save time. Your point of order is overruled. Sen. Methu, proceed.

Sen. Methu: Mr. Speaker, Sir, I know he wants to take advantage and debate the Motion.

The point I was making which I would like to conclude on is about procurement. Since we are speaking of procurement, if the Governor for Siaya County bought a seat for his deputy for Kshs1.1 million, how much more did it cost for the seat of the Governor himself, in a county as disjointed as Siaya, where people do not have medicine nor access to medication and children cannot get---

The Speaker (Hon. Kingi): Hon. Senators, we need to make progress. Sen. Methu, debate the Report.

Sen. Methu: Mr. Speaker, Sir, I am debating the Report. We must be careful, when we speak about---

The Speaker (Hon. Kingi): Sen. Methu, did you just say the Chair should be careful---

Sen. Methu: I said that we must be careful.

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

Sen. Methu: Mr. Speaker, Sir, we cannot run away from the question. A school is burning and you go for the deputy principal of the school, while the principal is the Chief Executive Officer (CEO) of the institution. How is a disjointed procurement the responsibility of the deputy governor? The person vested with the responsibilities is the CEO, who is the governor. Why then roll the ball to another person?

Finally, since our friends have spoken, we must be careful and deal with this matter as the Senate. Our constitutional role is to protect the interest, justice and equity of every---

(Sen. Methu's microphone was switched off)

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

Sen. Omogeni: Mr. Speaker, Sir, first, I want to thank the 11 Members of the Special Committee who have returned a unanimous verdict to this House, proposing the impeachment of the Deputy Governor of the County of Siaya.

(Sen. (Dr.) Murango, Sen. Joe Nyutu and Sen. Cheptumo consulted loudly)

Mr. Speaker, Sir, can I be heard in silence?

The Speaker (Hon. Kingi): Sen. Joe Nyutu, Sen. (Dr.) Murango and Sen. Cheptumo, we have taken time to read to you the Standing Orders especially on how to address yourselves when you are in the Chamber. Sen. Joe Nyutu, Sen. (Dr.) Murango and Sen. Cheptumo, I give you a caution. You commit any disorderly conduct, the door is open.

Sen. Omogeni, proceed.

Sen. Omogeni: Mr. Speaker, Sir, for purposes of clarity, on page 87 of our laid Report, we have attached Supreme Court decisions that are supposed to guide this House on matters impeachment.

If you go to page 87, on the issue of impeachment, the court said that all that is required is for the allegations to be substantiated. The charge the Deputy Governor of Siaya County is facing is interference of procurement procedures. If you read the Report and the cross-examination by Sen. Chimera, that matter was established beyond reasonable doubt, not even on a balance of probabilities.

This House has set the record. We have impeached two governors; the former governors of Kiambu and Nairobi. Nobody has been impeached in this House for committing criminal acts. It is because of issues of integrity.

As I speak, the Report before the House demonstrates that the Deputy Governor of Siaya wanted to interfere with procurement and prevent the youth and women of Siaya County from benefitting from procurement.

Where does he want the youth of Siaya to get opportunity to do business with the county Government of Siaya? Where does he want the women of Siaya to get opportunities of doing business with counties?

Mr. Speaker, Sir, you cannot allow such a deputy governor to continue occupying office. If we want to draw lessons, even if you go to the United States (US), President Nickson was forced to resign from office not because he committed any serious criminal act but because he tried to interfere with the Watergate Scandal.

So, what is before this House is evidence that has been brought to this House demonstrating that the Deputy Governor tried to interfere with procurement that was to benefit the youth and women of Siaya.

Mr. Speaker, Sir, we should not allow a person who lives in a glass house to throw stones and get away with it. When he appeared before the Committee, the Deputy Governor gave us an impression of a man who wanted to fight corruption in the county of Siaya.

He protested when the youth were being given these contracts. However, on the issue of the seat of Kshs1.2 million, he pretended that he was never aware. I am asking this House; do you protect somebody who sits on a Kshs1.2 million seat and he pretends that he had nothing to do with the procurement of that seat?

Mr. Speaker, Sir, the United Democratic Alliance (UDA) administration, you have told us that you want to fight corruption. Today, we want you to demonstrate that indeed you want to fight corruption. If you want Kenyans to look at you as sheep in wolves' skin, we shall know today.

The Members of this Committee have demonstrated that we want the accountability mechanism - the bar on accountability to be placed very high. There must be a beginning. It cannot be business as usual.

We are sitting here as judges on this impeachment process. When judges pass a verdict, it is to deter. They want to pass a message of deterrence and in this impeachment. We want to send a message either to governors or deputy governors that they should never interfere with professionals in procurement.

Mr. Speaker, Sir, if we do not pass this Motion, we are opening a floodgate for governors and deputy governors to start making calls to professional in procurement to interfere with procurement processes.

Mr. Speaker, Sir, this---

(Sen. Omogeni's microphone went off)

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

Sen. Munyi Mundigi: Bw. Spika, ninakataa mambo ya kutimuliwa kutoka kwa ofisi kwa *Deputy Governor* wa Siaya. Wakati wa kuomba kura, gavana na *deputy* wake wanatembea kila mahali katika kaunti wakifanya siasa lakini tunajua wakati wameingia ofisini, *deputy governor* anachukuliwa kama mtoto wa shule; mtu ambaye hana maana yoyote.

Nina nina ushuhuda wya kusema haya. Pale Embu wakati wa kipindi cha kwanza, gavana Wambora alichagua *madam* aliyekuwa anaitwa Dorothy. Hata hivyo wakati wa kufanya kazi, alimnyanyasa kwa sababu Dorothy hakuwa na pahali popote mpaka yule mama akawa hana maana.

Alikaa na yeye mpaka wakati mwingine alimnyang'anya gari. Baada ya kipindi cha miaka mitano, muhula wa pili alichukua kijana anayeitwa Dr. Kariuki. Nataka kusema kwa kutoa mfano.

The Speaker (Hon. Kingi): Sen. Madzayo, there is something called comparative analysis.

(Sen. Madzayo stood in this place)

Sen. Madzayo: Asante, Bw. Spika. Hoja ya---

The Speaker (Hon. Kingi): Sen. Madzayo, have your seat. Proceed, Sen. Munyi Mundigi.

Sen. Munyi Mundigi: Kaa chini.

Mhula wa pili, akachukua Dr. Kariuki. Siku moja tunakumbuka aliegesha gari la naibu gavana katika kituo polisi karibu mwezi moja. Kwa hivyo, tumeona kazi ya magavana ni kuwanyanyasa vijana wetu watakaokuwa magavana miaka ijayo.

Ninakataa na kusema kama Naibu *Gavana* angefaa kutimuliwa, Gavana ndiye angekuwa wa kwanza kujibu maswali haya ni kwa sababu tunajua Gavana ndiye mwenye kidole katika kufanya kazi yote kama vile kufuta na kuajiri watu. Deputy governor anachukuliwa kama mtu asiyekuwa na maana. Kwa hivyo mimi ninakataa Ripoti hii.

Pili, tunajua ingekuwa ni mambo ya kurusha mawe, watu wengine hawangekuwa katika Seneti wakati huu. Wakati huu wako hapo wakizungumzia kutimuliwa kwa Naibu Gavana.

Kwa hivyo ninapinga na kusema kuwa *Deputy Governor* wa Siaya arudishwe kazini.

Asante.

