

REPUBLIC OF KENYA
COUNTY ASSEMBLY OF MACHAKOS
OFFICIAL REPORT

Tuesday, 15th November, 2022

The House met at 3.30 p.m.

[The Speaker (Hon. (Mrs.) Kiusya) in the Chair]

PRAYERS

COMMUNICATION FROM THE CHAIR
VISITING DELEGATION FROM KAVIUNI
PRIMARY SCHOOL, KOLA WARD

Hon. Speaker: I am told that we have guests. We have a visiting school, Kiviuni Primary School from Kola/Muumandu ward. Mheshimiwa Maeke, where are you? Sorry Mheshimiwa Winzi *karibu sana*. The pupils of Kaviuni Primary School you are highly welcomed to this House together with your teachers. I understand there are four teachers and these are learners from grade three to grade eight. Is that so? We have four teachers and one parent.

The lead teachers are Mrs. Priscilla Mutisya and Mrs. Jennifer Peter. You are highly welcome here please enjoy your stay and I hope you will learn something from here. Our business here is to make laws and represent the people of Machakos. We have the Hon. Members here from all the forty wards and we are happy to have you this afternoon so feel welcomed. Mheshimiwa Winzi, proceed and make a comment.

Hon. Erick Musembi (Kola/Muumandu, PICK): Thank you, Madam Speaker. To the pupils of Kaviuni Primary School and the teachers and parent feel most welcome. Watch, learn and I will see you later. Thank you.

(Applause)

Hon. Speaker: Beautiful. Next order.

NOTICE OF MOTION
EQUIPPING MATUU LEVEL 4 HOSPITAL

Hon. Speaker: Hon. Ndawa Leader of Minority proceed and give the notice of motion.

Hon. Mbili Ndawa (Matuu, MCCC): Thank you, Madam Speaker.

Hon. Speaker, THAT aware that one of the objects of devolutions pursuant to Article 174(f) of the Constitution of Kenya, 2010 is “to promote social and

economic development and the provision of proximate, easily accessible services throughout Kenya;”

Aware that the Fourth Schedule of the same Constitution mandates County Governments with matters of County health facilities, promotion of primary health care and funeral parlours.

Hon. Speaker, cognizant of the fact that Matuu Level 4 Hospital serves the residents of lower Mwala, Yatta and Masinga Sub-Counties hence a large catchment area;

Aware that all the victims of accidents along Thika-Garissa highway and Kanyonyoo-Embu road are first attended to at Matuu Level 4 Hospital before they are referred elsewhere if there is need for such referral;

Further aware that the Hospital lacks key essential facilities like an ICU unit, CT scan machine, oxygen plant, casualty wing and mortuary to be able to efficiently attend to the population;

Hon. Speaker, I wish to give notice of motion THAT this House approves that the County Government of Machakos sets aside funds to equip Matuu level 4 Hospital with;

1. A modern ICU with 4 to 5 bed capacity;
2. CT scan Machine;
3. Installation of Oxygen Plant and piping be done to the ICU, Maternity, Pediatric Ward, medical wards and OPD;
4. Modern Casualty wing with 15 to 20 modern beds;
5. Completion of the mortuary.

Thank you, Madam Speaker.

Hon. Speaker: Thank you, Mheshimiwa Ndawa.

MOTION

APPROVAL OF RESOLUTION TO RECOMMEND REMOVAL FROM THE OFFICE OF SOME MEMBERS OF MACHAKOS COUNTY PUBLIC SERVICE BOARD

Hon. Speaker: May I invite the Leader of Majority Hon. Nicholas Nzioka and MCA Machakos Central to move the motion.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker.

Hon. Speaker, THAT aware that Article 10(2) of the Constitution of Kenya, 2010 provides for the National values and principles of governance being:

- a) Patriotism, national unity, sharing, devolution of power, the rule of law, democracy and participation of the people;
- b) Human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized;
- c) Good governance, integrity, transparency and accountability;
- d) Sustainable development.

Hon. Speaker, aware that Article 73 of the Constitution of Kenya stipulates that;

1) Authority assigned to a State officer—

(a) Is a public trust to be exercised in a manner that—

- (i) Is consistent with the purposes and objects of this Constitution;
 - (ii) Demonstrates respect for the people;
 - (iii) Brings honour to the nation and dignity to the office; and
 - (iv) Promotes public confidence in the integrity of the office.
- (b) Vests in the State officer the responsibility to serve the people, rather than the power to rule them.
- (2) The guiding principles of leadership and integrity include—
- (a) Selection on the basis of personal integrity, competence and suitability, or election in free and fair elections;
 - (b) Objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favoritism, other improper motives or corrupt practices;
 - (c) Selfless service based solely on the public interest, demonstrated by—
 - (i) Honesty in the execution of public duties; and
 - (ii) The declaration of any personal interest that may conflict with public duties;
 - (d) Accountability to the public for decisions and actions; and
 - (e) Discipline and commitment in service to the people.

Hon. Speaker, appreciating that Article 232 of the Constitution of Kenya, 2010 provides for the values and principles of public service as –

- a. High standards of professionalism ethics
- b. Efficient, effective and economic use of resources
- c. Responsive, prompt, effective, impartial and equitable provision of services
- d. Involvement of the people in the process of policy making
- e. Accountability for administrative acts
- f. Transparency and provisions to the public of timely, accurate information
- g. Subject to paragraphs (h) and (i), fair competition and merit as the basis of appointments and promotions
- h. Representation of Kenya's diverse communities
- i. Affording adequate and equal opportunities for appointment, training and advancement, at levels of the public service of-
 - i. Men and women
 - ii. The members of all ethnic groups and
 - iii. Persons with disabilities.

Hon. Speaker, aware that Article 235(1) of the Constitution of Kenya stipulates that a county government is responsible, within a framework of uniform norms and standards prescribed by an Act of Parliament, for—

- (a) Establishing and abolishing offices in its public service;
- (b) Appointing persons to hold or act in those offices, and confirming appointments; and
- (c) Exercising disciplinary control over and removing persons holding or acting in those offices.

Hon. Speaker, acknowledging that Section 55 of the County Governments Act, 2012, provides for the objectives of County Public service being;

- (a) Provide for evaluation and reporting on the extent to which the values and principles referred to in Articles 10 and 232 of the Constitution are complied with in the county public service;
- (b) Provide for the organization, staffing and functioning of the county public service in ways that ensure efficient, quality and productive services for the people of the county;
- (c) Provide for institutions, systems and mechanisms for human resource utilization and development in a manner that best enhances service delivery by county public service institutions;
- (d) Provide a framework of uniform norms and standards to be applied in all counties in respect of—
 - (i) Establishment and abolition of offices in the county public service;
 - (ii) Appointment of persons to hold or act in those offices;
 - (iii) Confirming appointments; or
 - (iv) Exercising disciplinary control over and removal of persons holding or acting in those offices
- (e) Provide for the promotion of the values and principles set out in Articles 10 and 232 of the Constitution in the county public service;
- (f) Provide for human resource management and career development practices; (g) address staff shortages and barriers to staff mobility between counties
- (h) Provide for standards to promote ethical conduct and professionalism in county public service;
- (i) Provide for the establishment of County Public Service Boards; and
- (j) Make further provisions relating to appeals in respect of county governments' public service.

