

**REPUBLIC OF KENYA**  
**MACHAKOS COUNTY ASSEMBLY**

**OFFICIAL REPORT**

**Tuesday, 18<sup>th</sup> February, 2020**

The House met at 2.43 p.m.

*[The Deputy Speaker (Hon. Museku) in the Chair]*

**PRAYERS**

**Hon. Deputy Speaker:** Good afternoon Members. Mr. Clerk, proceed.

**COMMUNICATION FROM THE CHAIR**

DEFERMENT OF DEBATE ON THANKS OF THE ASSEMBLY FOR THE EXPOSITION OF  
PUBLIC POLICY CONTAINED IN THE ADDRESS OF THE GOVERNOR DELIVERED ON 18<sup>TH</sup>  
FEBRUARY, 2020

**Hon. Deputy Speaker:** Hon. Members, under this Order, I would just like to inform the House that ideally, procedurally we are supposed to debate the speech of the Governor as soon as possible on the completion of the Governors speech and for this reason I am directing that tomorrow the Paper for the Governors speech be laid before the House so that we can be able to handle that business as the first business on Tuesday coming week.

So today and tomorrow we will not discuss it but the Paper should be laid tomorrow and we discuss the Governors speech as the first business on Tuesday next week. Mr. Clerk, proceed.

**PAPER LAID**

REPORT ON ALLEGED BREACH OF CONDUCT

**Hon. Deputy Speaker:** Hon. Members, under this Order, we have one business to be transacted by Hon. Moses Mitaa. Hon. Moses Mitaa, please.

**Hon. Mitaa:** Thank you, Hon. Speaker. Hon. Speaker, I beg to lay the following Paper on the Table of the House today, Tuesday, the 18th day of February, 2020; the report of powers and privileges committee on alleged breach of conduct. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Moses. Mr. Clerk, proceed.

**NOTICES OF MOTIONS**

**Hon. Deputy Speaker:** Hon. Members, under this Order, we have three business to transact; the first one by the Hon. Justus Kiteng'u on behalf of the Majority Leader. The second one is by the Hon. Moses Mitaa and the third one will be by the Hon. Stephen Mwanthi. Hon. Justus Kiteng'u?

APPOINTMENT OF MEMBERS TO THE HOUSE BUSINESS COMMITTEE FOR THE FOURTH SESSION OF THE SECOND ASSEMBLY

**Hon. Kiteng'u:** Thank you, Hon. Speaker.

Hon. Speaker, that aware that Standing Order 151 provides that the House business committee should be appointed at the commencement of each session; Aware that the committee is crucial in determining how business is debated in the House and in preparation of the Assembly calendar;

Noting that the House Business Committee Membership should reflect relative majority of seats held by each of the Assembly parties in the Assembly;

Aware that the nomination should take into consideration interest of Independents and aware that parties have nominated Members to serve in the House Business Committee;

Hon. Speaker, I wish to give Notice of Motion that pursuant to Standing Order 151(1)(e) the House approves the appointment of the following Members to the House Business Committee for the Fourth Session of the Second Assembly of Machakos County in addition to the Members specified under paragraph 151(1)(a),(b),(c) and (d):

1. Hon. Tariq Mulatya
2. Hon. Francis Kioko Kitheka
3. Hon. Peter Mutiso
4. Hon. Angela Munyasya
5. Hon. Betty Nzisa
6. Hon. Justus Kiteng'u
7. Hon. Anastacia Mutuku
8. Hon. Joshua Muli---

**Hon. Ngunga:** Point of Order.

**Hon. Deputy Speaker:** The Hon. Member will read his Statement until he completes then you raise a point of order please. Hon. Member?

**Hon. Kiteng'u:** Thank you, Hon. Speaker. I will repeat the names.

1. Hon. Tariq Mulatya
2. Hon. Francis Kioko Kitheka
3. Hon. Peter Mutiso
4. Hon. Angela Munyasya
5. Hon. Betty Nzisa
6. Hon. Justus Kiteng'u
7. Hon. Anastacia Mutuku
8. Hon. Joshua Muli
9. Hon. Jacqueline Nziva

10. Hon. Irene Mbivya
11. Hon. Judas Ndawa

Thank you, Hon. Speaker.