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

Sen. Mumma: Thank you, Mr. Speaker, Sir, for the opportunity to contribute to this Motion, which I support.

Mr. Speaker, Sir, I am one of the Members of the Select Committee that came up with this Report. I commend our Chair and every one of the Members.

(Sen. Cheruiyot and Sen. Methu consulted loudly)

Mr. Speaker, Sir, the Majority Leader and Sen. Methu are speaking loudly and interfering.

Mr. Speaker, Sir, I believe the Committee did its best in this matter. I see the debate is taking the model of sides - the Majority versus the Minority. However, in the Committee, we were able to canvass these issues very objectively. It was a difficult decision arriving at the verdict we arrived at. I would like to tell this House that it could have gone either way.

Mr. Speaker, Sir, of the two charges that were given, there were sub-allegations per charge and some allegations were proven while other allegations were not. For those who watched and for the public or Kenyan citizen who watched, you know that the Deputy Governor admitted to some of the allegations.

So, when you look at the threshold at Section 33(6) on what we are supposed to report as a Select Committee, we are supposed to bring a report indicating whether any of those allegations were substantiated and that is what we have reported before this House.

I support my Chair in urging the House that beyond just looking at this as a political issue of the deputy governor, governor or any other, we need, as a Senate, to bring our mind to the issue of how we can get devolution to work well by ensuring we have clarity around issues of relationships between the two top officers within counties.

The procurement laws are very clear and have ensured that the process is insulated against interference. Nonetheless, we were able to find the evidence that there were attempts to, actually, interfere with procurement processes.

Mr. Speaker, Sir, in fact, in one instance, we found that the Deputy Governor as Chair of a taskforce wrote directly giving a list of people to be paid bills which is a protocol that is not provided for under the Public Finance Management Act (PFMA). So, we are speaking about serious issues.

The Deputy Governor was in charge of the finances as he puts it himself but he did nothing in terms of showing us one policy that he had put in place.

The Speaker (Hon. Kingi): There is a point of order, Sen. Mumma. Sen. Kathuri is online on a point of order.

Proceed, Sen. Kathuri.

Clerk, we cannot see the Senator. Can he be put on the screen?

(Technical hitch)

Proceed, Sen. Mumma.

Sen. Mumma: Thank you, Mr. Speaker, Sir. We have not been shown one memo or anything written in terms of policies that the Deputy Governor has put in place.

Finally, Mr. Speaker, Sir, I would like to speak to the issue of collective responsibility. If the Cabinet were to have a Cabinet Member or the Deputy President who differs from the group, and he goes out to say that his government is not doing this, that or the other, it would make things difficult.

The Deputy Governor admitted to us that he does not take seriously the principle of collective responsibility. This makes it difficult even as we try to reconcile them and ensure that the Government, the Deputy Governor, the Governor, and the Cabinet are able to work together. How can a Cabinet trust somebody who will take off tomorrow to say; 'We have just discussed this but I have told them that I disagree with what they were discussing?'

The Speaker (Hon. Kingi): Sen. Mumma, we have to take a point of order from Sen. Kathuri.

Can he be put on the screen?

Yes, Sen. Kathuri, what is your point of order?

Sen. Kathuri: Thank you, Mr. Speaker, Sir. When we started debating the Motion, you made a ruling that six Senators will speak from both sides.

Mr. Speaker, Sir, you know I am not on either side. I really wanted to catch your eye so you can recognise those of us who are using the hybrid system are in the queue.

The Speaker (Hon. Kingi): Sen. Kathuri, that is not a point of order.

(Laughter)

However, I have noted it under Standing Order No.1

Proceed, Sen. Mumma.

Sen. Mumma: Thank you, Mr. Speaker, Sir. I know I am at the last minute.

As I finalise, all I would want to urge us is to seriously look at the Report and the bundles of evidence provided and recognize that as a House and as a Senate, we need to see how we can work with county governments to put in place mechanisms that can make county governments work.

Mr. Speaker, in his opening remarks, Deputy Governor made a plea on behalf of all Deputy Governors, to say that they need to be protected. As a broader issue, it is about pointing out---

(Sen. Mumma's Microphone was switched off)

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

Sen. Okenyuri: Thank you, Mr. Speaker, Sir, for this opportunity. I have equally had a chance to scheme through this Report. Let us face it. The Deputy Governor for Siaya, Dr. William Oduol is being vilified for personifying people who want independence from the politics that Nyanza has seen for the last 70 years.

Mr. Speaker, Sir, it cannot be that a professional, a member of the Institute of Certified Public Accountants of Kenya (ICPAK), a man who has worked with Safaricom and Microsoft for more than 30 years, all of a sudden is corrupt now that he is a Deputy Governor.

Dr. William Oduol is not in the public service for the first time, neither is he in the leadership for the first time. What we are seeing is an attempt to fix him. Governors should be aware that when they are elected with their deputies, they are like Siamese twins who cannot be separated.

It cannot be that when you are looking for votes, you want the Deputy Governor's support and when they are being put on the spot, you want to drop them. This shows that whatever we see here is not about the impeachment charges that have been brought, it is more than we see. Franklin Roosevelt actually said that in politics, nothing happens by accident.

What is happening in Siaya is not by accident. The Senate has an opportunity to rubbish some of those claims. They must be substantial. The Senate should not be used as a conveyer belt for listening to rumours and hot-air allegations. This is an august House that should listen to matters that are substantive and give a fair hearing to people who are brought to this House.

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

Sen. Okenyuri, there is a point of order.

Sen. Osotsi: Mr. Speaker, Sir, I rise on Standing Order No. 105. It is very unfortunate for Sen. Okenyuri, whom I have known for many years to insinuate that we are acting on rumours when we have a Report with us done by a committee of this House and tabled before this House? Is she in Order? Can she substantiate this?

The Speaker (Hon. Kingi): Sen. Okenyuri, to that extent, you are out of order. What is before us is a Report. We are not debating street talk or things that were heard outside there. The Committee sat, prepared a Report and tabled it. This debate is all about that Report, not rumours.

Sen. Okenyuri: Mr. Speaker, Sir, I stand guided and hope the few minutes that I was left to conclude are still there.

I was sending a warning to the county chiefs that once they run with someone as a deputy, they are like Siamese twins. It cannot be that when they are looking for votes, they need them and when they are on the fix, they no longer need them.

I oppose the Report that has been brought to this House by the Committee and wish to say that whatever is happening to Dr. William Oduol in Siaya is an attempt to shut down the voices of people who want to be politically emancipated from where they have been for more than 70 years.

Thank you, Mr. Speaker.

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

Sen. Maanzo: Thank you, Mr. Speaker, Sir. I would like to say that Article 181 has been quoted. It says a county governor and the county deputy governor may be removed from office on any of the following grounds.

(a) Gross violation of this Constitution or any other law.

Therefore, if you are not caught by the Constitution, then you are likely to be caught by other laws. I was a member of this committee. This job was done thoroughly and professionally.

The matter before us is between the County Assembly of Siaya and the Deputy Governor of Siaya. When we looked at that particular matter when it was brought to us, an impeachment had already been conducted in Siaya and there were four points that came out. Two of them were not substantiated but two were substantiated through the evidence which was standard and admissions by the Deputy Governor of Siaya upon cross-examination by Sen. Chimera and Sen. Gataya Mo Fire.

