CONTRIBUTION SHE MADE: The public fundraising Bills

(Claude 1)

‘Thank you, Hon. Speaker for giving me the opportunity to participate in this Bill. I was seeking some information from my friend Hon. Nyokabi. At the outset, this is a good Bill because politicians have mainly been misused. The spirit of harambee has been diverted and everything is harambee today. I am bothered by who will implement this. During the last elections, the same law, though it was not very clear, said that harambes were not to be conducted eight months to the main elections. But you could still participate in the harambee. I ask, through the Departmental Committee on Justice and Legal Affairs, if this can also appear in the Election Offences Bill like Hon. Chris Wamalwa has suggested.’ Hon. Speaker, the Members are too loud. I cannot hear myself.

(Claude 2)

‘Thank you very much, Hon. Speaker. Even though this Bill concerns every other Kenyan, it mostly concerns us as politicians. It is high time that we guide the country as leaders in terms of framework. We need to put in place a law that will provide guidance so that people do not just wake up today or tomorrow and decide to hold a harambee and yet, there is no transparency or integrity and it is during election time. Today, people compete about who gives more during harambees and who attends the most harambees. It is so sad for us Members of Parliament representing counties because we have several constituencies to cater for. You can attend four harambees in one Sunday. By the fifth harambee, a master of ceremony (MC) says that so and so is not in this harambee which means that he or she does not need their seat. It is harassing, intimidating and we feel misused. You cannot be omnipresent and attend all the harambees. The
perception on the ground is that you should be able to attend all the harambees. With those few remarks, I support the Bill and urge Members to support it. We need a framework so that we can move this country in the right direction.’

(Clause 3)

Thank you, Hon. Speaker. I would be very hesitant in supporting this Bill in its current frame. I can see it is very futuristic because it looks at an ideal society where we have very few poor people, an effective Government which is properly structured and functional and in that futurist society there will be no need for fundraisers. But, because we come from communities that are largely poor, most of them rely on fundraising. Unfortunately, we have very many unscrupulous people who have used this process of fundraising to con the public and especially leaders through fundraisings. There is no way any leader in Kenya can distance them from fundraising. As we speak, I can give you the average deaths in Mbita Constituency per weekend as a minimum of 15, totaling to about 60 people per month. There is no fund, NGCDF or otherwise that helps the public deal with the deaths. I have been in a situation where I was utterly shocked because there are times the public used to tell me, “Mhe. This is a very pathetic case.” I did not understand because some of us when we have Kshs.3,000 we burn it over a drink and do not think much of it. Most of those people cannot afford money for a coffin, or a dress for the dead to be given a decent burial. There is one case that remains completely etched in my memory. As I was campaigning I was told there was somebody who had died up the hill. We climbed up there and she had been in her house for two days because there was no transport to take her to a morgue, there is anything. To-date when I think about it, it was a very pathetic case. When dealing with that case, that is why I want to disabuse Hon. Mutambu when he says that in my community, we put fish and remove water. The fishing communities are some of the poorest communities in this country especially because of dwindling stocks of fish and the changing policies on fisheries in Kenya. Aqua culture has moved to other parts of the country whereas our areas have been left to rely on nature. Nature is not very friendly. Indeed in the morning, I was cracking a joke on my face book page and said that “The Jubilee Government is utterly corrupt, they have even corrupted the weather, and today in Nairobi, the weather is completely cold.” It was on a light note but that is the reality we are living in. We have very pathetic situations with extremely poor people and within that context you cannot have a structured fundraiser where you