Hon. Speaker, further aware that Section 57 of the County Governments Act, 2012 establishes the County Public Service Board;

Aware that Section 58(5) of the same Act states that:

The members of the Board may only be removed from office—

- (a) On grounds set out for the removal of members of a constitutional commission under Article 251(1) of the Constitution; and
- (b) By a vote of not less than seventy-five percent of all the members of the county assembly.

Hon. Speaker, acknowledging that Article 251(1) of the Constitution of Kenya, 2010 provides that;

- (1) A member of a commission (other than an ex officio member), or the holder of an independent office, may be removed from office only for—
 - (a) Serious violation of this Constitution or any other law, including a contravention of Chapter six;
 - (b) Gross misconduct, whether in the performance of the member's or office holder's functions or otherwise;
 - (c) Physical or mental incapacity to perform the functions of office;

- (d) Incompetence; or
- (e) Bankruptcy.

Hon. Speaker, cognizant that, Mr. George Kioko Luka, the Chairperson of the Machakos County Public Service Board has committed the offences:

- (a) That Mr. George Kioko Luka on 13th July, 2021 presided over the inclusion of four (4) officers into the payroll by purporting to reinstate them. The said people were never employees of the County Government of Machakos. This is gross misconduct in the performance of the Chairperson's functions.
- (b) That on 26th April, 2021 Mr. George Kioko Luka shared a list of his preferred officers for recruitment to all Board Members in anticipation of an advertisement that was due to run in the newspaper. The advertisement was run in May, 2021 and closed on 23rd May, 2021. The advertisement was of 21 positions, 20 medical officers and one general surgeon. After the closure of the exercise, he personally and deceitfully added four medical officers and one surgeon making a total of 26. This violates Article 73(2)(c)(i) of the Constitution on honesty in execution of public duties.
- (c) That Mr. George Kioko Luka has let the board operate without a substantive Accounting Officer and went into alliance with the Secretary who has usurped the powers of both the Chief Executive Officer of the Secretariat and the Accounting Officer to serve his interest at the expense of professionalism expected in the institution. This is a demonstration of incompetence on his part.
- (d) That Mr. George Kioko Luka has constituted an enterprise in the name of recruitment and selection that is normally used for illegal dealings and irregular recruitment. It is simply a criminal enterprise that no law provides for and a serious violation of the law.
- (e) That on 26th February, 2021 Mr. George Kioko Luka unprocedurally purported to allocate an official vehicle to the Vice Chairman, KBX 810T for the single purpose of facilitating the hiring of her son, Samson Sereka as a driver. Consequently, he was hired on a three-year contract at Job Group D. The Officer was not qualified for the Job. This violates Article 73(2)(a) of the Constitution on selection on the basis of personal integrity, competence and suitability.
- (f) The Chairperson facilitated the hiring of nine Officers among them son of the Vice Chairperson, Ms. Cecelia Mbinya Sereka being Boniface Mutunkei Sereka of ID 29961233 through abuse of delegated authority on 6th August, 2020. The Officers were employed on contract effective 4th January, 2021 to September, 2022. The son was employed at entry level of Job Group K without the necessary qualifications. On the 5th October, 2021, in a meeting convened and Chaired by the Vice Chairperson, the mother to Boniface Mutunkei, the terms of the nine officers were illegally changed to permanent and pensionable terms. This is without regard to the fact that the officers were all being employed in a constitutional office whose term was to end in August, 2022. This is abuse of office and violation of National Values and principles

of governance as provided for in Article 10 of the Constitution of Kenya, 2010.

- (g) The Chairperson has failed to address the County's huge wage bill which is currently at 55.4 per cent instead of 35 per cent according to regulation 25(1)(b) of the Public Finance Management (County Governments) Regulations, 2015. Instead he has been presiding over the payment of huge amounts of money in terms of illegal extraneous/ other allowances to his relatives among Regina Wakio Kioko and the Vice Chairperson's relatives as well as others working for different considerations. For instance most employees of the County Public Service Board are on extraneous allowances despite the fact that they report to work at 8.00 a.m. and leave at 5.00 p.m. A look at the list of thirteen among them his daughter, includes cleaners who are put on extraneous allowances for just what doing what they were employed to do. This is violation of National Values and principles of governance as provided for in Article 10 of the Constitution of Kenya, 2010.
- (h) That Mr. George Kioko Luka, being the Chairperson of the County Public Service Board, has never reported to the County Assembly through a report on the extent to which the values and principles referred to in Articles 10 and 232 are complied in the County Assembly. This is according to Section 59(1)(f) of the County Governments Act, 2012. This is violation of the Constitution.

Hon. Speaker, aware that, Mr. Onesmus Muia Mutisya, the Secretary of the Machakos County Public Service Board has committed the following offences-

- (a) That Mr. Onesmus Muia Mutisya, on 27th April, 2020 wrote to the Chief Officer, Department of Public Service and Quality Management to unlawfully occasion illegal payments of extraneous allowances to twenty four (24) officers working in the County Public Service Board including himself. This is a serious violation on Chapter six of the Constitution of Kenya.
- (b) That Mr. Onesmus Muia Mutisya illegally/unlawfully listed himself as a beneficiary of extraneous allowances of Ksh. 25,000 per month knowing well that Board Members are not entitled to the allowance and without knowledge of other Board Members. This contravenes Article 232(1)(a) and (b) on the values and principles of public services being high standards of professional ethics, efficient, effective and economic use of resources.
- (c) That Mr. Onesmus Muia Mutisya has listed one Mr. Joseph Wambua Deputy Secretary/CEO for extraneous allowances of Ksh. 25,000 knowing very well that such a position does not exist in the Board and therefore that would be a violation of law. This is misuse of public funds, violation of the Constitution and incompetence.
- (d) That Mr. Onesmus Muia Mutisya was involved in the awarding of extraneous allowances to thirteen (13) officers including the Daughter of the Board's Chairperson, Ms. Regina Wakio Kioko and dishonestly concealing the surname to hide identity. This is violation of Chapter six of the Constitution and misuse of public funds.