Mr. Speaker, Sir, we have just received facts and the Committee was very professional. It went through the whole process. We carefully listened to everybody and all evidence adduced including electronic evidence which had a transcript. In relation to the charge on the Deputy Governor on gross violation of the Constitution and other laws on the allegation of interference with the procurement process through acts or bids, and rigging had been substantiated. That was through the evidence tendered.

Impeachment is a very serious matter. The whole country is learning. We are here for devolution and we want it to work in every county including Siaya. Whatever happens in Siaya now will give history and direction in future.

I am very sure that it was not a joke after such a thorough process. These were not rumours or politics. They were facts and the Acts of Parliament in play.

Mr. Speaker, Sir, regarding abuse of office and gross misconduct on allegation of giving misleading information to public and giving false information, was also substantiated. A video was played and the transcript was translated. There were cross-examination and admissions. So, the facts speak for themselves.

As a House, we should not politicize this matter. It is not just about Siaya County but about all the other counties. Our work is to protect devolution in this country. The biggest question we should be asking in our minds is whether the people of Siaya County will be properly served under this set of circumstances.

Our duty is to ensure that the people of Siaya County are properly served. After going through such a rigorous process from the County Assembly and the Senate, I am sure that everybody has a lesson to learn. I am also sure devolution is going to be stronger in future.

Therefore, I call upon everyone who is in responsibility, whether the Governor, Deputy Governor or anybody with responsibility; that the law exists and does not favour anyone. The moment you breach the Constitution or violate an existing statute such as the criminal court--- It is a criminal offence to give misleading information. It is against the Constitution to cause disharmony in a county or even give wrong information publicly, especially on procurement.

It came out clearly that the Assembly together with the County Government, which includes the Deputy Governor, had allocated certain amounts of money for a stadium and it was going to be implemented. When information is given to the contrary, the best thing one can do when they find they are in the wrong, is to seek an apology and reconciliation.

Mr. Speaker, Sir, I support this Report and urge that Members vote with their conscience. Let us look at the facts correctly, so that we can set a precedence. This is not the end of the journey. Whichever way the matter goes---

(Sen. Maanzo's microphone was switched off)

The Speaker (Hon. Kingi): Proceed, Sen. Tabitha Mutinda.

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. I thank my 11 colleagues who were all very dedicated in looking deeply into this issue. Let me state here categorically, that out of the 11 members, five of us voted “No” to this impeachment and six voted “Yes”. On page No.11, the Members who voted no included my colleague, Sen. Miraj; Sen. Chimera; the Chair, Sen. Kisang; Sen. Gataya Mo Fire; and I.

I put this across because the Members want to indicate that this Report was unanimous. It was not. This is an adoption Report that requires from our Standing Orders that we should adopt a report. The HANSARD is there, clearly indicating the votes of “yes” and “no”.

However, the issues that we came across as a Committee, were issues of 2022. The issues of the Institute of Certified Public Accountants of Kenya (ICPAK), the office and the chair are procurement processes that took place in 2022. They did not take place in 2023 and yet the County Assembly has come to impeach the Deputy Governor in June, 2023. Why did they not do that last year? Why is it being brought now? It is because it is a political process.

The roles of the Deputy Governor have not been indicated. It is high time that we look at our laws as a House and give the deputy governor roles the same way the President has given the Deputy President and the Prime Cabinet roles.

It is in this regard that deputy governors are just being used during political campaigns. The Deputy Governor of Siaya County has clearly raised imprest issues.

The Public Finance Management (PFM) Act, 2012 Article 90 clearly indicates that there should be a cap that is set by the County Assembly. It is high time the Governor of Siaya County, hon. Orenge, gave an explanation about all the imprest that was moved from the County Revenue Fund (CRF) account to the Imprest Account with no justification.

Mr. Speaker, Sir, as I finish, I would like to state that governance---

The Speaker (Hon. Kingi): Order! Order Sen. Tabitha Mutinda! Sen. Madzayo, please, have your seat. Sen. Madzayo, kindly have you seat. In my dashboard, I do not have your name. I have that of Sen. Sifuna. Proceed to make a point of Order, Sen. Sifuna.

Sen. Sifuna: Mr. Speaker, Sir, the statements that are being made here must be relevant to the discussion that we are having. You have already given us direction. Governor Orenge is not an accused person. He is not facing any charges before this particular Senate.

Mr. Speaker, Sir, the person who is the subject of these proceedings is the Deputy Governor. I would like that you direct that the Senators who come to the Floor of the House to speak, should also tell us which page we can find the things they are discussing. As far as I can tell, the information that Sen. Mutinda is putting here about imprest has not been addressed in this Report. I have read this Report in its entirety.

Mr. Speaker, Sir, you asked us when we were presenting to confine ourselves to the Report. I beseech that, that you make the same direction to all Senators who will come and make presentations because that matter has not been addressed in this document.

The Speaker (Hon. Kingi): Thank you, Sen. Sifuna. Now, Hon. Members, the Chairman of the Committee has tabled the Report. The debate that is ongoing is all about

that Report. If you heard anything in a funeral, that is not the subject of debate. So, kindly confine yourselves to the Report. If a matter is not captured in this Report, please, do not introduce new matters to this Report.

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. I stand guided all through.

However, I want to state that when we looked into these issues, there is a very clear letter written, appointing the Chief Officer of Finance, clearly indicating that the officer should report to the Deputy Governor. I would like to thank the Governor on that particular point because at the beginning of his term, the Governor was working very well with the Deputy Governor and in that regard, he gave him roles because he is an expert on matters finance. That is how we were able to see all the financial matters that the Deputy Governor had raised.

It is good for this House to note that the Deputy Governor was the Chairperson of the Pending Bills Committee, a very key committee. We are dealing with issues of pending Bills in this country.

It is high time that we have committees at the county level that are able to look at the key issues, the priorities of the suppliers who need to be paid in this country.

What is wrong with the role that Deputy Governor played? He was the Chair of that Committee. He was able to submit to the relevant Committee. He was not sitting alone. As a chairperson, you sit with members. It was not his decision alone. It was a committee's decision and in that regard, he was able to execute his mandate.

All these things actually happened months ago. It during this time that, out of frustration, he spoke. He has a right to speak. There is freedom of speech.

The Deputy Governor stood out and spoke. I therefore ask, if he was wrong, then why did the Governor not come out and say, My Deputy is telling you the wrong thing and this is the right thing? Nobody spoke and countered the Deputy Governor in that regard. So, in a nutshell, Mr. Speaker, what---

(Sen. Tabitha Mutinda's microphone was switched off)

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

Sen. Ogola: Mr. Speaker, Sir, I rise to support the Report tabled here by the Chairperson of the Special Committee where Sen. Tabitha Mutinda was a Member. I want to begin by sympathizing with Sen. Tabitha Mutinda because I see her struggle to exonerate her signature, which is clear on page 11.

I also heard Sen. Okenyuri talk about the curriculum vitae (CV) of the Deputy Governor of Siaya. I thought Sen. Okenyuri should know that with such a CV, then the Deputy Governor should not fall prey to issues of gross violation of the Constitution and abuse of office.

Mr. Speaker, Sir, Senators have spoken about fights. We said the fights are unnecessary. Why do I say so? Everybody should know which seat they want when elections are called. If you go for deputy governor, do not imagine that once you are elected with the governor, then you will be the governor once you are in office. The offices are as different as day and night.

Mr. Speaker, Sir, I want to refer you to the County Governments Act that spells out the functions and powers of the governor. The powers are spelt out in Part V.