**Hon. Deputy Speaker:** Hon. Francis Ngunga, the Member was giving a Notice of Motion; you have an issue with the Notice of Motion?

**Hon. Ngunga:** Yes I do.

**Hon. Deputy Speaker:** Okay, please?

**Hon. Ngunga:** Thank you, Mr. Speaker, and Hon. Members of Machakos County Assembly, good afternoon. Mr. Speaker, I stand here a very demoralized Member of this Assembly. Why? Because it is clear here Mr. Speaker, Standing Order 151 says that every other time we are starting a House Session, Members we apportioned the House Business Committee. Mr. Speaker, I have seen the Deputy Leader of the Majority reading a list of Members that are now supposed to sit in the House Business Committee.

Mr. Speaker, for your information, remember the days when I was Leader of Majority here these are the same Members who have been sitting in that House Business Committee from time immemorial. This is the third year now, Mr. Speaker. It says that parties shall apportion Members....I am not an Independent Member of this Assembly I come from a party.

I cannot remember one day when I was asked whether I would want to sit in this House Business Committee and I turned it down. Mr. Speaker, if we have to move, we must change the way we are going to do things in this Session. First of all, Members of this Assembly you are aware---

**Hon. Deputy Speaker:** Okay, Hon. Member. As I said earlier, maybe you sit down..... as I said earlier, that is a Notice of Motion and you cannot debate on a Notice of Motion. The Motion itself is going to come; he has given a Notice of Motion and there is going to be the real Motion itself which he is going to move here.

Once the Motion is moved on the floor of the House then it will be open for debate and for people to put their input. You are debating a little bit too early because it is a Notice of Motion. So let us continue with the next Notice of Motion by Hon. Moses Mitaa.

#### REPORT ON ALLEGED BREACH OF CONDUCT

**Hon. Mitaa:** Thank you, Hon. Speaker.

**Hon. Deputy Speaker:** Let us have Order in the House.

**Hon. Mitaa:**

Hon. Speaker, that aware that all legislative Houses enjoy and exercise parliamentary privileges in the performance of their mandates, roles and functions;

Aware that the rationale behind privileges is to allow the House and their Members to conduct their business according to the rules they set, free from undue influence from those outside the House;

Acknowledging that the Powers and Privileges Act 2017 establishes the Committee on Powers and Privileges whose mandate is to inquire into the conduct of a Member whose conduct is alleged to constitute a breach of privilege in terms of Section 16;

Further aware that a Statement was sought in this Hon. House on alleged breach of conduct;

Aware that this Statement was referred to the Committee on Powers and Privileges for investigation and report back to the House;

Aware that the Committee considered the matters mentioned in the Statement and compiled a report;

Hon. Speaker, I wish to move the motion that this Hon. House discusses and approves the Committee on Powers and Privileges report on alleged breach of conduct.

Thank you, Hon. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Moses. Hon. Stephen Mwanthi?

#### SETTING UP OF DEMONSTRATION FARMS IN VILLAGE POLYTECHNICS

**Hon. Mwanthi:** Thank you, Hon. Speaker.

Mr. Speaker, aware that the Fourth Schedule part two of the Constitution of Kenya mandates the County Government to be in charge of village polytechnics; Aware that these institutions are centers where technical skills can be imparted and Hon. Speaker, I request Members to insert the word 'be.' Can be imparted to our youth as well as any other person who needs learning;

Aware that if well-utilized, these polytechnics can be of great value to our County through producing graduates who are capable of employing themselves as well as helping the County in various technical fields such as agriculture, catering, baking, construction, motor vehicle, mechanics, ICT and entrepreneurship; Further aware that these institutions possess resources that if well-utilized can benefit the County through transfer of skills to the neighboring communities through demonstrations;

Further aware that most of our Village Polytechnics have large tracts of land and aware that these pieces of land can be used as demonstration farms;

Aware that the students as well as the community around the institutions will be able to learn on various methods of farming;

Aware that this will also ensure full utilization of the county agricultural officers in the county;

Hon. Speaker, I wish to give Notice of Motion that the County Government of Machakos considers setting demonstration farms in each ward in our Village Polytechnics where the youth and farmers will come to learn on farming methods.

Thank you, Hon. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Steve. Mr. Clerk, proceed.