- (e) That Mr. Onesmus Muia Mutisya wrote the Chief Officer, Department of Public Service and Quality Management on the 13th July, 2020 to deceitfully purport to reinstate to the payroll four officers claiming that there was a court order to that effect but where none existed. The said officers had never been in the County's payroll and the same had been communicated by the CECM Public Service. This contravenes the provisions of Articles 10 and 232 of the Constitution of Kenya
- (f) That in the month of August, 2021, Mr. Onesmus Muia Mutisya was accused of sexual harassment/intimidation by two officers through letters to the County Secretary and the County Executive Committee Member for Public Service and Quality Management, which letters were copied to all Board Members through their individual emails together with evidence inform of electronic messages. The Officers were Hellen Musau and Caroline Nduku Nzioka. This contravenes the provisions of Articles 232(1)(a) and 236 of the Constitution of Kenya on the values and principles of public service. This is also gross misconduct.
- (g) That by a letter dated 12th May, 2021 Ms. Caroline Nduku Nzioka was promoted to the position of Human Resource Management Assistant 1 with effect from 1st January, 2021 but her letter held by Mr. Onesmus Muia Mutisya during which time he was demanding for sexual favors from her. When the same did not succeed and she reported the matter, he went ahead and purported to withdraw the same via letter dated 22nd September, 2021 without the due process. This is a serious violation of Article 236(b) of the Constitution of Kenya.
- (h) That Mr. Onesmus Muia Mutisya unprofessionally uses intimidation and incompetently handles official matters in a way that would jeopardize the operations of the Board. He threatens Members of the Board through advocates to sue when board members are on a different opinion on a matter under consideration. This shows clearly he is incompetent and abuses the Office of the Secretary, County Public Service Board.
- (i) That Mr. Onesmus Muia Mutisya being the Secretary of the County Public Service Board has never reported to the County Assembly through a report on the extent to which the values and principles referred to in Articles 10 and 232 are complied in the County Assembly. This is according to Section 59(1)(f) of the County Governments Act, 2012. This is violation of the Constitution.

Hon. Speaker, further aware that, Ms. Cecilia Mbinya Sereka, a member of the Machakos County Public Service Board has committed the following offences-

- (a) That Ms. Cecilia Mbinya Sereka did not declare conflict of interest during a sitting of 6th August, 2020. In the Recruitment and Selection Committee were her son, Mr. Boniface Mutunkei Sereka, was an applicant and was later

- recruited. This violates Article 73(2)(c)(ii) of the Constitution on declaration of personal interest that may conflict with public duties.
- (b) That on 5th October, 2021 Ms. Cecilia Mbinya Sereka convened a Committee meeting under career progression and the terms of employed of Mr. Boniface Mutunkei Sereka was changed from contract to permanent and pensionable. This also violates Article 73(2)(c)(ii) of the Constitution on declaration of personal interest that may conflict with public duties.
 - (c) That on 17th March, 2021 under minute No. 293/03/2021, the recruitment and selection Committee deliberated on the matter of appointment of a driver. This was based on misrepresentation that the Vice Chairperson was a person living with disability (PWD). The committee recommended a personal driver to serve with the official car allocated to her by the Chairman, KBX 810T. The deceitful act was made to benefit her and facilitate the hiring of yet another of her sons namely Samson Sereka on Job group D. This also violates Article 73(2)(c)(ii) of the Constitution on declaration of personal interest that may conflict with public duties.
 - (d) The above appointment was meant to benefit the Vice Chairperson through appointment of her son. The said son was not qualified for the position nor was recruitment competitively done for the benefit of the said officer. It is also worth noting that the members of the County Public Service Board have not been provided with official vehicles and therefore Motor Vehicle registration No. KBX 810T was simply towed to the premises to facilitate the appointment of son to the Vice Chairperson. This is serious violation of Article 10 and Chapter 6 of the Constitution of Kenya and gross misconduct
 - (e) That on 5th October, 2021 Ms. Cecilia Mbinya Sereka convened a meeting under career progression and gave extraneous allowances to a group of employees among them the daughter of the Chairperson of CPSB one Regina Wakio Kioko, Deputy Sub County Administrator under job group 'P' Ksh. 25,000 backdated to 1st July, 2021. This had been declined earlier in December, 2020. This violates Article 73(2)(b) of the Constitution on objectivity and impartiality in decision making.
 - (f) That Ms. Cecilia Mbinya Sereka being the Vice Chairperson of the County Public Service Board has never reported to the County Assembly through a report on the extent to which the values and principles referred to in Articles 10 and 232 are complied in the County Assembly. This is according to Section 59(1)(f) of the County Governments Act, 2012. This is violation of the Constitution.

Hon. Speaker, further aware that, Ms. Stella Ndinda Muthoka, a member of the Machakos County Public Service Board has committed the following offences-

- (a) That Ms. Stella Ndinda Muthoka was the Chairperson of the recruitment and selection committee which during a meeting of 26th February 2021 approved appointment of a driver for the Vice Chairperson, Ms. Cecilia Mbinya Sereka, one Samson Sereka on Job group D. The position had not been advertised. Samson Sereka is the son to Ms. Cecilia Mbinya Sereka hence

conflict of interest. This violates Article 73(2)(c)(ii) of the Constitution on declaration of personal interest that may conflict with public duties.

- (b) That on 17th March, 2021, chaired by Ms. Stella Ndinda Muthoka under minute no. 293/03/2021, the recruitment and selection Committee deliberated on the matter of appointment of a driver. This was based on misrepresentation that the Vice Chairperson was a person living with disability (PWD). The committee recommended a personal driver to serve with the official car allocated to her by the Chairman, KBX 810T. No certificate from the National Council of Persons living with disability was presented to warrant for appointment of a personal driver. This is a violation of Article 10, Chapter 6 and Article 232 of the Constitution.
- (c) That Ms. Stella Ndinda Muthoka has been involved in undertakings of the Machakos County Public Service Board were there was abuse of office, misappropriation of public funds through:
 - a. Approval of extraneous allowances for specific officers yet the officers working on normal office hours and perform the duties listed in their appointment letters.
 - b. Recruitment of officers without following the right criteria.
 - c. Promotion of Officers without following the provisions of the existing laws and circulars.
 - d. Appointment of Mr. Joseph Wambua as the Deputy Chief Executive Officer of the County Public Service Board yet such office does not exist in the Constitution and the County Governments Act. This is misuse of public funds, gross misconduct and violation of Chapter six of the Constitution.
 - e. Reinstating four officers claiming that there was a court order to that effect but none existed. The said officers had never been in the County's payroll and the CECM Public Service had communicated the same. This contravenes the provisions of Articles 10 and 232 of the Constitution of Kenya
 - f. Recruitment of five extra officers against an advertisement of 21 positions, twenty Medical Officers and one General Surgeon Kioko. The advertisement closed on 23rd May, 2021. After the closure of the exercise four medical officers and one surgeon were added to the list making a total of 26. This violates Article 73(2)(c)(i) of the Constitution on honesty in execution of public duties.
 - g. Has never reported to the County Assembly through a report on the extent to which the values and principles referred to in Articles 10 and 232 are complied in the County Assembly. This is violation of the Constitution.

Hon. Speaker, pursuant to Article 251(1) of the Constitution of Kenya, 2010 and Section 58(5) of the County Governments Act, 2012 I wish to give notice of motion that; this House resolves to recommend removal from office by the Governor of the following;

1. Mr. George Kioko Luka, Chairperson, Machakos County Public Service Board on the grounds of serious violation of the Constitution, gross misconduct and incompetence.

2. Mr. Onesmus Muia Mutisya, Secretary, Machakos County Public Service Board on the grounds of serious violation of the Constitution, gross misconduct and incompetence.
3. Ms. Cecilia Mbinya Sereka, Member, Machakos County Public Service Board on the grounds of serious violation of the Constitution and gross misconduct
4. Ms. Stella Ndinda Muthoka, Member, Machakos County Public Service Board on the grounds of serious violation of the Constitution and gross misconduct.