have a national and county office. I would have to add another role to my legislative role which is to seek permission from a national office for Mbita people every week. I have told you in Mbita I have 60 people dying per month and I am not exaggerating. Half of my salary goes to funerals. I am sure the Member who represents the county of Homa Bay, Hon. Gladys will tell you the same. We have a very high mortality rate. I am just talking about funerals; it is not realistic what we are providing here. On the other hand, we are also faced with another challenge, sometimes I am called for 15 fundraisings in one weekend and the next weekend I have one or two. As an MP, I would really love it if we had a more structured way of assisting communities with fundraisings but not in the framework within which it is provided. If you also look at Clause 20, it excludes MPs, MCAs and governors, but leaves the President and Deputy President, other officers and our own opponents who will be going around fundraising while you sit and watch. We did not come to watch buildings in Nairobi. We are politicians; my opponent will not be fundraising in Mbita while I pray like the Hon. Member has told us ‘God be merciful’. I am a Christian of both SDA and Pentecostal extract. In both I am told to be very humble in giving. But, since I got into politics, I have learnt to put humility while fundraising because if I am humble God will be merciful to me but the public will not be equally as merciful as God. They will send me back home. I must fundraise and say how much I have fundraised and given, if you are in the business of politics that is the reality in Kenya. We must say what we have given. If you are not saying it your opponent will be busy saying and the rest will say Mhe. is not helping us while others are helping us. We cannot pretend we are in competition while leaving others going ahead for us. We understand the challenges the Senators are going through. The counties are extremely large and I really sympathize and empathize with them. If I can feel it as an MP who has a smaller geographical area, I know how much more they must be feeling with a wider geographical area. This is not the way to go about it. What they need to do is to persuade us. We have allowed them through this Parliament to have a little money to do some work. If that is not sufficient, they need to plead for more. We cannot have a situation where we shot ourselves in the foot. I personally will not support it in its frame but I would wish to support it with absolute amendments providing a simpler structured way at the village level and constituency level at the highest. There is no reason of putting a fundraising committee at the county level. It should stop at the constituency level and should be less formal. If you are fundraising for money, why put a committee which you are going to pay? We need that money
for fundraising. If the Government has so much money, it should put it in cash transfers. This weekend I was in Mbita Constituency and the old men from Usawo to Ngodhe and everywhere in Mbita were asking me where the cash transfer of that area is. Give that money you want to pay this committee to elderly people, orphans and vulnerable children and to bursaries. We cannot put administrative structures to add money to people who are able while we leave poorer people. I will only support the Bill with amendments. Without amendments, I cannot support it.