Let me come back to the deputy governor. The Constitution is clear that the deputy governor shall deputise the governor. At no time did the Constitution intend a deputy governor to be a governor of a county.

If you want to be a governor, when you are still a deputy governor, the best thing is to patiently do your work as a deputy governor and wait for the next election when you will be free to vie as a governor. Once you are elected, then you can perform those functions.

Mr. Speaker, Sir, the duties of a deputy governor are clear. A governor may assign the deputy any other portfolio as stipulated in the Constitution.

I do not expect that this Senate is going to exonerate the Deputy Governor of Siaya, having violated the Public Procurement and Asset Disposal Act, which, to me, is criminal and not only an issue of integrity.

I listened here as other speakers and even when the Whip lectured us on the constitutional rights of a deputy governor. Those rights are the same as those of the people of Siaya that were clearly spelt out in the discussions in the County Assembly of Siaya. The people of Siaya spoke through their representatives. This Senate must listen to the people of Siaya and also take note of the Report of the Special Committee that has just been tabled.

I have said that in future, let people go for seats that they want. Even nationally, we have heard a deputy president talk about the principle of shareholding but little do we see any evidence of the implementation of that shareholding principle when appointments are done, even though there are values and principles of governance which include inclusivity, equality, integrity, equity and national unity are spelt out in this Constitution.

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

The Speaker (Hon. Kingi): What is your point of order, Sen. Mandago? Sen. Ogola, there is a point of order.

Sen. Mandago: Mr. Speaker, Sir, I rise pursuant to Standing Order No.105 on responsibility for statement of fact. Is the Senator in order to discuss the Deputy President who has not been mentioned in any section of this report?

(Sen. Ogola stood in her place)

The Speaker (Hon. Kingi): Sen. Ogola, the Chair is addressing you.

(Sen. Ogola sat at her place)

I think this is the fifth time this afternoon that I am saying this. We have a Report. Please confine your debate to that Report. Why discuss utterances made by the Deputy President? Please, confine yourself to the Report.

Proceed, if at all you have any minute left.

Sen. Ogola: Mr. Speaker, Sir, I did not discuss anybody. I made reference to statements that have been made in public. I am only stating that officers should go for seats that they want. They should not go for seats and after two months want other seats.

Mr. Speaker, Sir, I support the Report of the Special Committee that was tabled in the Senate.

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

Sen. (Dr.) Murango: Asante sana, Bw. Spika. Nasimama bila aibu kupinga Ripoti iliyowasilishwa na Kamati inayopendekeza kutimuliwa kwa Naibu wa Gavana, Dkt. Oduol.

Nimeskia Seneta wa Nairobi, Sen. Sifuna, akitaja majina ya watu ambao hawakuunga mkono Ripoti hii. Ningependa kuwaambia waliotajwa kuwa ukisikia shetani anapiga makofi wakati unaokoka, kuna shida kubwa hapo.

(Laughter)

Bw. Spika, Kipengee cha 158 cha sheria kuhusu usimamizi wa fedha kinasema wazi kwamba afisa mhasibu mkuu katika kaunti ni gavana. Inasemekana kwamba Dkt. Oduol alinunua kiti. Hilo ni jambo ambalo Gavana wa Siaya anafaa kuulizwa wala sio naibu wake.

Tusijifanye wanafiki hapa. Ningependa kumwuliza Kiongozi wa Wachache asimame ikiwa anajua bei ya kiti alichokalia. Ikiwa anajua, tutajua kuwa Naibu wa Gavana wa Kaunti ya Siaya ana makosa. Ikiwa hajui, ni makosa kumwekelea mwenzake kosa ilhali yeye hausiki katika ununuzi wa bidhaa katika Kaunti ya Siaya.

(Sen. Madzayo spoke off record)

The Speaker (Hon. Kingi): Sen. (Dr.) Murango, it was indeed out of order for you to ask whether Sen. Madzayo knows the value of the seat he is sitting on. Whether he knows or not, it is not material to this debate.

Proceed.

(Sen. Sifuna spoke off record)

Sen. (Dr.) Murango: Ningependa Sen. Sifuna atulie ili asikilize busara.

(Laughter)

Bw. Spika, nilikuwa mwakilishi wa wadi na Kiongozi wa Wengi katika Kaunti ya Kirinyaga kutoka mwaka 2017 hadi 2022. Manaibu wa magavana wananyanyaswa sana na magavana. Hawawezi hata kusema chochote pahali popote. Ukiuliza Maseneta ikiwa wanajua manaibu wa magavana kama watano, hawawezi kuwataja.

Mimi kama Seneta wa Kirinyaga, sitaki kuwa mmoja wa wale wanaotumika katika huu mradi wa Mrengo wa Azimio la Umoja wa kumwondoa mamlakani Naibu Gavana wa Siaya.

The Speaker (Hon. Kingi): Sen. (Dr.) Murango, please do not invite trouble. Certainly, you are out of order. Proceed to retract the statement where you referred to this impeachment process as a project of Azimio la Umoja.

Sen. (Dr.) Murango: Bw. Spika, kwa heshima kubwa, naondoa maneno ambayo nilisema hapo awali.

Sen. Sifuna: On a point of information.

The Speaker (Hon. Kingi): Sen. (Dr.) Murango, would you wish to be informed by Sen. Sifuna.?

Sen. (Dr.) Murango: Bw. Spika, Sen. Sifuna ni wakili. Wakati ananionyesha ama kuniambia---

The Speaker (Hon. Kingi): It is either “yes” or “no”.

Sen. (Dr.) Murango: Sitaki kwa sababu muda wangu utaisha.

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

Sen. (Dr.) Murango: Bw. Spika, ningependa kusema kwamba ni vizuri maamuzi ya Seneti yafanywe kwa njia ya haki.

Waswahili husema katika mahakama ya fisi, mbuzi hawezi kupata haki. Katika hili Bunge, mimi sitaki kuhesabiwe kama mmoja anayetajwa na hawa Waswahili.

Nikimalizia, Waswahili wanasema kwamba, “kibebacho kikivuja, ni nafuu kwa mchukuzi”. Inaonyesha wazi kwamba kinachovuja katika Kaunti ya Siaya ni uongozi na sio wadogo amabo wameletwa hapa kutolewa kafara ili kufurahisha wachache.

Bw. Spika, waheshimiwa wakilishi wadi wa Siaya, msijiruhusu kutumika vibaya. Fanyeni kazi kwa haki. Sijasema mlitumiwa, lakini ukweli ni kwamba mnatumiwa na watu wengine. Ikiwa ni hivyo, basi afadhali kujiuzulu mwajiriwe na wale wanaowatumia vibaya.

Kwa hayo mengi, nakushukuru, Bw. Spika. Naomba kuketi.

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

The Senate Minority Leader (Sen. Madzayo): Asante, Bw. Spika. Kwanza, nawapa kongole wale ndugu zetu walioketi katika hii Kamati. Wamefanya kazi muhimu hadi mwisho.

Umuhimu wa Kamati ya Bunge la Seneti ni kwamba unaweza kuongoza na kuchukua msimamo. Kawaida yetu Wabunge wa Seneti, huwa tunakubaliana na ripoti za Kamati zetu.

Jambo nzuri ni kwamba, Ripoti inayo ongozwa na Sen. Kisang’, akifuatwa na Sen. Montet Betty kama naibu wake, ni Ripoti ambayo wameiandika kwa hali ya juu sana. Nawapa kongole pamoja na wenzao wote akina Sen. Omogeni, Sen. Onyonka, Sen. Maanzo, Sen. Abass, Sen. Gataya Mo Fire, Sen. Mumma, Sen. Tabitha Mutinda, Sen. Miraj na Sen. Chimera, ndugu yangu.