Thank you, Madam Speaker. Madam Speaker, what we have brought before the House is a serious matter of county importance and before I ask for a seconder, I wish to say that our CPSB is crippling operations of the County Government of Machakos. When we went for the lunch break, I was able to go to my private office in town; in fact, word on the streets is that, a staff member of the secretariat has been arrested by the police for soliciting for a bribe so that they can influence the employment of Chief Officers.

I think this Board from that perspective needs serious reconstitution. Madam Speaker, I will request my brother Hon. Brian Kisila to second me.

Hon. Speaker: Hon. Brian Kisila.

Hon. Brian Kisila (Makutano/Mwala, MCCC): Thank you, Madam Speaker. I stand the motion which the Majority Leader has placed in this Assembly and when he gave us a notice in the morning, I actually went into my archives and did some research on some work we did in the Second Assembly on the same Service Board. Madam Speaker, we did a report that was done by the Labour, Public Service and ICT Committee and the grounds which the Majority Leader is raising where the same grounds which were raised in the same report.

Madam Speaker, just to highlight a few issues if you allow me; there were serious allegations on this report of alleged sexual harassment by the Members of the Board, especially the Secretary to various employees of the County. There were also allegations made by members of the public against some members of the County Public Service Board. They were also looking at measures to be put in place to ensure equal treatment of the CPSB.

Madam Speaker, it came out very clear in this report and a lot of people underrate this Assembly, a lot of people think we do reports for the sake of it, but I want to assure everybody and warn people that what goes round comes around. This is the time now to bring real issues and ensure that the integrity of public officers is above board especially those we charge with the responsibility of employing and promoting people within the County Assembly.

Madam Speaker, I want to quote one example which came out in this report before I submit; there were irregularities in the appointment of county public service. Some members who had no qualifications were given higher job groups and higher salaries when they did not qualify. In this report, one Helen Mutheu Musau was employed as a Senior Human Resource Manager job Group 'L' earning a salary of Ksh. 61,910 when in essence, her qualifications was form four grade of 'C' Plain.

Ideally, this job should have attracted a minimum of a degree and if you look at the job group which this lady qualified was supposed to be earning Ksh. 19,010. If you compute the difference in the amount of money she was being paid, she was earning a difference of almost an

extra salary which she did not deserve of Ksh. 42,900. For the months she had worked, which is 84 months, she had earned irregular amount of money coming to Ksh. 3,603,000.

Madam Speaker, another lady, just summing up. Another lady by the name Caroline Nduku Nzioka, her qualification is D minus and she was employed as a clerical officer earning Ksh. 40,910 when with the qualification she had she should have been earning Ksh. 16,660. If you compute the difference in salary, that young lady was earning a differential in amount for 84 months of Ksh. 2 million.

Madam Speaker, yesterday, I was in the education committee and that committee is struggling to employ ECDE teachers and here is one person earning a differential of Ksh. 40,000 when we do not have money to pay for ECDE teachers. We do not even have money to pay for health workers. This is a gross violation of the constitution and the role which people have been placed to play. Madam Speaker, summing up, in the committee made several recommendations in the last Assembly and one of them was to halt any further recruitment from occurring while the Public Service Board produced evidence why they should not be impeached or why they should not be dissolved.

Madam Speaker, I submit that time has come that we do the right thing and whoever thinks that Chapter Six is just a joke will have it very rough with this Assembly. Madam Speaker, I second this motion with the strongest terms possible and urge Hon. Members to pass it so that we can get deeper into it and ensure that sanity returns in this Assembly and also we halt and bring down the escalating wage bill which is crippling this County and no money is left for development. To date if you get the numbers of our wage bill there is very little left for H.E the Governor to pursue development agenda. So Madam Speaker, I second.

Hon. Speaker: Thank you, Mheshimiwa Brian Kisila and I want to believe that the recommendations by that committee were implemented to an extent that---

Hon. Brian Kisila (Makutano/Mwala, MCCC): Madam Speaker, unfortunately the second Assembly's recommendations fell on deaf ears all the time. In fact, if we were to look at all the recommendations we did, most of them were not implemented. It is very unfortunate Madam Speaker. They assumed this Assembly and it is the high time we stamp our authority on the Executive.

Hon. Speaker: It is unfortunate that was never done because those letters and the people mentioned were not only supposed to be made accountable for that money or surcharged to pay back the money they had received illegally. It is a failure by the Second Assembly. Mheshimiwa Kavyu what do you want to say? I wanted to propose the question then we can debate. May I propose the question?

(Question proposed)

I now want to invite Members to debate the motion. Hon. Members, it is your floor.
Mheshimiwa Minority Leader.

Hon. Mbili Ndawa (Matuu, MCCC): Thank you, Madam Speaker. Madam Speaker, I start by saying that I support the motion and the reason why I am supporting the motion the issues raised here are pertinent and serious they should not be taken lightly. Hon. Speaker, by the

look of the contents of the motion we have two elements here. Hon. Speaker, we have a criminal element and we also have a civil element in this matter. Hon. Speaker, the issue of somebody requesting to be given consideration for something or for work that he or she is earning salary is criminal.

From the report Madam Speaker, we can see one CO, I do not want to mention the name, wants to be given something by an applicant who wants to be assisted at least to.....and that is very unfair, Hon. Speaker, and should not be allowed. I could have used a better word but because we have kids in the gallery, I will just spare the word but that is very unfair, Hon. Speaker.

The other issue is of somebody doing what they are not supposed to do. That matter lies under the law of tort and tort Hon. Speaker, you are a lawyer by profession, a tort is a civil wrong and is concerned about three things; defamation, trespass and negligence. Hon. Speaker, I will not talk about defamation and trespass but I will dwell on the issue of negligence. Hon. Speaker, in simple translation is either by omission or commission. You are assigned to do a certain task and you fail to do that task that is negligence. You are assigned to do a certain task and you do it wrongly that is negligence. We have seen here issues of negligence.

The Majority Leader here is requesting the House to resolve to remove these commissioners from office but I would urge we remove and charge them in a court of law for the wrong they are doing to our people.

(Applause)

If the body that is charged with employing and promoting our officers is the one that is behaving this way, Hon. Speaker, there is a lot of joke here and this one should not be allowed to continue anymore.

Hon. Speaker, the other thing I have seen some of the actions are what we call *ultra vires* action. We can see the commission, the Chairperson issuing and allowing things that should not be allowed. There is the issue of nepotism, you are given the opportunity to employ and instead of allowing those poor kids you are taking your own son, your own daughter; don't we have other ladies in this County who have kids who can be employed in this position?

We have seen from the report a commissioner here who is purported to be the Vice Chair and instead of employing a son of another poor lady or poor man, she is employing her own son. Hon. Speaker, when it comes to issue of employment, if you are to take part in that process and you have interest, the only and fair thing one has to do is to declare interest. Let it be minuted in the minutes of that proceeding that so and so or the person who is seeking to be employed here is my son.