DATE: 1st September

MEMBER OF PARLIAMENT: Hon. Ms. Odhiambo Mabona

CONTRIBUTION SHE MADE: The Public Fundraising Bills

‘Thank you, Hon. Speaker. I would be very hesitant in supporting this Bill in its current frame. I can see it is very futuristic because it looks at an ideal society where we have very few poor people, an effective Government which is properly structured and functional and in that futurist society there will be no need for fundraisers. But, because we come from communities that are largely poor, most of them rely on fundraising. Unfortunately, we have very many unscrupulous people who have used this process of fundraising to con the public and especially leaders through fundraisings. There is no way any leader in Kenya can distance them from fundraising. As we speak, I can give you the average deaths in Mbita Constituency per weekend as a minimum of 15, totaling to about 60 people per month. There is no fund, NGCDF or otherwise that helps the public deal with the deaths. I have been in a situation where I was utterly shocked because there are times the public used to tell me, “Mhe. This is a very pathetic case.” I did not understand because some of us when we have Kshs.3, 000 we burn it over a drink and do not think much of it. Most of those people cannot afford money for a coffin, or a dress for the dead to be given a decent burial. There is one case that remains completely etched in my memory. As I was campaigning I was told there was somebody who had died up the hill. We climbed up there and she had been in her house for two days because there was no transport to take her to a morgue, there is anything. To-date when I think about it, it was a very pathetic case. When dealing with that case, that is why I want to disabuse Hon. Mutambu when he says that in my community, we put fish and remove water. The fishing communities are some of the poorest communities in this country especially because of dwindling stocks of fish and the changing
policies on fisheries in Kenya. Aqua culture has moved to other parts of the country whereas our areas have been left to rely on nature. Nature is not very friendly. Indeed in the morning, I was cracking a joke on my face book page and said that “The Jubilee Government is utterly corrupt, they have even corrupted the weather, and today in Nairobi, the weather is completely cold.” It was on a light note but that is the reality we are living in. We have very pathetic situations with extremely poor people and within that context you cannot have a structured fundraiser where you have a national and county office. I would have to add another role to my legislative role which is to seek permission from a national office for Mbita people every week. I have told you in Mbita I have 60 people dying per month and I am not exaggerating. Half of my salary goes to funerals. I am sure the Member who represents the county of Homa Bay, Hon. Gladys will tell you the same. We have a very high mortality rate. I am just talking about funerals; it is not realistic what we are providing here. On the other hand, we are also faced with another challenge, sometimes I am called for 15 fundraisings in one weekend and the next weekend I have one or two. As an MP, I would really love it if we had a more structured way of assisting communities with fundraisings but not in the framework within which it is provided. If you also look at Clause 20, it excludes MPs, MCAs and governors, but leaves the President and Deputy President, other officers and our own opponents who will be going around fundraising while you sit and watch. We did not come to watch buildings in Nairobi. We are politicians; my opponent will not be fundraising in Mbita while I pray like the Hon. Member has told us ‘God be merciful’. I am a Christian of both SDA and Pentecostal extract. In both I am told to be very humble in giving. But, since I got into politics, I have learnt to put humility while fundraising because if I am humble God will be merciful to me but the public will not be equally as merciful as God. They will send me back home. I must fundraise and say how much I have fundraised and given, if you are in the business of politics that is the reality in Kenya. We must say what we have given. If you are not saying it your opponent will be busy saying and the rest will say Mhe. Is not helping us while others are helping us. We cannot pretend we are in competition while leaving others going ahead for us. We understand the challenges the Senators are going through. The counties are extremely large and I really sympathize and empathize with them. If I can feel it as an MP who has a smaller geographical area, I know how much more they must be feeling with a wider geographical area. This is not the way to go about it. What they need to do is to persuade us. We have allowed them through this Parliament to have a little money to do some work. If that
is not sufficient, they need to plead for more. We cannot have a situation where we shot ourselves in the foot. I personally will not support it in its frame but I would wish to support it with absolute amendments providing a simpler structured way at the village level and constituency level at the highest. There is no reason of putting a fundraising committee at the county level. It should stop at the constituency level and should be less formal. If you are fundraising for money, why put a committee which you are going to pay? We need that money for fundraising. If the Government has so much money, it should put it in cash transfers. This weekend I was in Mbita Constituency and the old men from Usawo to Ngodhe and everywhere in Mbita were asking me where the cash transfer of that area is. Give that money you want to pay this committee to elderly people, orphans and vulnerable children and to bursaries. We cannot put administrative structures to add money to people who are able while we leave poorer people. I will only support the Bill with amendments. Without amendments, I cannot support it.’

(Clause 5)

‘Hon. Temporary Deputy Chairman, yesterday I indicated that in Parliament we play both legislative and political roles. Exercising my political role this afternoon, I withdraw all amendments to this Bill.’

(Clause 16)

Thank you, Hon. Temporary Deputy Chairman. You notice my proposed amendment was to insert the word “lake” which was erroneously omitted. Even in the previous clause it was something demeaning women. I get that a lot in the constituency. I will push these amendments later but for now I withdraw them.’

DATE: 1st September

MEMBER OF PARLIAMENT: Hon. Ms. Odhiambo Mabonna

CONTRIBUTION SHE MADE: the Election offences Bill

(Clause 24)

Again, I had proposed some amendment that would encourage internal party discipline but in the spirit of collective agreement I withdraw it.
‘Thank you, Hon. Temporary Deputy Chairman. You notice my proposed amendment was to insert the word “lake” which was erroneously omitted. Even in the previous clause it was something demeaning women. I get that a lot in the constituency. I will push these amendments later but for now I withdraw them.’

Thank you, Hon. Temporary Deputy Chairman. Again, it is on the same vein. This amendment was speaking to party discipline. In the same spirit, I withdraw.