Ripoti kama hii ikiandikwa hivi---

The Speaker (Hon. Kingi): Sen. Nyamu and Sen. Kinyua, kindly take your seats.

The Senate Minority Leader (Sen. Madzayo): Hii ni Ripoti mwafaka. Hii kamati imefanya kazi yake. Hawa watu kumi na mmoja wamepata kwamba kuna hatia dhidi ya naibu gavana. Hatia sio moja, bali zimepatikana hatia mbili dhidi yake. Kosa la kwanza na la pili. Kawaida, kosa likipatikana hata moja katika Kamati kama hii na walete hapa, Seneti huwa inaunga mkono Ripoti ile na yule mtu huwa anafaa kuachishwa kazi.

Bw. Spika, tunaona ya kwamba tunao umuhimu kwamba katika lile shataka la kwanza ambayo ni mambo ya kununua bidhaa na utendakazi kinyume na ile sheria inayotambuliwa ya *procurement*. Katika viti vyote hivi vinavyo kaliwa na wakubwa, sijasikia kiti ambacho kinachukua zaidi ya shilingi milioni moja.

Kiti hicho kililetwa mbele ya Kamati kama dhibitisho. Kila mtu alikiona. Litakuwa jambo la kusitikisha sana hivi leo ikiwa tutaangalia kiti kama kile kikiwa kimegharimu milioni moja na elfu mia moja. Kama hatia kama hii imepatikana, ni jambo la kusitikisha ikiwa sisi kama Maseneta tutakubaliana ya kwamba ni haki mtu kununua kiti kwa bei hiyo na pesa zingine zimeenda kiholela. Ninakubaliana na Ripoti kuwa kiti

hicho hakikugharimu pesa hizi zote. Wamesema ukweli na hatia imepatikana. Hatua ya kumfurusha mamlakani ni lazima ichukuliwe.

Kosa la pili linahusu kutumia ofisi vibaya na kuwadanganya wananchi kwa kutoa habari za uwongo. Hili ni jambo la kutisha na kusikitisha zaidi. Wewe ukipewa maamlaka, tuna imani ya kwamba utaweza kuendesha mamlaka yako kisawasawa kulingana na sheria.

Kama tunavyoona huyu “*Bullfighter*” ana-*represent* watu wa Kakamega kisawasawa. Hayuko kwenye Ripoti lakini nasema ana-*represent* kisawasawa. Hivi leo, baadhi ya viongozi hutumia mamlaka yao kwa njia mbaya na kusambaza uongo, ikiwa kosa kama hili limepatikana. Mtu muongo anaweza kuleta shida kubwa sana ndani ya kaunti. Kuongea mambo ya uongo kunaweza kufanya watu wakapigana, wakauana na kutenda vitu ambavyo huwezi kuvitetea vikishatendeka.

Hii Ripoti tuiunge mkono na tukubaliane ya kwamba, afurushwe mamlakani na atoke kwa hayo mamlaka ya kuwa Naibu wa Gavana.

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

Sen. Dullo: Mr. Speaker, Sir, I stand to oppose this Motion and report. Having sat in this House for some time, I can confirm that all the impeachment Motions that came to the Floor of this House are all political. I wish to confirm that also this one is political.

All these grounds of removal of the Deputy Governor of Siaya County are flimsy. First, if a Governor has told the truth that he has interfered or directed in procurement, surely, this is a very truthful person. The best that the County Assembly of Siaya County should have done is abandon this particular person. This ground does not amount to impeachment, which clearly shows that Siaya County wants to kill the political career of one Deputy Governor of Siaya County.

Mr. Speaker, Sir, on misleading the public; all politicians mislead the public or say information that is not truthful.

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

Sen. Sifuna: Mr. Speaker, Sir, on statements of fact, I do not know what evidence Sen. Dullo has that, in fact, all politicians mislead the public. I want to be shown the statistics because it is not fair to blanket condemn everyone, including myself, who is also a politician. I would want to see that data so that we can tell with certainty that she knows what she is speaking about.

The Speaker (Hon. Kingi): Sen. Dullo, you cannot make a blanket condemnation on a whole class, the politicians. Maybe you know a few, but it cannot be all of them.

Sen. Dullo: Mr. Speaker, Sir, let me rephrase it. Majority of politicians give wrong information to the public and nobody has ever been prosecuted for that. In this case, I do not see the why the Deputy Governor of Siaya was impeached because of that.

We have only carried two impeachments on the Floor of this House for the time I have been here. The one of Governor Waititu of Kiambu County was carried. That was political then.

Secondly, the second Governor who was impeached was the Governor of Nairobi City County. It was equally political. I do not see the reason why someone who has built his career for the last 30 years will have it killed because of those two allegations. The best that this Committee and Assembly should have done is to subject this matter to audit as they have indicated in their report and refer it to Ethics and Anti-Corruption Commission (EACC) to investigate it.

I oppose this report as it is.

I thank you, Mr. Speaker, Sir.

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

Sen. (Dr.) Oburu: Thank you, Mr. Speaker, Sir, for the opportunity. I rise to support this report. When I read it and saw the names of all the Members of the Special Committee on page 11, I thought this was a bipartisan report because it included everybody. This is because I did not see any appendage of a minority report. When a report is prepared and is voted on, and there is a majority and minority, the cardinal principle of democracy is that the minority will have their say, but the majority will have their way.

When the majority have their way, if you have very strong feelings against what the majority have passed, then you draw a minority report and attach it to the report. However, we did not see such. It is very surprising that on the Floor of the House, I now see Members trying to drag us through who voted where. Really, how would we know because it is not in the report whether you voted for or against it? What we have seen is a report signed by all the eleven Members of the Committee.

This is a very painful process for us as the people of Siaya County. When these things started, it was like a joke. I thought that this was just a very small issue between the Governor and his Deputy when this matter started coming to the public. It then grew bigger and bigger. Then, the Deputy Governor went haywire making very many allegations that were not proven. It was very surprising and as Senator for Siaya, I tried to intervene. I would really not just sit by and watch the Executive quarreling resulting in the non-delivery of services by the Executive to the people.

Our mandate is given or donated by the people of Siaya County. The people of Siaya expect to get services from the County Executive of Siaya. When there is a quarrel between the two giants or when the two bulls are fighting, it is the grass that suffers. The grass is the Siaya people.

I am pleading with the Senate, if you do not go by the recommendations of this report, it will mean that the Deputy Governor will go back to his office. When he does so, I do not know what to expect. How will you expect the Governor to work with the same Deputy who has besmirched his name and pulled it through the mud and this matter is now before us? We are having facts.

I do not think that there is any bigger offense than being proven to have violated the Constitution of Kenya. I do not know whether there is any bigger offense than this. If there is, I do not know it. It is yet to be proven to me. However, I know in this country, the biggest offense is to violate and contravene the Constitution. This has been proven by this Committee. I, therefore, plead with my colleagues, please, Siaya people are part and parcel of Kenya. They are shareholders.

(Sen. (Dr.) Oburu's microphone was switched off)

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

Sen. Cherarkey: Thank you, Mr. Speaker, Sir, for this opportunity. At the onset, I rise to oppose this report.