So you cannot part in the deliberations if that is your son. You will influence other members; you are supposed to declare and move out of that meeting and leave other members and that particular person because of the fact of the mother being a commissioner may not be able to get that job because if the child is given that job it will appear that the mother has influenced. Hon. Speaker there is big joke here, this is a serious matter.

Right now we are getting information that part of the commission, I don't know whoever has been arrested is a member of the commission or is a proxy of the commission, the person has been bribed Ksh. 50,000 today and he was arrested together with the money; there was treated money and you know how the police handle issues. This is a serious proof that the motion

before us, meet the threshold set in Article 251 of the Constitution as read together with Section 58 of the County Governments Act.

All what is said there, the motion meets that criteria and Madam Speaker, I would request there is a verse in the Bible, I am neither a pastor nor do I wish to be one, but there is a verse in the Bible in the book of Proverbs; my brother here is an expert in that field. In book of Proverbs 18:17 which says the first person to speak in court seems to be right until the opponent is given an opportunity to give his side of the story. So, madam Speaker, according to this report, everything seems to be okay so what I am recommending is you to make a determination so as to not to open a loophole for somebody to say I was not given an opportunity to air my side of the story.

I am requesting that you order that we form an *ad hoc* committee that can summon these commissioners to give their side of story. Then from what Mheshimiwa Brian said here Hon. Speaker, when I was in school I came to learn that there is a difference between minutes and resolutions. Once you make resolutions, you implement; minutes and resolutions must be implemented but notes you can take notes and fail to do anything to that. Let us ensure that all the resolutions that we pass in this House are implemented to the letter.

Hon. Speaker, I do not want to dwell much on this, I just want to support the motion and say if this is what has been happening for all that period, our people of Machakos have suffered. Hon. Speaker, there is a team which went for an interview from our department of health, about 35 Clinical Officers and it is only one who managed to get promotion and it is only one who managed to be promoted and it is because he paid for another consideration; he parted with something.

All the other 34 failed and the reason given; you are in school and nobody in school and out of the 34 none was in school. So, Hon. Speaker, these CEO is the most notorious person in that commission and he should be dealt with accordingly and cacamoniously (??) Thank you Madam Speaker.

(Laughter)

Hon. Speaker: Thank you, Mheshimiwa and I want to report to you that we shall give everyone an opportunity to defend themselves. Fairness will be seen to be done; I want to distribute this fairly and I want to give some of our members who have not had an opportunity so frequently to say something. Hon. Mary, proceed.

Nominated Member (Hon. Mary Kituku, UDA): Thank you, Madam Speaker, for catching my eye. I am actually ashamed that in the century, women are still subjected to sexual harassment to get promotions in jobs. It is unfortunate; we have outgrown this and I want to applaud the House for catching this and I believe justice is going to be served to officers Hildah Musau and Caroline Nduku Nzioka. I would also want to applaud them in *absentia* for reporting this. It is not easy for women to go and say I am being sexually harassed to get a promotion because they risked going home and thank you once more to this House.

Hon. Speaker: Thank you. Mheshimiwa Kavyu then Mheshimiwa 001 you will wait until Mheshimiwa Kavyu says what he has to say.

Hon. Francis Kavyu (Kinanie, MCCC): Thank you, Madam Speaker, for the opportunity to contribute on this and welcome to the Assembly the school from Kavyuni; I think if my grandfather could have come from that place. The matters that have been raised before this House are serious allegations that have been raised on people who have been appointed to serve and spearhead the issues of human resource pertaining to this County and thank you Majority Leader for bringing this to light but Madam Speaker sometimes back in this same Assembly, a similar matter was brought, discussed and probably the board that was there was also send home. That never cured the problem that we have; the same allegations or grievances that are been raised today concerning the current Board---

Hon. Stephen Mwanthi (Ekalakala, WDM-K): Point of Information, Madam Speaker.

Hon. Speaker: Proceed.

Hon. Stephen Mwanthi (Ekalakala, WDM-K): Thank you, Madam Speaker. I just want to inform the Hon. Member that according to research and information that I have is that this County Assembly has never debated on impeachment of any member of County Public Service Board.

(Applause)

So the Board in place is just a board that was recruited after the expiry of the term of the first Service Board. Thank you, Madam Speaker.

Hon. Speaker: Mheshimiwa Kavyu, restrict yourself to the subject matter.

Hon. Francis Kavyu (Kinanie, MCCC): Thank you, Mheshimiwa Deputy Speaker for that. The issues that have been raised today in this House are serious issues and I would like to concur with the Members, who have spoken before me that if the allegations are proved to be true, then the law must take its cause but Madam Speaker, I would like to seek clarity on two issues.

Firstly, the complainant or the source of the report that has been tabled before this House and secondly, the County Public Service Board is a composition of six members so would like also to get details or reasons why only four are on trial yet a single person in that board cannot execute a mandate. One of the persons who has been omitted is one of the persons being alleged to have been nabbed by police officers trying to look for a bribe.

So, if it is a case of discussing the Machakos County Public Service Board, nothing can happen without approval of the board and if there are violations regarding recruitment or any activities of the board, then we should have the six members on trial because they were appointed sometimes back and there is nowhere on record that the two who are not on this list are recorded to have raised the issue.

Hon. Mbili Ndawa (Matuu, MCCC): Point of information.

Hon. Speaker: Proceed. Hon. Kavyu, have a seat briefly.

Hon. Mbili Ndawa (Matuu, MCCC): Thank you, Madam Speaker. I just want to inform the Hon. Member who is seated next to me that this County Public Service Board is a legal entity and in our constitution, you cannot disband a single entity. There is what we call rotational basis; even when you go to these public limited companies, you cannot send all the directors home. We need what we call continuity.

Our Constitution recognized different types of persons. We have the natural person like myself and yourself and we have artificial persons; the difference between the two is what we call in Latin *actio personalis moritur cum persona*.

(Laughter)

That means the rights of a natural person dies with the person and the rights of an artificial person do not die and do not disappear so we cannot say we remove all the board members and leave that legal entity without an office bearer. I think that was important and I had to inform you about that.

Hon. Speaker: Thank you for that information. Mheshimiwa Kavyu.

Hon. Francis Kavyu (Kinanie, MCCC): Thank you for that information Minority Leader but if whatever allegations have been said and if that person has been collecting bribes and is part of a t he board, then even if we need continuity, it would be wrong to retain such a person because it is going to perpetuate and all the allegations and Madam Speaker, I would seek clarity is---

Hon. Stephen Mwanthi (Ekalakala, WDM-K): Point of Order.

Hon. Speaker: Hon. DS.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Point of Order. Madam Speaker, I think if in my motion I mentioned four members because I had what I think is substantive evidence and I would think that id the Hon. Deputy Minority Leader wishes to include the other two members, he needs to move a substantive motion so that they can be discussed.

(Applause)

Thank you, Madam Speaker.

Hon. Speaker: Of course, there has to be evidence that you are bringing before the House that makes them culpable so it is not a matter of mentioning people and maybe hearing. I just need to advise. Maybe you have a story of somebody being arrested; we do not have tangible evidence before us for us to bring them on board and be part of the people we are now discussing. Proceed.