DATE: 1st September

MEMBERS OF PARLIAMENT: Hon. Ms.Fatima Ibrahim Ali

CONTRIBUTION SHE MADE: the Election laws Amendment Bill

‘Thank you, Hon. Temporary Deputy Chairlady. I support Hon. Chepkong’a’s amendment. Gender is a constitutional matter. We are overhauling the Independent Electoral and Boundaries Commission Bill and I support. This will be very unfair to the men and women of this country if we drop this amendment proposed by the Chairman of the Departmental Committee on Justice and Legal Affairs. Kenyans are watching us.’

DATE: 1st September

MEMBER OF PARLIAMENT: Hon. Ms. Wanjiku Muhia

CONTRIBUTION SHE MADE: The Election laws amendment Bill

‘Hon. Temporary Deputy Chairlady. I support Hon. Chepkong’a. I am surprised that Hon. Wanga wants us to be called maitu wa kaunti or mama county women representative. Those are street names yet, in the Constitution it is very clear. Hon. Members, someone can go to the court after elections and declare there were no votes for those who are coming as women representatives like me because there is no such word in the Constitution. Kindly let us put it the way it is in the Constitution.’
DATE: 7th September

MEMBER OF PARLIAMENT: Sen. Godliver Nanjira Omondi

CONTRIBUTION SHE MADE: Approval of the mediated versions of the land laws (Amendment) Bill and the community land bill.

‘Thank you, Mr. Speaker, Sir, for the opportunity. I want to oppose this Motion. I do not oppose the list of the Hon. Members here, but I am of the opinion that we use the plenary way so that we all get an opportunity to discuss the issues. If the allegations will be proven to be true, then I want to say that it is so unfortunate that this country is being taken to the dogs simply because---. ‘Mr. Speaker, Sir, I oppose and I support that we use the plenary way’

DATE: 8th September

MARKET OF PARLIAMENT: Sen. Beatrice Elachi

CONTRIBUTION SHE MADE: Considered ruling on the manner of Disposal of the proposed Removal from office, by impeachment of the governor of Nyeri County.

‘Mr. Speaker, Sir, I also thank you for the direction. Indeed, it will be an opportunity to understand a plenary process. As an institution we need to be very careful, so that we deal with the matter with decorum. After reading the allegations, the clerks should guide us through questioning. We should set rules that will confine us within what we received from the county assembly, so that we do not personalize issues and make the session a theatre. It should be serious business that will make people appreciate the Senate as a House that can deal with matters.’

DATE: 13th September

MEMBER OF PARLIAMENT: Sen. Ms. Martha Wangari

CONTRIBUTION SHE MADE: Introduction by the Nyeri County Executive Team

‘Mr. Speaker, Sir, I want to add my voice on these issues. First of all, we are a House of records and precedent. Having sat in one of such Committees, I would take a different view in terms of Sen. Wetangula’s presentations. In the programme; the presentation of the case of the county
assembly, (a) sets out clearly that it is the presentation of the case of the county assembly including presentation of witnesses, if any. I am not a lawyer but the way someone presents their witnesses is a personal issue. The Counsels for the county assembly have said clearly that they do not intend ---

‘Mr. Speaker, Sir, it is a methodology that can be adopted at a personal level by the prosecution. The Counsels for the county assembly have said clearly that they do not intend to actually lead the witness. In fact, they offered and volunteered that they would just want them to adopt. Personally, I think it is a methodology that anyone can adopt. If we tell them to lead the witness, then, we will be doing the prosecution for them. Let us go your way; we should not tell them to lead the witness. Let us go with what they have presented, but do the clarifications after we hear the side of the governor.’

DATE: 13th September

MEMBER OF PARLIAMENT: Sen. Janet Ong’era

CONTRIBUTION SHE MADE: Introduction by the Nyeri County Executive Team

‘Mr. Speaker, Sir, I have two questions. First, why was the Governor not given a right to be heard by the county assembly? Can you state whether this is a requirement in the county assembly’s standing orders. The question on qualifications of the county secretary has already been asked. Lastly, why have you not stated to us the actual procedure of how you went about in impeaching the Governor? If I heard right, there was a question of the right to be heard.’