(Applause)

Impeachment is a political procedure and process. When you look at Mike Mbuvi's case in the Supreme Court, it should have followed certain procedures. I am sad. I have read their two charges. On charge one, under Section 148, Deputy Governor His Excellency Dr. William Oduol is a man of integrity. He has worked with many reputable international organisations.

The Senate does not serve as a ground for sanitizing or processing political disputes, egos or machismo. When over 500,000 great people of Siaya went to the polls, they elected my brother and my good friend senior counsel, Governor Hon. James Orengo and Dr. William Oduol. They are joined at the hip. We should be treating Deputy Governor, Dr. William Oduol, as a whistleblower because of speaking against corruption allegations in Siaya. He is being sacrificed at the expense of others.

I want to challenge the EACC. It should have descended to Siaya County like yesterday to investigate why Kshs.1.1 million was used to purchase a seat. Under Article 226 (5) of the Constitution of Kenya, the final culpability stops at the desk of the Governor of Siaya.

(Applause)

That is the Constitution. I want to challenge Governor Orengo to look at the eyes of the people of Siaya and tell them that he approved and processed the payment of the Kshs.1.1 million. Under Section 148---

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

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

The Senate Minority Leader (Sen. Madzayo): Bw. Spika, tunaelewa kabisa ya kwamba ni haki ya Sen. Cherarkey kuongea vile anavyoongea. Lakini, Kanuni zetu za Kudumu katika Bunge hili zinasema ya kwamba, huwezi kuongea juu ya mtu ambaye hayuko hapa. Wewe umefanya uamuzi huo mara nyingi. Je, nauliza, ni sawa kwa ndugu yangu Sen. Cherarkey na anaelewa sheria na amekuwa kiongozi wa Kamati ya Sheria, kutaja jina la mtu ambaye hayuko hapa ndani ya Bunge kujitetea?

The Speaker (Hon. Kingi): Sen. Madzayo, Sen. Cherarkey is giving a dissent. He is dissenting from the report. His point is that the person who is in charge is the Governor. In this case, the Governor is called Orengo. I do not see anything wrong with that.

Proceed, Sen. Cherarkey.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. As you are aware, I am a highly sought-after legal practitioner in this Republic

(Laughter)

So, my prowess precedes my name. Under Section 148 of the Public Finance Management (PFM) Act

(Sen. Sifuna consulted loudly)

You know Sen. Sifuna is heckling for nothing. You can heckle tomorrow. Not in the Senate. Section 148 of the (PFM) Act says, an accounting officer does not include a Deputy Governor. It designates the Chief Executive County Member (CECM). The law is crystal clear. Deputy Governor is not an accounting officer as per the PFM Act. I have read the report.

(Sen. Sifuna consulted loudly)

I do not know why Sen. Sifuna is shouting across the Floor for no reason.

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

Sen. Cherarkey: Mr. Speaker, Sir, I still have some time.

(Laughter)

I have read the report on the aspect of misleading the public. No one has controverted, even the Governor or the Office of the Governor. We were never shown a letter that the Governor controverted the allegations of misleading the public by the Deputy Governor, Hon. (Dr) Oduol.

This is a House of integrity. We shall not invite political disputes to be resolved here. The Deputy Governor does not sit in tender committees; neither is he an accounting officer. We need to protect devolution under Article 96 of the Constitution.

Sen. Osotsi: Point of information, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Sen. Cherarkey, would you wish to be informed by Sen. Osotsi?

Sen. Cherarkey: No. Not on this one. If it was the issue of ugali, I would have agreed. On this one, I disagree.

(Laughter)

Mr. Speaker, Sir, in conclusion, they say the arc of the moral universe is long, but it depends on justice. The people of Siaya County are getting justice today because we will ensure the Deputy Governor, Hon. (Dr.) Oduol, goes back to his work and continues to serve them.

You saw our Kenya Kwanza troops in the National Assembly during the Finance Bill. The same knife we used at the National Assembly is what we will use to vanquish and incinerate anybody who would want to allow corruption to be sanitised.

Mr. Speaker, Sir, I oppose this report.

The Speaker (Hon. Kingi): At this juncture, Hon. Senators, I call the Mover to reply.

Sen. Kisang': Thank you, Mr. Speaker, Sir. I rise to reply to the Motion. I thank all the 11 Members of the Special Committee. They sat and slept very late past midnight as we deliberated.

I urge the House that even as we dispose of this particular Motion, it is important that we look at this particular Deputy Governor-Governor relationship so that we do something as the Senate that would help devolution and counties.

I urge all Members that you vote using your wisdom. You have heard what Members have said. It is now up to each one of us, the 47 delegates, to decide on the fate of the Deputy Governor.

I beg to reply.

The Speaker (Hon. Kingi): Hon. Senators, before we move to Division, I will allow the Deputy Governor or his counsel an opportunity to be heard by the Plenary.

Serjeant-at-Arms, can you kindly usher in the Deputy Governor and his counsel?

(Loud consultations)

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

Do we have the Deputy Governor of Siaya County in the Chamber?

(The Deputy Governor of Siaya County (Hon. (Dr.) William Oduol and his counsel were ushered into the Chamber)

Now, Deputy Governor, you have under 30 minutes to be heard by the Plenary. You may do so yourself or through your duly chosen and appointed advocate.

The podium is yours.

FINAL ADDRESS TO THE HOUSE BY DEPUTY GOVERNOR
HON. (DR.) WILLIAM ODUOL AND HIS COUNSEL

The Deputy Governor of Siaya County (Hon. (Dr.) William Oduol): Thank you, Mr. Speaker, Sir and Senators. Good evening.

Hon. Senators: Good evening.

The Deputy Governor of Siaya County (Hon. (Dr.) William Oduol): My name is Hon. (Dr.) William Oduol, the Deputy Governor of Siaya County. I have listened to the proceedings the entire afternoon.

At this point, I wish to ask my counsel to come and give our closing remarks. With humility, allow me to introduce the counsel, Mr. Moses Chelang'a, to make our final submissions. I also have Mr. Patrick Baraza. Both are counsel. Mr. Paul Nyamodi, who was with the Committee the other day, is unable to join us today, but he is ably represented. I request my counsel, Mr. Chelang'a, to give our final submission.

Thank you.

The Counsel for the Deputy Governor (Mr. Chelang'a): Thank you, Mr. Speaker, Sir. My name is Moses Chelang'a, counsel for the Deputy Governor of Siaya County, Hon. (Dr.) William Oduol, CPA. I am told it is important to note those titles in Siaya County.

Mr. Speaker, Sir, a lot of heavy weather was made over a chair worth Kshs1.2 million. There was an allegation or a charge against the Deputy Governor on bulldozing bullying and arm-twisting procurement to ensure that chair was purchased for his benefit. That particular charge has been found by the Committee to be unsubstantiated. Therefore, that drama before the Committee led by the able Senator for Elgeyo Marakwet County, Hon. Sen. Kisang', was unnecessary.

The Committee found that the Deputy Governor was in no way involved in the procurement process. Therefore, he was acquitted, in a manner of speaking, of that particular charge.

Mr. Speaker, Sir, I have listened keenly to the deliberations by the Members of this House about the relationship between the Governor and the Deputy Governor. During the Committee hearings the Deputy Governor said that they had a very good camaraderie, a good working relationship with his boss, Senior Counsel James Orengo, whom we hold in very high regard, especially for those of us who practice law. He made a very interesting remark that they used to put on matching suits. That is not the first time that we have heard such a comment. We have heard an interesting story of people putting on matching suits and it ends up into another quagmire.