Hon. Francis Kavyu (Kinanie, MCCC): Thank you, Madam Speaker. It is good you have highlighted that it is not our mistake that we are asking this question. A report has been read for us and I do not think it is a crime for us to seek clarity so that when---

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Point of Order, Madam Speaker. Madam Speaker, I did not provide a report to this House. What I did is to move a motion.

(Applause)

Hon. Speaker: May be I could come in and say, Hon. Kavyu wanted clarification which I think is what is coming out from most of the Members; why so and so is there and why so and so is not there and I think you have adequately been answered. I suggest you move to the next point.

Hon. Francis Kavyu (Kinanie, MCCC): Madam Speaker, unless they allow me to finish because---

Hon. Speaker: I am allowing you to finish by telling you to conclude and go to the next point because the clarification you have been seeking has been made concerning why four and not six.

Hon. Francis Kavyu (Kinanie, MCCC): The other one I would like to seek is the source of the report.

Hon. Speaker: On the source, I would like to give you the answer. The source of this information that the Majority Leader brought to the Table is available. You can respond to that.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker. I think the Hon. Member is putting the cart before the horse. I would suggest that if this House approves the formation of the Select Committee---

Hon. Speaker: Is the source of information available?

Hon. Nicholas Nzioka (Machakos Central, WDM-K): I would think if the Hon. House approves the formation of the Select Committee, we shall have all that information to the committee.

Hon. Speaker: The answer I want from you is; is it available?

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Yes. It is available.

Hon. Speaker: You have answered him. Proceed.

Hon. Francis Kavyu (Kinanie, MCCC): Thank you, Madam Speaker. That is what we wanted because as a House we cannot debate on a report that is not substantiated and secondly---

Hon. Brian Kisila (Makutano/Mwala, MCCC): Point of information, Madam Speaker.

Hon. Francis Kavyu (Kinanie, MCCP): I think I have moved from that maybe you can allow me to move to---

Hon. Speaker: Have you moved from that?

Hon. Francis Kavyu (Kinanie, MCCP): Yes.

Hon. Speaker: Proceed.

Hon. Francis Kavyu (Kinanie, MCCP): Moving to the next thing is on the issue of the board not reporting to the Assembly, that is also something; if it is available and we can confirm with our offices here if that has been happening.

Lastly, I do not think it is a crime when you are a prominent or a senior person in this County; it is not a crime for your daughter or your son to be a worker in the County---

Hon. Speaker: It is the manner in which they were appointed.

Hon. Francis Kavyu (Kinanie, MCCP): Kindly allow me to finish, Madam Speaker. There is what I am trying to drive and if I---

Hon. Speaker: Okay.

Hon. Francis Kavyu (Kinanie, MCCP): If I can be allowed to finish; it is not a crime because these are sons and daughters of Machakos County so if there is insufficient evidence because the person of being irregularly employed by the board---

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Point of Order, Madam Speaker.

Hon. Speaker: Proceed.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): I think the Hon. Member---

Hon. Francis Kavyu (Kinanie, MCCP): What point of order are you rising on, majority Leader?

Hon. Stephen Mwanthi (Ekalakala, WDM-K): Point of Order, Madam Speaker.

Hon. Speaker: Hon. Kavyu, be seated.

Hon. Francis Kavyu (Kinanie, MCCP): Madam Speaker, he is rising on a point of order so he needs to confirm on what Standing Order.

Hon. Speaker: Which Standing Order?

Hon. Nicholas Nzioka (Machakos Central, WDM-K): I am rising because I am the mover of the motion and the Hon. Member is seated in the House.

Hon. Francis Kavyu (Kinanie, MCCC): He is rising on a point of order---

Hon. Speaker: Hon. Kavyu, I ask you to sit down. Sit please.

Hon. Francis Kavyu (Kinanie, MCCC): Thank you, Madam Speaker.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Madam Speaker, I am rising to say that the Hon. Members is trying to punch holes to the motion. He is either supposed to support or not support the motion and wait for you to put the question as to whether we are going to form the committee or not. It is not at this stage so what I was proposing as the mover of the motion is the formation of the committee and not putting out evidence here. Thank you, Madam Speaker.

Hon. Francis Kavyu (Kinanie, MCCC): Thank you, Madam Speaker.

Hon. Speaker: You are raising your hand on what point? Are you giving information or what? Proceed and restrict yourself please, you are either supporting or not supporting.

Hon. Francis Kavyu (Kinanie, MCCC): Madam Speaker, I think the previous contributors who have spoken on the floor where given time before they support or oppose the motion. First, I would like to say I oppose the motion and I would like to request this House as I sit; let us not allow ourselves to disintegrate to become a rubber stamp or a tool that will be used by Members who have their own interest to use the House to prosecute. I would recommend that if there are serious violations of the constitution, let us have a committee either on Labor or in your recommendations we can have an *ad hoc* committee that will check and Madam Speaker as I sit, there is also a task force that is investigating the same matter and we would also like your direction on the same. I oppose the motion. Thank you.

Hon. Speaker: What is before us Members is a motion to approve the motion then we proceed to have that committee you are talking about handle the matter. Then the people who have been mentioned here will be given an opportunity to defend themselves and say what they know. They are not prosecuting; this is not a House that is prosecuting the matter. We are purely approving the motion or disapproving it. If it goes to another level, then there is also machinery for it at that level.

Hon. Francis Kavyu (Kinanie, MCCC): Madam Speaker, I am guided but on the same I think we have a functional sectoral committee that would have looked into the matter---

Hon. Speaker: We are getting there Mheshimiwa. Katangi 001.

(Laughter)

Hon. Felix Ngui (Katangi, WDM-K): Thank you, Madam Speaker. As I contribute to this motion, I am shocked to hear the Hon. Member for Kinanie saying that he does not support the motion and yet he is number two in this impeachment motion in this House.

(Applause)

Madam Speaker, I would say that this motion is timely and it highlights matters of great concern to our public service. Madam Speaker, a lot of allegations have been cited here and as you guide this House, I would request that the committee that you are going to assign duties to look into the matters that are alleged in this report, they also look deeper into more details and maybe invite the public to give more information.

Madam Speaker, I know some of the members or the commissioners in the CPSB that is been alleged to have gross misconduct and violation of our constitution and touching on one of the members, I happen to have interacted with the so-called Vice Chairperson in this House and I want to recommend to the Committee that you are going to form to look into the academic qualifications of the Vice Chairperson because I want to believe that it is questionable and I know one of the requirements of a member of a Board is a Degree and I doubt some of the academic qualifications of the members.

Secondly, Madam Speaker---

Hon. Dominic Maitha (Muthwani, WDM-K): Point of information, Madam Speaker.

Hon. Speaker: Proceed.

Hon. Dominic Maitha (Muthwani, WDM-K): Thank you, Madam Speaker. I wish to inform Mheshimiwa Katangi that I happened to have gone to university together with Madam Cecilia who is mentioned here as the Vice Chair at Scott Christian University and she graduated in the year 2020. I can substantiate for your information. Thank you.