DATE: 13th September

MEMBER OF PARLIAMENT: Sen. Joy Gwendo

CONTRIBUTION SHE MADE ON: Introduction by the Nyeri County Executive Team

‘Mr. Speaker, Sir, I have one question in regards to the employment done by the governor without observing the gender rule. Considering that the County Executive Committee (CEC) Members have served for a long time, what did you do when you realized that the governor did not observe the gender rule? Did you wait for this impeachment to come for you to bring the matter here?’
DATE: 13th September

MEMBER OF PARLIAMENT: Judith Achieng Sijeny

CONTRIBUTION SHE MADE: Introduction by the Nyeri County Executive Team

‘Thank you, Mr. Speaker, Sir. I only have one question to the county assembly. Were the people of Nyeri County given an opportunity to participate before this impeachment was done against their governor?’

‘Mr. Speaker, Sir, to participate in the decision to impeach the governor; whether they were given the chance to comment or participate.’

DATE: 14th September

MEMBER OF PARLIAMENT: Sen. Martha Wangari

CONTRIBUTION SHE MADE: Presentation of the case of the Governor

‘Thank you, Mr. Speaker, Sir. I also note that in our rules of procedure for this hearing; No.9, we have the leeway. “The Senate may at the request of a county assembly or the governor, invite or summon any person to appear and give evidence before the Senate.” My thinking from what Sen. Mutula Kilonzo Jnr. has raised is that some of these issues were raised at the opening statement. The basis of inviting, say, the Controller of Budget was raised by the counsel as they made their opening statement. I think this application is quite in order. Of course the issue of video clip, I would also support Sen. Mutula Kilonzo Jnr. that we first know exactly the content of the video clip is before the application is made.’

DATE: 14th September

MEMBER OF PARLIAMENT: Sen. Judith Achieng Sijeny

CONTRIBUTION SHE MADE: Promotion of the case of the Governor

‘Mr. Speaker, Sir, in fact, Junior has asked the very question I wanted to ask. I want to further ride on that question.’
‘Mr. Speaker, Sir, I am sorry. I meant the distinguished Senator from Makueni. That is the Duke of Makueni who is Sen. Mutula Kilonzo Jnr. Dr. Ouko, thank you for appearing here. The question I want to ask you is that there is a report of the Auditor-General that was presented here yesterday on the Financial Operations of Nyeri County. In that report is regard to Karson Photo House. We were given information that stated that Kshs10.8 million was paid for rent for this particular private premise that the County Government had hired and they spent Kshs29.1 million to renovate that premise. We noted that in that report, you only stated that prudence should be exercised in the use of financial resources. My question is; why did you not consider that the Governor should be surcharged for spending Kshs28.1 billion on a private property?’

‘Mr. Speaker, Sir, I think my colleagues have answered a few of the things I wanted to ask’

‘Yes, but just a quick clarification. You said you are aware there is some stalemate. When did you come to discover this? How many meetings have you had or is this going to be the first reconciliation meeting?’

DATE: 14th September

MEMBER OF PARLIAMENT: Sen. Joy Gwendo

CONTRIBUTION SHE MADE: Presentation of the case of the Governor

‘Thank you Mr. Speaker, Sir. My question is in regard to the Kshs70 million. The Controller of Budget said on the Kshs70 million, she had already talked to the CEC and it was in regard to the Integrated Financial Management Information System (IFMIS). Are you trying to insinuate that IFMIS is not a safe system for the counties because you blamed IFMIS for the discrepancy in the Kshs70 million?’