**STATEMENT**  
BUSINESS FOR THE HOUSE FOR 18<sup>TH</sup> TO 19<sup>TH</sup> FEBRUARY, 2020

**Hon. Deputy Speaker:** Hon. Members, under this Order, we have one Statement by Hon. Justus Kiteng'u.

**Hon. Kiteng'u:** Once again thank you, Hon. Speaker. Hon. Speaker, I stand under Standing Order 41(2)(a) where during the Statement Hour, a Member of the House Business Committee designated by the Committee for that purpose, shall for not more than ten minutes, present and lay on the Table, a Statement informing the House of the business coming before the House.

Hon. Speaker, the House Business Committee met on 10<sup>th</sup> February, 2020 to ballot business for the week of 18<sup>th</sup> to 19<sup>th</sup> February 2020 pursuant to the provisions of the Standing Order 151. The Committee balloted business as follows:

Tuesday, 18<sup>th</sup> February, 2020  
*Morning at 10.00 a.m.*

Address of the Assembly at the opening of the Fourth Session by the H.E. Dr. Alfred N. Mutua, the Governor of Machakos County.

*Afternoon at 2.30 p.m.*

1. Motion on approval of HBC Membership by Hon. Hon. Mark Muendo, Majority Leader.
2. Procedural Motion on change of hours of meeting as per Standing Order 27 to change sitting days from Thursdays, 2.30 p.m. to Tuesdays, 10.00 a.m. by Hon. Mark Muendo, Majority Leader.
3. Report of Powers and Privileges Committee on conduct of Members by Hon. Florence Mwangangi, Chairperson.

Wednesday, 19<sup>th</sup> February, 2020  
*Morning at 10.00 a.m.*

Motion that the County Government of Machakos considers setting a demonstration farm in each ward in our Village Polytechnics where the youth and farmers will come to learn on farming methods by Hon. Stephen Mwanthi, MCA, Ekalakala Ward.

*Afternoon at 2.30 p.m.*

Report of educational tour to Malaysia by Hon. Robert Kisini, Chairperson, Environment Committee.

Thank you, Hon. Speaker and I call upon Hon. Judas Ndawa to second my motion

**Hon. Deputy Speaker:** This is a Statement so we will get the seconding during the Motion. This is just a Statement.

**MOTIONS****APPOINTMENT OF MEMBERS TO THE HOUSE BUSINESS COMMITTEE FOR THE FOURTH SESSION OF THE SECOND ASSEMBLY**

**Hon. Deputy Speaker:** Hon. Members, under this Order, we have one motion by the Hon. Justus Kiteng'u.

**Hon. Kiteng'u:** Thank you, Hon. Speaker.

Hon. Speaker, that aware that Standing Order 151 provides that the House business committee should be appointed at the commencement of each session; Aware that the committee is crucial in determining how business is debated in the House and in preparation of the Assembly calendar; Noting that the House Business Committee Membership should reflect relative majority of seats held by each of the Assembly parties in the Assembly; Aware that the nomination should take into consideration interest of Independents and aware that parties have nominated Members to serve in the House Business Committee;

Hon. Speaker, I wish to move the Motion that pursuant to Standing Order 151(1)(e) the House approves the appointment of the following Members to the House Business Committee for the Fourth Session of the Second Assembly of Machakos County in addition to the Members specified under paragraph 151(1)(a),(b),(c) and (d):

1. Hon. Tariq Mulatya
2. Hon. Francis Kioko Kitheka
3. Hon. Peter Mutiso
4. Hon. Angela Munyasya
5. Hon. Betty Nzisa
6. Hon. Justus Kiteng'u
7. Hon. Annastacia Mutuku
8. Hon. Joshua Muli
9. Hon. Jacqueline Nziva
10. Hon. Irene Mbivya
11. Hon. Judas Ndawa

In this regard, I call Hon. Judas Ndawa to second the Motion. Thank you.

**Hon. Ndawa:** Thank you, Hon. Speaker. I second.

**Hon. Deputy Speaker:** Thank you. Hon. Judas Ndawa has seconded the Motion and Hon. Members I would like to propose the question.