Hon. Speaker: Which year?

Hon. Felix Ngui (Katangi, WDM-K): Madam Speaker, I am guided although I was just requesting for more scrutiny.

(Laughter)

She was appointed in 2018 and she graduated in 2020 so at the point of appointment she had no Degree. That is a matter that needs more scrutiny.

Back to the matter again, the report touches on incompetence of the members mentioned and some of the members' capacity need to be checked very well. I am aware that the Chairman of the commission was one of the first class of Machakos County Council in 1970s who worked with the former President Kenyatta and Mulu Mutisya of the times. So, as per the Constitution Chapter Six on how the members of the commission should be removed from office; that is Article 251(1)(c), that is a matter that needs to be looked at.

Again, Madam Speaker, I am very hard-hit by the fact that some of the commissioners are being alleged to have been sexually harassing employees. Those are our sisters, daughters and our wives. I have information that the said officer who is the secretary of the board was also sacked from TSC years back for the same same allegations of sexual harassment. I want to

believe that this is a matter that needs to be looked into because in my view, his sexual appetite cannot be satisfied here in Machakos.

(Laughter)

So, Madam Speaker, as I finish, I find this commissioners to have committed economic crimes to the people of Machakos for allowing the wage bill of Machakos to 55.4 against 35 per cent that is permitted by the law. In one way or the other they have denied development to the people of Machakos because the development budget against the recurrent is overriding.

Finally, these people have also committed crimes because Madam Speaker, we have people who ought to have been employed in our service and they have not been able to do so because their selfish interests. As I finish, the fact that there is a law that permits the board to give reports to this County Assembly yearly and it has not been happening so that by itself is demeaning and disrespectful to this Hon. House and that alone guarantees for their removal. So, Madam Speaker, I support this motion to sail through. Thank you.

Hon. Speaker: Thank you. Mheshimiwa Vincent and Mheshimiwa from Muthwani after that.

Hon. Vincent Mutie (Upper Kaewa, WDM-K): Thank you, Madam Speaker. This motion that we are deliberating on today is a very important because it raises weighty matters in regard to the Public Service Board that has been given a very huge responsibility for our people especially in recruiting and also managing the public service of Machakos County. The allegations, because as they are of now Madam Speaker, they are allegations until when we get the substantive report confirming that they are things that really happened, these allegations are grave. As a matter of fact they are very grave to the extent that anybody who is accused of this kind of things need not wait to be removed from office, they should resign.

(Applause)

But since this is a House of procedure, we cannot say these people are guilty as charged. That is why it is important to come to the bottom of this matter and determine, for sure, these things happened and if they did the law should take its course. We have in this motion as highlighted by the Majority Leader about members who acted unilaterally disregarding the law, procedures and humanity.

It is interesting to see that someone will be promoted today and demoted tomorrow. It is also interesting to note that someone decided to become disabled so that he can open a chance for her son. This is shameful! In actual fact, this is a bad precedence that we are setting for our county. It is interesting also if when all of us in here were in school studying hard in order to acquire papers to help us get jobs some people had jobs already while they were still in school.

It is also important to note that when other people do not have salaries someone decided to allocate themselves an extra Ksh. 25,000 every month which they did not deserve. These allegations are grave and serious therefore we need, as a House, to know the truth behind these allegations. Madam Speaker, you will realize that if we do not act now then definitely this mess will continue. If we do not act now what will become of our girls and daughters if the people who are given the constitutional responsibility are taking advantage of our children. I am a father

of daughters and I would not want my children to face this kind of people in future when they are seeking jobs.

(Applause)

Therefore, I support this motion because by it we are going to establish the truth and we are going to restore order in our public service. I also invite the Speaker, to guide the House in this process because on one part because on one part and when we are raising some of these issues Madam Speaker, we are not raising them as the black sheep of the House but we are raising them so that this House is not put to shame. This House, and Madam Speaker, I invite you to guide this House in this process when we are saying that we are processing this impeachment based on Article 251 of the constitution, we need also to understand how the process is given in Article 251.

It is also important to note that Standing Order 62(8) gives us the procedure of removing County Executive Committee Members. Now I will invite the Speaker, to help us understand if it is the same procedure for County Executive Committee Members and members of the County Public Service Board. Asking those questions does not mean we oppose the motion but we want sanity in our public service. Thank you, I support.

(Applause)

Hon. Speaker: Mheshimiwa Dee. Sorry Mheshimiwa Muithwani.

Hon. Mutisya Kivuva (Nominated (WDM-K): Thank you, Madam Speaker, for catching my hairstyle and not my eye.

(Laughter)

Hon. Speaker: Mheshimiwa Dee, I had given the opportunity earlier to Mheshimiwa Muthwani then after him you take the floor.

Hon. Mutisya Kivuva (Nominated (WDM-K): Thank you and I respect you.

Hon. Speaker: Thank you.

Hon. Dominic Maitha (Muthwani, WDM-K): Thank you, Madam Speaker, for your intervention. I respect Hon. Dee for upholding your decision. Madam Speaker, I stand here with a lot of authority in support of this very important motion for very simple terms and reasons. Madam Speaker, we sat here in the First Assembly and deliberated on the same issues about the inefficacy, the manner in which the previous service board behaved and similar matters came into being. We made deliberations and recommendations but that was never actualized.

The motion before us Madam Speaker, and the reason as to why I support it is just simple. I have been following the proceedings of this Assembly, the Second Assembly regarding the same matter that has been brought here today. Recommendations were made, grave accusations were made Madam Speaker, were based on fact findings on the allegations that have been tabled here today by the Majority Leader and nothing was actualized because the

appointing authority was the same authority was given the recommendations to go and deal with the persons who had been accused of these misgivings and illegalities, Madam Speaker.

So it is simply, what I want to tell this Hon. Members let us pass this motion so that the *ad hoc* committee can be given again the opportunity to go and scrutinize the same.....in fact, I urge them do not even dig further into doing much work even as you call the accused to answer to the allegations that are made here, Madam Speaker. The recommendations are simple and straight. Complainants will be called to come and answer, they will give the same.

It is so sad, Madam Speaker, I followed the WhatsApp recordings and messages that were confirmed by Safaricom about the so called one who was trying to seek sexual favours from one of the employees of this county and they were authenticated Madam Speaker. So even if we repeat the same process a thousand times the results will be the same. So I urge this House Madam Speaker, to go with speed and give us a report so that the Hon. Madam Governor can take these people out of office and get the right people.

(Applause)

Under the Chapter of the Bill of Rights, Madam Speaker, the so employed have a right to be employed but the manner in which they ought to be employed must be constitutional. Today as I stand here I stand with a lot of pain in my heart. Today there is a family in this county that I cannot mention because it is not a subject of this decision but I can point there is family in this County which has eight brothers and sisters from the same mother, from the same womb employed and drawing salaries and fat salaries Madam Speaker yet we have families in Machakos County that do not have even one person employed.