DATE: 14th September

MEMBER OF PARLIAMENT: Ms. Agnes Odhiambo

CONTRIBUTION SHE MADE: Presentation of the Case of the Governor

‘Thank you very much, Mr. Speaker, Sir. I will try to answer the questions. On the issue of spending of the Kshs70 million, the county assembly was right in pointing out that matter
because the county assembly relies on our figures. In my personal view, what should have happened as is normally the case when we appear before the National Assembly, the county assembly should have summoned the county executive in charge of finance to shed light on the issues raised in our report. If that had been done in February because the first quarter reports were released in January——

‘Mr. Speaker, Sir, to answer that question accurately, one is that I would have to call for all the documents or request the Auditor General. As I said, there is a distinction between the mandate of the Controller of Budget and that of the Auditor-General. It is the Auditor-General who interrogates the financial records to determine who has been paid what and whether there was proper procurement. If it is revenue, the Auditor-General will delve deeper into the details and tell us so much was collected by Nyeri County. It is very important that we truly distinguish the mandate of the Controller of Budget and that of the Auditor-General.’

‘Article 252 (1) (b) reads:- “Each Commission and each holder of an independent office has the powers necessary of conciliation, mediation and negotiation.” That is where we draw the powers of conciliation from. On the issue of whether I am aware of the stalemate, yes I am aware. This only came to light about two weeks ago. First, I read it in the newspapers and then met with the county assembly and the county executive. Therefore, it is a very recent matter. Under Article 252, I am attempting to try and bring the two parties together, because the people of Nyeri are suffering. They are not getting services. I am within my mandate to try and bring the two parties together, but if I am unable to, I will then refer them to the Senate and other agencies as well. I have covered issues on the Kshs70 million exhaustively. I will now move on to whether, as an office, we analyzed the report that was delivered to us. We have not done so in a lot of detail, because we concentrated on the issues that affected the mandate of the office, which are basically two and I have dealt with them. Therefore, we have not analyzed the report in a lot of details. In terms of whether we are aware of the variations in the budget, we are aware as I explained. There were variations between the budget submitted to the county assembly by the county executive and also the County Fiscal Strategy Paper. The variances are not many; they can be resolved. There was also variance between the approved budget by the county assembly and the budget submitted by the county executive. I am also aware that the 1 per cent variation is a matter under consideration by the Senate. Therefore, when I try to bring the two parties together, I will be
alive to the position of the Senate and advice accordingly. In terms of what takes precedence if a regulation is inconsistent with the law, I will not pronounce myself on this, because this is the sole mandate of the Attorney General. He is the person mandated to interpret the law. With your permission, I will skip that one. From my record I have addressed all the questions from the distinguished Senators.’

‘Mr. Speaker, Sir, thank you very much. We raised this matter and took it upon ourselves as is within our mandate to check if this matter was persisting or it has now been addressed. That is why we did not raise it in our second and third quarter reports. Now, with the new information that has been given to us by the County Executive and this only came to light last week, we have gone a step further. We want to engage with the technical team and just check how the IFMIS and internet banking communicate with each other. However, my office also uses IFMIS and the internet banking system and the two systems are quite efficient, in my view. One handles payments from procurement right through to payment. The internet banking system by Central Bank is a secure payment system. So, we are now comfortable that the payments are secure. You are performing the ---.’

DATE: 14th September

MEMBER OF PARLIAMENT: Sen. Janet Ong’era

CONTRIBUTION SHE MADE: Presentation of the case of the Governor

‘Mr. Deputy Speaker, Sir, thank you for giving me this opportunity so that I may also ask my questions. The first one is to the Governor and his lawyer. Why, of all the CEC members that you have, out of the 10 members, I can see nine men and one woman. This is in clear contravention of Article 29(8) of the Constitution. Second is on the rent. I had asked this question earlier in the morning but I will repeat. Why did the County Government do renovations on a private property amounting to Kshs29.1 million and go ahead and pay rent of Kshs10 million and why the County Government did not see it necessary to recoup the rent from what it had already expended on? Finally, just like Sen. (Prof.) Lesan asked, could you make clarifications? Why was valuation done one year after the lease had already been issued? The last question is in regard to a clarification on the actual amount paid to Karson Photo House. Was it Kshs14 million and some cents or Kshs29 million for the renovations?’
DATE: 14th September