*(Question proposed)*

**Hon. Deputy Speaker:** Hon. Members, you may debate the Motion now. Hon. Francis Ngunga.

**Hon. Ngunga:** Thank you, Mr. Speaker and I am, sorry you realize that I have not been very active lately and so procedures might have run out on me but I am catching up, Mr. Speaker. Mr. Speaker, therefore, earlier on, I had indicated that I wanted to raise some queries about how this committee was arrived at. Mr. Speaker, I wanted to indicate that it is clear, that it says that Assembly parties shall apportion Members to this committee and, of course Mr. Speaker, as I debate this, I want everybody to have an open mind; I am not targeting anybody but I want us to look at things objectively.

I am saying, for example, I am a member of a political party and that party is Wiper and I cannot remember any time in the recent past and that is about three, four days ago that there were any indications that we sat down and apportioned these Members here and I am not saying these Members are incompetent; they are competent but I am saying the issue of procedure.

Mr. Speaker, with me here is standing Order 151. It says that while we do this we shall also take into consideration of the Independent Members. If you look at the list that has been provided here by the Deputy Majority Leader, I cannot see any member of the Independent there and we have six of them in this Assembly.

*(Applause)*

Now, Mr. Speaker, therefore, this is to say everyone is talking about public participation; we must be examples of this. Let us stop doing things the wrong way because this is a House of the procedure and procedures must be followed. So Mr. Speaker, I am not saying that we shoot this down but I am raising that issue, at the onset of this debate, to say that in future, if Members approve this, I have no question with it but in future, all Members must be involved because I do not know why our Leader, the Whip did not find or whether I was not accessible or something of that sort, but actually I have been so available and so able and therefore I want to challenge the Leader and the Whip to put the House in order. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Francis. Hon. Moffat Maitha.

**Hon. Maitha:** Thank you, Hon. Speaker. The sentiments by the Hon. Member who have just spoken are very good indeed because everyone would wish to be in the House Business Committee. When we look at the Jubilee Party, we rotate every time. Last time it was Hon. Mulu and now it is Hon. Irene Mbivya. I would wish to request other parties to emulate the ruling party Jubilee by nominating Members.

*(Applause)*

Let us not have a House of particular Members in committees particular, rotate your House so that Members may be happy and serve the Assembly well. Thank you, Mr. Speaker.

*(Applause)*

**Hon. Deputy Speaker:** Thank you, Hon. Moffat Maitha. Hon. Pauline Mene.

**Hon. (Ms.) Munguti:** Thank you, Mr. Speaker. I wish to bring to the attention of this House that in the Narc Party, we sat down, we consulted and we agreed that Hon. Ndawa continues. Thank you, Mr. Speaker.

*(Applause)*

**Hon. Deputy Speaker:** Thank you, Hon. Pauline. Hon. Jeremiah Munguti.

**Hon. Munguti:** Thank you Mr. Speaker, On the same wavelength, I would like also to comment that when I look at the composition of the committee, the Standing Order 151(1) is very clear and that the composition of House Business Committee is composed of the Chairperson who is the Speaker, the Leader of the Majority Party, the Leader of the Minority Party and according to the list, I cannot see the Leader of the Majority Party and the Leader of the Minority Party in the composition. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Maybe let me read for you the Standing Order so that we can be on one ground, we can be discussing from one page. Standing Order 151(1); there shall be a select committee, to be designated the House Business Committee, consisting of:

- a) The Speaker who shall be the Chairperson.
- b) The Chairperson of Committees.
- c) The Leader of Majority Party.
- d) The Leader of Minority Party.

So, I do not know which one you are reading because according to the specifications which have been given there, all those positions are represented and inside the Standing Order also they say that in nominating Members of the House Business Committee, each Assembly Party shall include its Whip into the Membership. So, when you see the Whips included there, it is based on the request of the Standing Order.

So, I think it takes care of all those the only issues which I think are being raised are the ones Hon. Francis Ngunga is raising which need to be discussed but I believe what you have raised is all covered in the Standing Order. Hon. Judas.

**Hon. Ndawa:** Thank you, Mr. Speaker. I stand to support the Motion brought by the House Business Committee. Mr. Speaker, about three weeks ago a letter was sent from the office of the clerk to every Political Party in this House and the Members of each political Parties were requested to nominate Members to the House Business Committee. Mr. Speaker, just as my colleague Hon. Mene has confirmed, we received a letter as NARC and we sat at as NARC and we gave out a name.