(Applause)

It is a big shame. The matter of nepotism was recorded in this Assembly Madam Speaker for the First Assembly, the Second Assembly so the Third Assembly should not make a mistake to allow such kind of inequalities and inequities to continue. I support this motion a hundred percent. Thank you Madam Speaker and I wish to inform my Hon. Member Eng. Mutie that the procedures for removal of these officers is well stipulated under Section 58(5) of the County Governments Act for removal of the County Public Service Board. It clearly says; the manner for removal of Public Service Commissioners applies even to the County Public Servicers Members.

So, Madam Speaker, let this House expedite this motion as fast as possible, the members who have been appointed in that committee are equal to the task. I have no doubt that they are going to give us good and quality results, that when we come here we are going to adopt. The impunity in Machakos County must come to an end and even the incoming board to take an opportunity to do the same, if they go ahead and do the same, we are going to pass through the same process and make sure they go out. Thank you, Madam Speaker, I support the motion.

(Applause)

Hon. Speaker: Thank you. Mheshimiwa Dee then you are the last.

Hon. Mutisya Kivuva (Nominated, WDM-K): Thank you, Madam Speaker. I am always the last but not the least.

(Laughter)

I want to support the motion, the allegations which have been tabled by our Majority Leader are grave; gross violation of the Constitution.

(Several members walked from the House)

Hon. Speaker: Why are members leaving?

Hon. Mutisya Kivuva (Nominated, WDM-K): Please you cannot leave because we will lack the quorum.

Hon. Speaker: Yes, do not leave, we are just winding up.

Hon. Mutisya Kivuva (Nominated, WDM-K): Thank you. I think Mheshimiwa Lucky will handle that. Madam Speaker, as I was saying, gross violation of the Constitution is a gross allegation. If it was in other countries like China, North Korea or Rwanda, they would have been fired by firing squad if found guilty but because we are a democracy, I think we would put them through a democratic process to determine their guilt.

A similar report was tabled on this House in the Second Assembly and by design it was put under the table. I would also urge our Majority Leader to go deeper to that so that we can still go for those who put that matter under the table because I want to quote a local musician called Kamaru who said when JM Kariuki was killed in a song and I quote it in Kikamba. He said “*nthia ni imenete mundu ula umiathaniaa kute ula umiyuwaa.*” The same people who have prevented---

Hon. Daniel Ndwiki (Mlolongo/Syokimua): Point of Order. Is that Hon. Member in order to mix languages while in the plenary?

Hon. Mutisya Kivuva (Nominated, WDM-K): Thank you. I just quoted and I said I quote and I quoted a musician not me and it is in order, Hon. Chair. I want to say the Majority Leader should go deeper and bring the former Members of this House who were used by the previous government to circumvent the outcome of a report and bring them here and face the full music of law. For those who think it is a joke, we are going for everybody and I want to quote the late minister, my good friend John Njoroge Michuki who said and I leave with this. He said; if you rattle a snake, be ready to be bitten. They will be bitten. Thank you and I support.

Hon. Speaker: Thank you, Members. I now invite the mover to reply.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker. I have listened to members carefully and I could see the motion involved especially where the finances of this County, the image of this County and everything good about Machakos County has been put in to big shame. So I would want to thank members for ventilating on the matter

and I pray that the House will approve the formation of the Committee to investigate this matter. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Majority Leader. Now Members, I wish to state this, this motion requires a threshold of one third that is 20 Members of all members in support. To ascertain this, the voting will be by roll call voting. The Clerks at the Table will call members one by one; when one is called you will stand up and vote, say yes in support or no in contrary then the Clerks at the Table will tally and give results at the end. So I hereby call upon the clerk to call members one by one then they support or decline.

DIVISION

(Question put and the House divided)

(Question carried by 23 votes to 0)

(Applause)

AYES: Hon. Stephen Mwanthi, Hon. Nicholas Nzioka, Hon. Mbili Ndawa, Hon. Jackson Wambua, Hon. Lucky Nzau, Hon. Mutisya Kivuva, Hon. Fredrick Muia, Hon. Anastasia Nundu, Hon. Catherine Muia, Hon. Daniel Muindi, Hon. Daniel Ndwiki, Hon. Dominic Maitha, Hon. Eric Musembi, Hon. Felix Ngui, Hon. Grace Bahati, Hon. Irene Mulu, Hon. Brain Kisila, Hon. Mary Kituku, Hon. Mathias Muasya, Hon. Paul Wambua, Hon. Peter Kilonzo, Hon. Ruth Kamau, Hon. Vincent Mutie.

NOES: None.

APPOINTMENT MEMBERS TO THE SELECT COMMITTEE INVESTIGATING REMOVAL FROM OFFICE OF SOME MEMBERS OF THE COUNTY PUBLIC SERVICE BOARD

Hon. Speaker: I invite Hon. Ndaka to proceed and move the motion.

Hon. Jackson Ndaka (Tala, WDM-K): Thank you, Madam Speaker.

Hon. Speaker, THAT aware that Standing Order 62(8) states that If the motion on removal of a board member is supported by at least one third of all the Members, the Assembly shall in the same sitting appoint a Select Committee comprising of five (5) members appointed on the basis of relative majorities of the seats held by each of the Assembly parties, to investigate on the matter.

Hon. Speaker, I wish to move that pursuant to Standing Order 62(8), the House approves the appointment of the following Members to serve in the Select Committee investigating on the matters mentioned on the motion recommending removal from office by the Governor of some members of the County Public Service Board.

1. Hon. Stephen Mwanthi - WDMK
2. Hon. Raphael Nzau Lucky - WMDK
3. Hon. Judas Ndawa - MCCP

4. Hon. Philip Ndolo - UDA
5. Hon. Grace Bahati - IND

I wish to thank the Members for voting in support of the Motion and at this point I would call upon Hon. Anne to second the motion.

Hon. Anastasia Nundu (Nominated, WDM-K): Thank you, Madam Speaker. I support the motion and the Members appointed here are equal to the task. We will be looking forward to them bringing to the House a positive report as soon as possible. Thank you and I support the motion.

(Question proposed)

Hon. Speaker: Members I invite you to debate on the motion.

Hon. Nicholas Nzioka (Machakos Central, WDM-K): Thank you, Madam Speaker. I just want to say that the membership of the committee is well-thought of because I can see Hon. Brian Kisila who is a ranking Member in that committee and in the motion he suggested that he could be having a lot of information which will be very useful. I can also not forget to say that we said we are one House and we pick Members across the board and also we checked on the gender factor.

Hon. Speaker: Thank you very much. I now invite the mover to reply.

Hon. Jackson Ndaka (Tala, WDM-K): Madam Speaker, I now take this opportunity to thank you and the Members whom I ask to know that this is a matter that has a lot of weight in management of our service and the employees in our County. Members, it is now the high time to think big and out of the box. Thank you, Madam Speaker.

(Applause)

Hon. Speaker:

(Question put and agreed to)

(Applause)

The Select Committee has now 10 days to report to the House.

ADJOURNMENT

Hon. Speaker: The House is now adjourned to Wednesday, 16th November, 2022 at 10.00 a.m.

The House rose at 5.25 p.m.