Mr. Speaker, I would just want to make two remarks. One is that the charge made against the Deputy Governor of bullying and intimidation was unsubstantiated. But at the same time, the Committee found that this particular Deputy Governor interfered with procurement.

On one side of the mouth the Committee says that the Deputy Governor did not intimidate, bully or arm-twist anyone. Then on the other side, it says he interfered with procurement. How does that sit before this House? How is the integrity of that report because this is a House of record and we will read it? Our children will read it. It will be subjected to debate in this House and the House after. I would also want this full House to also consider that particular recommendation by the Committee.

It has been submitted also that this is a political process. Yes, it is. It is a legal and political process. I would like the Speaker and the House to revisit the HANSARD of 26th June 2020, that is the impeachment of the then Governor of Kirinyaga, who is now the Council of Governors Chairperson, Ann Waiguru.

Profound submissions that were made by our senior colleague, which incidentally is not a subject of these proceedings, but I am just quoting it, is that hon. James Orengo, Senior Counsel and the then Senator of Siaya County made remarks and made a reference to the Bible, the story of Herod and Herodias. He said that there was this beautiful girl who danced for the king and the king said: "I can grant you anything you want".

He then went to the mother called Herodias and she said: "I want the head of John the Baptist." Since the king had made that promise, the head had to be delivered; and that is how John the Baptist was beheaded. My senior colleague made humble submissions and said: "We know who wants the head of Ann Waiguru."

This House should make that profound vision. I submit we know who wants the head of William Oduol on a platter. So, in this case, I make and I submit that this House should vote in the negative for the impeachment of Deputy Governor, hon. William Oduol because politics happen.

Harry Truman once said that in Washington politics, if you want a friend, get a dog. So, there is no friendship. However, we should not sacrifice our Constitution for political expediency such that since the boss does not want his deputy, then we can throw him under the gallows.

The law is very clear. Submissions have been made before the Committee in this House and even in the Supreme Court in the case of Mike Mbuvi Sonko, the most recent case in the Supreme Court. They set out the threshold of impeachment; gross violation. Not every violation is gross. I am sure the Speaker and the Members will consider that.

Finally, on the issue of the role of governor and the deputy governor, which Members have ably made submissions about, that this role needs to be reviewed by you as hon. Members of this House because it is your role to defend devolution.

Under Article 179, no one knows what the role of the deputy governor is. It says he is the Deputy Chief Executive Officer. Article 33(2) says: “He will do any other role that he may be assigned by the governor”.

On this particular matter, there was a letter that the Governor wrote to the Chief Officer of Finance instructing him to, from time to time, be briefing the deputy governor on issues within that particular department. In discharge of that particular responsibility, the deputy governor would from time to time, ask for briefings, make suggestions, ask for updates from the department of finance, which includes procurement. How is that interference?

Mr. Speaker, Sir, we should also ask the Governor, did he write an illegal letter; that he instructed his deputy governor to interfere with procurement and to interfere with finance docket? Then this impeachment should be a joint impeachment of the Governor and the Deputy Governor. That is why, as a House, I implore you to have a policy decision on the way forward.

I told the Committee about a political joke in the USA. It is a joke in a political circle that says: “What is the role of a deputy governor? He wakes up in the morning, reads the newspaper, checks if the governor is alive or dead. If he is not dead, then goes back to sleep; because that is his role”. So at least going forward, on behalf of all the deputy governors, we would also ask that this becomes a policy decision.

Finally, Sen. (Dr.) Oburu made a very profound sentiment that he tried to intervene. I think also when we stop talking, we start fighting. As a country going forward, I think it is important also for this House to provide a way of mediating political disputes instead of going to impeachment. I am very much aware that when there is a dispute between this House and the National Assembly, there is always a mediation committee.

Maybe as a way forward, as a policy reform, I would recommend that there would be an alternative dispute resolution other than drawing swords on each other. With that, I yield to my colleague, Mr. Baraza, to make one comment on this and then we will close our submission to allow you to retire and make a vote.

Thank you, Mr. Speaker, for your time.

The Counsel for the Deputy Governor (Mr. Patrick Baraza): Mr. Speaker, Sir, and the Senators in the House, I will address two issues.

One is the issue of whether the threshold for removal of the Deputy Governor has been met. Then I will make a comment on one of the charges that has been found to be substantiated.

On my first issue, whereas the impeachment process is a political process, it is also a process that is duly guided by the Constitution. The grounds for impeachment are clearly provided under Article 181 of the Constitution. If you read carefully the provisions of Article 181, there is a specific term that has been used; “gross” violation of the Constitution or any other law and “gross” misconduct.

Even as you retire to vote on that report, we would like the Senate to put that in mind. Were the charges that were brought before you against the Deputy Governor,

gross? That is the one thing that we want the Senate to put in mind even as it votes towards that report.

I would also like to comment on the first charge that has been substantiated; the charge of interference with the procurement process. You will note that when the Motion for Impeachment was drafted, the particular section under which the Deputy Governor was charged with is Section 47(1) of the Public Procurement and Disposal Act. However, if you look at the report, the provision under which that charge has been found to be substantiated is Section 67(3) of the Public Procurement Act. I will refer the Senators to page 40 and also you can look at the comparison.

So, the question is; is it fair to charge somebody under this particular provision of the law and then you find him guilty or substantiate the charge under a different particular provision of the law? We urge that the Senate votes on this Motion and we hope that you are going to exonerate the Deputy Governor.

That is all, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Hon. Senators, having heard the Deputy Governor, we shall now proceed to Division.

However, pursuant to Standing Order 84(2) I have to make a determination, which I hereby do. That this matter affects counties and, therefore, voting shall be by delegates.

Serjeant-at-Arms kindly ring the Division Bell for five minutes.

(The Division bell was rung)

Hon. Senators, kindly take your seats.

(Loud consultations)

Sen. (Dr.) Khalwale and Sen. Seki, kindly take your seats. Serjeant-at-Arms, proceed to close the Doors and draw the Bar.

(The Doors were closed and the Bar drawn)

Hon. Members, I will now proceed to put the question.

(Sen. (Prof.) Tom Odhiambo Ojienda stood in his place)

Sen. (Prof.) Tom Odhiambo Ojienda, you are out of order. Take your seat.

(Sen. (Prof.) Tom Odhiambo Ojienda sat at his place)

Hon. Members, this is a Hybrid Session. Therefore, voting will also be hybrid. For those Members who are present in the Chamber, we will proceed to vote electronically. Those who are online will also have a chance to vote. Before we proceed with the voting, hon. Members, kindly remove cards or log out.

Serjeant-at-Arms, kindly take all the cards remaining in the delegate units after the Senators have pulled out theirs. Serjeant-at-Arms, we are waiting for your

confirmation that, indeed, the remaining cards have been removed from the delegate units. Are we done?

Hon. Members, kindly proceed to log back into the delegate unit. Sen. Omogeni, Sen. Okiya Omtatah and Sen. Betty Montet, kindly proceed to take your seat.

Hon. Members, do I have your confirmation that you have logged back? Proceed to vote by either pressing yes, no or abstain. We are going to vote per charge. I will read the first charge, you proceed to vote and the results will be recorded. After that, we proceed to Charge No.2.

I proceed to read Charge No.1; Gross violation of the Constitution and Other Laws. Proceed to vote on that charge.