So, NARC has got no issue. I believe we have Jubilee and Hon. Maitha has confirmed that they sat down and they agreed as a Party to rotate and so they do not have any complaint that is Jubilee Party. Maendeleo Chap Chap, I can see the Hon. Members are very quiet and being quiet means they are very okay and they are very comfortable. So, it means the only Party which has problems is NASA Party.

*(Laughter)*



So, Mr. Speaker, I kindly request, because this is an issue of one Party, we are requesting in case any Member has an interest, let us give him time to declare interest so that we can debate knowing that so and so wants to be in that committee.

**Hon. Masesi:** Point of order, Mr. Speaker.

**Hon. Deputy Speaker:** Hon. Musyimi.

**Hon. Musyimi:** I am happy to take this opportunity, Mr. Speaker, to say a word on this, as much as Parties have been cautioned to nominate their Members in this House Business Committee, Mr. Speaker, myself I am an Independent Member and I have never been consulted.

*(Applause)*

So, Mr. Speaker, I would also like to say that as Independent Members, we need also to have a slot in this. So, Mr. Speaker, Independent Members have never gotten their justice. Thank you, Mr. Speaker.

*(Laughter)*

**Hon. Deputy Speaker:** Thank you, Hon. Musyimi. Hon. Tariq Mulatya.

**Hon. Mulatya:** Thank you, Mr. Speaker. Mr. Speaker, you realize that with me here, I am holding a letter written to me as the Whip of this House by the Clerk of this Assembly. I can table the letter and this letter was written to me in consultation with the Majority Leader to nominate Members. I want to say it clear here in this Hon. House that I tried my level best to reach out to Majority Leader for consultations but he declined to pick my calls.

*(Applause)*

Later in the day, one of the Clerks Assistants, Dominic, called me and told me that we have to nominate Members. I tried also again to reach out to Majority Leader but he declined my calls only to later realize he had already given his instructions that they should retain the Members. Hon. Speaker, there was nothing I could do at that particular time.

*(Applause)*

I had to let it go and follow the same route which is bringing problems in Selection Committee whereby the Majority Leader wants to make decisions for everybody---

**Hon. Deputy Speaker:** Hon. Member, stick to the Motion at hand or I will have to cut you short.

**Hon. Ngunga:** Point of order, Mr. Speaker.

**Hon. Deputy Speaker:** Hon. Ngunga you cannot give a point of Order on the Speaker. So, continue Hon. Tariq. I am telling you just stick to the Motion at hand please. Thank you.

**Hon. Mulatya:** I think, Hon. Speaker, I am very clear because I have tabled a letter written to me by the Clerk of this Assembly. Mr. Speaker, I do not see how I am out of order when I am trying to tell the House that we did not consult and Members are raising very strong points.

*(Applause)*

We did not consult and---

**Hon. Deputy Speaker:** Hon. Tariq, the only thing I have said is do not give examples of issues which at this point are not before the House. I have not said you are out of order in your submissions; I have only said do not mix issues which are not on the floor of the House. Just stick to the item we are having now on that you were not consulted in as far as the nominations of Members of the House Business Committee are concerned. That is the issue at hand.

**Hon. Mulatya:** Well-advised. Mr. Speaker, so this is why you see all Members of Wiper were not informed. Actually, most of them are not aware of this election was done because procedurally, the Majority Leader was supposed to ask me to inform or whip all the Members of Wiper Party, sit down and make a decision just like the way NARC did.

*(Applause)*

They sat down, they decided that Hon. Mbili should continue and the same way happened with the Jubilee Party but in our case, you will find out that Majority Leader is overall; he is final and that is why you are seeing these many problems happening right now. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Tariq Mulatya and for the submissions you have all made. Hon. Members, a Motion has been tabled before the House and it has been debated; I would like to put the question so that Hon. Members can make a decision on the Motion we have at hand. Unless we have anybody else who wants to debate on it.

**Hon. Maitha:** Point of order, Mr. Speaker.

**Hon. Deputy Speaker:** Yes.

**Hon. Maitha:** Mr. Speaker---

**Hon. Deputy Speaker:** Hon. Moffat, I have not given you permission. Hon. Kisila.

**Hon. Kisila:** Hon. Speaker, I think it is always fair that we consult and it is always fair that we agree to agree or agree to disagree. If there is any Motion which is bringing discrepancy

or any level of discontent in the House, it is always fair that we take back the Motion and let the particular issue be discussed.