MEMBER OF PARLIAMENT: Sen. Joy Gwendo

CONTRIBUTION SHE MADE: Presentation of the case of the Governor

‘Mr. Deputy Speaker, Sir, my question is with regard to gender compliance, just as Sen. Ong’era has spoken to. Earlier on, the Counsel to the Governor said that the Governor did not comply with the gender due to the failure on the same at the national level. Due to the fact that the gender balance had not been done, does that warrant the kind of imbalance that they have in the executive? Is it that they did not have any competent persons from the said gender that is not represented?’

DATE: 14th September

MEMBER OF PARLIAMENT: Sen. Beatrice Elachi

CONTRIBUTION SHE MADE: Presentation on the case of the Governor

‘Mr. Deputy Speaker, Sir, I would want both the Governor’s side and the County Assembly to clearly give clarity to the people to tell them because four months down the line you have not done your budget, you have not done your appropriation and we are now in September. When will this county start its work? How will you ensure all your workers, especially your health workers are not going to go on strike? Secondly, the Governor to explain to us what happened to the CEC of Finance who was from the Treasury and therefore definitely he was a competent person at that time. Was it issues of mismanagement? Can he explain to us and also to the Nyeri people to understand and indeed to look at the Public Service Act and realize that you are not supposed to be acting more than three months? So, what are you going to do with all your officers who are acting? If they go to court definitely, they will be heard and you will have to explain. Lastly, is on the issue of utilizing your local revenue at source. I know the Controller of Budget talked about this but it is something that we need clarity so that no one will blame the institution of Senate that indeed Kshs70 million was either in the budget of 2014/2015 and you had appropriated it to do something. That is why it was carried forward to come and deal with issues of 2015/2016 or indeed the money was used at source. You must help this Senate to
clarify that or else Kenyans will believe indeed Kshs70 million was misappropriated. Thank you.’

DATE: 14th September

MEMBER OF PARLIAMENT: Sen. Martha Wangari

CONTRIBUTION SHE MADE: Resolution to remove from the office by Impeachment the Governor of Nyeri County

‘Thank you, Mr. Speaker, Sir. I want to, first of all, congratulate the House for sitting through these proceedings. This is one in history. It is one that we are setting precedence and the first case that we have had in plenary. When we speak of devolution and audit devolution we expect that it should be able to transform lives. We have said this even in the previous impeachment Motions for other counties that this must be seen to be done. Are there issues in Nyeri? Definitely there are there. Is Nyeri County running smoothly the way it should be? Of course, not! These issues have been demonstrated not just here, they are even in the public domain, not just with this Motion, but even before. We have seen the issues in running of the County Assembly and the County Executive. These issues have actually been a contributor to where we are today. When the High court pronounced itself on the issue of Governor Wambora on the threshold of impeachment, one thing I read from that ruling was that the “gross” must actually vary from each case to case. It is not a universal measure in every county. When I look at these three charges, one I agree with the Counsel for the Governor. However, in their defense, they do not see Article 181 of the Constitution talk about failure to comply with the law. Personally, I feel Charge B does not even need to move beyond that point. Secondly, on the issue of natural justice and the rules of natural justice, I am not convinced why the county assembly did not admit the Counsel for the governor to be heard. The defense and reaction we got from the county assembly lawyers was that they did not get a written response from the governor. Since the governor had been accused, it was not really for him to write a letter. It was for him to either be present in person or represented by his Counsel. The same case should have happened here. Had the governor chosen not to come and sent his lawyers, we would still have listened. That said and done, this impeachment was void ab initio. It was faulty from the beginning. I am not convinced that it should warrant impeachment; the threshold has not been met. However, allow me to talk
about a few issues. One that is very close to my heart is the issue of gender balance. Although the governor talked about having one lady who was very ‘soft’, I want to confirm that Nyeri women have been known in the public domain to be very tough. (Laughter) We must see more women in the County Government of Nyeri. That is not a favor, but a requirement in the Constitution. It must be done and seen to be done. Having said that, I want to also comment on the premature bringing of this issue here. Some of these issues are actually being dealt with in the County Public Accounts and Investments Committee. I hope that when the Committee resumes its sittings, we can use the report of this impeachment to deal with some of the issues because they are actually listed and the case is still ongoing. With those remarks, I oppose the Motion.’