(Voting in progress)

Sen. Cherarkey, the session is still on.

Hon. Members, can I have your silence. There are three Senators who are appearing online. So, I need your silence as I call out the names so that they can proceed to vote online.

Sen. Olekina, proceed to vote.. Senators, can I have your silence.

Sen. Olekina: Mr. Speaker, Sir, I vote "Yes".

The Speaker (Hon. Kingi): Sen. Kathuri, proceed to vote.

(Sen. Kathuri was inaudible as he voted online)

Clerk, can you please look at the system, we cannot hear the Deputy Speaker. If we cannot hear him, can you let him write on a sheet of paper so that he can show it on the screen. We are not lip-readers here. We will move to Sen. Mungatana then back to Sen. Kathuri. Sen. Mungatana, proceed and vote.

Sen. Mungatana, MGH: Mr. Speaker, Sir, greetings from Sierra Leone. I vote "No".

The Speaker (Hon. Kingi): Let us now go back to Sen. Kathuri. Clerk, has the system been fixed?

Sen. Kathuri, please proceed to vote. Can we have silence so that we communicate with Sen. Kathuri wherever he is.

Sen. Kathuri, we cannot hear you, but I believe you can hear the Chair. Kindly proceed to take a blank sheet of paper---

Sen. Kathuri: Yes, I can hear you.

The Speaker (Hon. Kingi): Wonderful, now we can hear you. Please proceed to vote.

Sen. Kathuri: Mr. Speaker, Sir, I vote "No".

The Speaker (Hon. Kingi): Sen. Gataya Mo Fire, proceed to vote. Sen. Cherarkey, you understand the Standing Orders and what they provide when you are in the Chamber. Kindly uphold the Standing Orders.

(Loud consultations)

The Speaker (Hon. Kingi): Hon. Senators, the Standing Orders have not been suspended. This Session is live and the Standing Orders remain in force.
Sen. Cheptumo, you can share those pictures later.

DIVISION

ELECTRONIC VOTING

(Question that Pursuant to Section 33(6)(b) of the County Governments Act and Standing Order 80(4) (b), the Senate Resolves to Impeach Hon. William Oduol, the Deputy Governor of Siaya County for Gross Violation of the Constitution and other laws in respect of interference with the procurement process through acts of bid rigging, put and the Senate proceeded to vote by County Delegations.)

AYES: Sen. Boy, Kwale County; Sen. Faki, Mombasa County; Sen. Kavindu Muthama, Machakos County; Sen. M. Kajwang', Homa Bay County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Mwaruma, Taita Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Oketch Gicheru, Migori County; Sen. Okiya Omtatah, Busia County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Onyonka, Kisii County; Sen. Osotsi, Vihiga County; Sen. Sifuna, Nairobi County; Sen. Wambua, Kitui County.

NOES: Sen. Ali Roba, Mandera County; Sen. Cheptumo, Baringo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chesang', Trans Nzoia County; Sen. Chute, Marsabit County; Sen. Dullo, Isiolo County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Joe Nyutu, Murang'a County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. Kisang, Elgeyo Marakwet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Mungatana, MGH, Tana River County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Murgor, West Pokot County; Sen. Seki, Kajiado County; Sen. Thang'wa, Kiambu County; Sen. (Prof.) Tom Ojienda, SC, Kisumu County; Sen. Wafula, Bungoma County; Sen. Wakili Sigei, Bomet County and Sen. Wamatinga, Nyeri County.

ABSTENTIONS: Nil.

The Speaker (Hon. Kingi): Hon. Senators, these are the results of the Division on Charge No.1.

AYES: 16

NOES: 27

ABSTENTIONS: 0

The "Noes" have it!

(The Question was negatived by 27 votes to 16)

(Applause)

The Speaker (Hon. Kingi): Hon. Senators, we proceed on a division on the Second Charge. Abuse of office and gross misconduct. Hon. Senators kindly log in. Proceed to press “Yes”, “No” or abstain.

(Electronic voting in progress)

(Sen. Chimera, Sen. Methu and Sen. Cherarkey consulted loudly)

The Speaker (Hon. Kingi): Sen. Methu, Sen. Chimera and Sen. Cherarkey, you are becoming notorious. Hon. Members, can I have your silence to allow the three Senators online to make their voice heard on this division. Sen. Olekina, proceed to vote.

Sen. Olekina: Mr. Speaker, Sir, I vote ‘Yes’.

The Speaker (Hon. Kingi): Sen. Kathuri, proceed to vote.

Sen. Kathuri: Mr. Speaker, Sir, I vote ‘No’.

The Speaker (Hon. Kingi): Sen. Mungatana, MGH, kindly proceed to vote.

Sen. Mungatana, MGH: Mr. Speaker, Sir, I vote ‘No’.

DIVISION

ELECTRONIC VOTING

(Question, that Pursuant to Section 33(6)(b) of the County Governments Act and Standing Order 80(4) (b), the Senate Resolves to Impeach Hon. William Oduol, the Deputy Governor of Siaya County for Abuse of Office and Gross Misconduct in respect of Allegation 4, misleading the public by giving false information, put and the Senate proceeded to vote by County Delegations.)

AYES: Sen. Boy, Kwale County; Sen. Faki, Mombasa County; Sen. Kavindu Muthama, Machakos County; Sen. M. Kajwang’, Homa Bay County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Mwaruma, Taita Taveta County; Sen. (Dr.) Oburu, Siaya County; Sen. Oketch Gicheru, Migori County; Sen. Okiya Omtatah, Busia County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Onyonka, Kisii County; Sen. Osotsi, Vihiga County; Sen. Sifuna, Nairobi County; Sen. Wambua, Kitui County.

NOES: Sen. Ali Roba, Mandera County; Sen. Cheptumo, Baringo County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chesang’, Trans Nzoia County; Sen. Chute, Marsabit County; Sen. Dullo, Isiolo County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Joe Nyutu, Murang’a County; Sen. Kathuri, Meru County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. Kisang, Elgeyo Marakwet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Mungatana, MGH, Tana River County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Murgor, West Pokot County; Sen. Seki, Kajiado County; Sen. Thang’wa, Kiambu County; Sen. (Prof.) Tom Ojienda, SC,

Kisumu County; Sen. Wafula, Bungoma County; Sen. Wakili Sigei, Bomet County and Sen. Wamatinga, Nyeri County.

ABSTENTIONS: Nil.

The Speaker (Hon. Kingi): Hon. Senators, on the Second Charge these are the results of the Division.

AYES: 16

NOES: 27

ABSTENTIONS: 0

The “Noes” have it!

(The Question was negated by 27 votes to 16)

Applause

The Speaker (Hon. Kingi): Serjeant-at-Arms, you may proceed to open the doors and draw the bars.

(The Bar was withdrawn and the doors opened)

Hon. Senators, the net effect of these votes is that pursuant to Article 181 of the Constitution, Section 33(8) of the County Government Act and Standing Order 87 of the Senate Standing Orders, the Senate has failed to remove from office by impeachment, Hon. (Dr.) William Oduol, the Deputy Governor of Siaya County. Therefore, the Deputy Governor accordingly continues to hold office.

(Applause)

ADJOURNMENT

The Speaker (Hon. Kingi): Hon. Senators, there being no other business on the Order Paper, the Senate stands adjourned until tomorrow, Tuesday, 27th June, 2023 at 2.30 p.m.

The Senate rose at 6.47 p.m.