*(Applause)*

We should not debate or vote on this Motion when already one Party in the House is aggrieved and I am telling you, Members, we have just done half of our term and I am seeing some of us feeling that they have reached a level where they can do whatever they want to do in this House. Please understand we all came here under the same terms and I want us to continue with the same spirit of consulting each other.

Let none of us ever imagine that one time they will be superior to anyone of us and even some of the Motions which are coming to this House need to be well-thought through before they come to this House. I will be standing to discuss a Motion which is being discussed about Members in the Privileges and Powers Committee. Let us stop thinking that we have become prefects of other *Waheshimiwas*.

*(Applause)*

We will not allow and I tell you one thing, we are all elected; the minute one of us thinks at home that they will pass 2022 without being opposed, you are cheating yourself. We are all elected and even when you are given position in this Assembly please understand you represent people not yourself and I think Mr. Speaker to give you some guidance, this Motion should not be voted for; it should be taken back.

*(Applause)*

The Party which is our Majority Party, we can have a Party which is our Majority Party but it is divided. Let them go back and sit and give us a good list. That is my suggestion.

*(Applause)*

**Hon. Deputy Speaker:** Hon. Members, order please in the House. Hon. Members, under Standing Order 1, I think this issue is emotive and it is an issue that needs to be looked at at length. The House Business must continue and therefore, in view of that, what I am going to do is that I am going to suspend the ruling on this issue until tomorrow when we are going to give direction on whether the Motion should be taken back to the committee for balloting so that the various political parties can be able to consult and come out with Membership into this specific committee.

So, for today, I am going to suspend my ruling on this issue and it will be given tomorrow. Thank you, Hon. Members; you may continue with the next motion. Mr. Clerk, proceed.

CHANGE HOURS OF MEETING UNDER STANDING ORDER 27(1) FOR THE FOURTH SESSION

**Hon. Deputy Speaker:** Hon. Members, we have one business to be moved by the MCA for Kivaa, Hon. Justus Kiteng'u please.

*(Loud consultations)*

Order please, Order in the House.

**Hon. Kiteng'u:** Thank you, Hon. Speaker, thank you Hon. Members.

Hon. Speaker, that aware that Standing Order 27(1) provides that the House will be sitting on Tuesdays at 2.30 p.m. Wednesdays at 10.00 a.m. and at 2.30 p.m. and on Thursdays at 2.30 p.m;

Aware that most of the Assembly business is carried out in Committees which then report to the House and aware that Committees need more time to interrogate reports, undertake site visits and compile reports for tabling in the House;

Noting that Standing Order 27(3)(c) provides that the House may resolve to meet on any other day in Order to transact business other than those stated under Standing Order 27(1);

Hon. Speaker, I wish to move the motion THAT pursuant to Standing Order 27(3)(c), this Hon. House resolves to change hours of meeting under Standing Order 27(1) so that the House will be sitting on Tuesdays at 10.00 a.m. and 2.30 p.m. and Wednesdays at 10.00 a.m. and at 2.30 p.m. for this Session to create a whole day on Thursdays for committees to meet and transact their business for reporting in the House.

Thank you, Hon. Speaker. I call upon Hon. Mitaa to second the motion.

**Hon. Deputy Speaker:** Thank you, Hon. Justus. Hon. Moses Mitaa.

**Hon. Mitaa** seconded the motion.

**Hon. Deputy Speaker:** Thank you. Just a minute Hon. Members. I was consulting on something; sorry for that.

*(Question proposed)*

Hon. Members, you may debate on the motion. Hon. Cosmus Masesi.

**Hon. Masesi:** Thank you, Mr. Speaker. I support the Motion only that if you look at our Calendar you will realize, in fact it is like we spend three quarters of our time on recess. I was wishing we could also look at the days of recess and do something on it bearing in mind that we have been out for two months. I want to think Members are---

**Hon. Deputy Speaker:** I think you are going to be informed by Hon. Judas Ndawa.

**Hon. Ndawa:** Thank you, Mr. Speaker. I want to inform my colleague Hon. Masesi Ngula that the Motion before us is about amending the days of the plenary not the annual Calendar. So the annual Calendar will be discussed in another forum and not this one. Thank you.