DATE: 14th September

MEMBER OF PARLIAMENT: Sen. Joy Gwendo

CONTRIBUTION SHE MADE: Resolution to remove from office by Impeachment the Governor of Nyeri County

‘Mr. Speaker, Sir, I wish to congratulate the Members of County Assembly of Nyeri for taking keen interest in changing the lives of the people of Nyeri. They brought this matter here to try and make things better in Nyeri. I also congratulate the Senators for the patience and having the psyche to try and solve the problem in Nyeri. Having said that, I would like to delve into the roles of the governor. He is given authority over the county government, as provided for in the Constitution. After looking at the bundles of information that was provided in front of us, it clearly proves that there is a problem in Nyeri that needs to be solved by the person given the authority to take care of Nyeri. The governor should play a key role in changing the lives of people in Nyeri. When devolution was introduced in Kenya, it was supposed change the life of women back in the villages in Nyeri. Yes, there is a problem, but the other problem is the governor’s attitude towards the problem. Is the governor bent on getting the solution? I heard the Counsel talk about finding a solution to the one thing I had a problem with; the gender issue in the county executive. Considering that the Counsel agreed that there is a problem in that sector, to me it is not gross violation. Yes, we need the other gender that is not represented to be in that executive. However, the kinds of issues that have been presented here do not go down as issues
that should let the governor to be impeached. The governor needs to have the attitude of sorting out the problem in Nyeri, since the county government is there to change the lives of people in Nyeri. If at all he will be saved by this Senate, let him first of all make peace with the Members of the County Assembly (MCAs). Truth be told, the bad blood will be there because they brought him here with a view that there is a problem in Nyeri. Since the governor has the authority to take care of the county, he needs to go down and sort out the problem in Nyeri. I beg to oppose the Motion.’

DATE: 14th September

MEMBER OF PARLIAMENT: Sen. Janet Ong’era

CONTRIBUTION SHE MADE: Resolution to remove from office by impeachment the governor of Nyerei County

‘Mr. Speaker, Sir, let me also make my contribution. Clearly, there have been violations that have been committed by Nyeri County Government. The first point that I consider a violation under the Constitution is Article 27(8) of the Constitution that is very clear. There was no promotion of gender equity. Indeed, from the evidence adduced, we saw that there is only one woman CEC member out of 10. Second is the issue of ad hoc sourcing of contracts without clear tendering procedures. This is a violation under Section 34 and 35 of the Public Procurement and Disposals Act. I come to the abuse of office and this is in the leasing of Karsons Photo House. We were told that renovations amounting to Kshs29 million were done and yet another Kshs10 million was paid as rent. We were further informed that Kshs41 million was spent on renovating the Governor’s offices. These three figures amount to about Kshs80 million which if there was real prudence, it would have constructed a new county office. It grieves me to see that the County Government spent Kshs29 million in renovating a house that did not belong to the County Government. It was private property. However, looking at all these violations under the Constitution, it takes us to the case of Chepkwony that this Senate eloquently looked at. Does this amount to gross violation as stipulated under the Constitution, Article 181? I think these are violations that can be dealt with clearly by our Committee on County Public Accounts and Investments (CPAIC). I hope that they will make a finding and surcharge the Governor the Kshs29 million spent on a property that does not belong to the County Government. Under the
Chepkwony case, it was clearly stated that the violation must have led to harm, loss or damage to the society and it must show a nexus between the violation and the Governor. Third, the violation must have led to a loss of dignity in the --- (The microphone went off)