**Hon. Deputy Speaker:** Thank you. I think Hon. Member you have been informed. What is before the House now is changing of timings for the Assembly sittings within the week. There is going to be brought a motion before this House on the House Calendar for this session. During that time, that will be the best time for you to debate on the days of sitting.

**Hon. Masesi:** Mr. Speaker, I think I was very clear; I said I support the motion as it is. In fact, I know we are talking of doing away with Thursdays, pushing it to Tuesday and Wednesday only but I said we need to re-look at the Calendar and look at the days of recess, Mr. Speaker, bearing in mind that Members are very much...the ground is different, Mr. Speaker. Thank you, Mr. Speaker.

*(Laughter)*

**Hon. Deputy Speaker:** Thank you Hon. Cosmus for supporting the motion; Hon. Judas Ndawa

**Hon. Ndawa:** Thank you, Mr. Speaker, Sir. I also want to support the motion and on the argument that the Hon. Masesi is arguing about the issue of the calendar; Mr. Speaker you remember the constitution is very clear and it says if any organization is making decision, those who are to be affected by the decision must be involved. We sat in the House Business Committee and we said we cannot come back with an annual calendar before we do public participation and public participation is to allow Members to sit down and deliberate and we have scheduled that for tomorrow at 4 p.m. after the plenary.

So the issue of amending the days of plenary; I want to say this is a good move. Most of the reasons why we have these many adjournments is lack of business. If we do not have time for retreats, it means that the House will be going without business to transact and that is why we are at home most of the times. So, Mr. Speaker, I humbly request the Hon. Members to accept and approve this motion so that we can be sitting on Tuesday morning and afternoon and Wednesday morning and afternoon and we are done the business of the week. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you. I do not see another Member having an issue with that.

*(Question put and agreed to)*

Mr. Clerk, proceed.

#### REPORT ON ALLEGED BREACH OF CONDUCT

**Hon. Deputy Speaker:** We have one business to transact by Hon. Moses Mitaa

**Hon. Mitaa:** Thank you, Hon. Speaker.

That aware that all legislative Houses enjoy and exercise parliamentary privileges in the performance of their mandate, roles and functions;

Aware that the rationale behind privileges is to allow Houses and their Members to conduct their business according to the rules they set free from undue influence from those outside the House;

Acknowledging that the County Assemblies Powers and Privileges Act, 2017 establishes the Committee on Powers and Privileges whose mandate is to inquire into the conduct of a Member whose conduct is alleged to constitute a breach of privilege in terms of Section 16;

Further aware that a statement was sought in this Hon. House on alleged breach of conduct. Aware that this statement was referred to the Committee on Powers and Privileges for investigation and reporting back to the house;

Aware that the Committee considered the matters mentioned in the statement and compiled a report;

Hon. Speaker, I wish to move the motion THAT, this Hon. House discusses and approves the Powers and Privileges Committee report on alleged breach of conduct.

I call Hon. Kisini to second my motion. Thank you.

**Hon. Deputy Speaker:** Hon. Kisini.

**Hon. Kisini:** Thank you. I second.

**Hon. Deputy Speaker:** Thank you. Hon. Moses, you may read the report please.

**Hon. Mitaa:** Thank you, Hon. Speaker.

## *1.0 INTRODUCTION*

### *1.1 Preface*

Hon. Speaker, all legislative Houses enjoy and exercise parliamentary privileges in the performance of their mandate, roles and functions. The rationale behind the privileges is to allow Parliament and legislators to conduct their business according to the rules they set free from undue influence from those outside the Parliament.

This is envisaged in Article 196(3) of the Constitution that provides that the Parliament shall enact legislation providing for the powers, privileges and immunities of County Assemblies, their Committees and Members.

### *1.2 Committee mandate*

Hon. Speaker, the Committee on Powers and Privileges is established pursuant to Section 15(5) of the County Assemblies Powers and Privileges Act, 2017 and Standing Order 189(A) that states that there shall be a select Committee to be designated the Powers and Privileges Committee, consisting of—

(a) The Speaker who shall be the chairperson;

(b) The Chairperson of Committees; and

(c) Not more than three other Members who shall be nominated by Assembly parties and approved by the House at the commencement of every Session, reflecting the relative majorities of the seats held by each of the Assembly parties in the Assembly and taking into consideration the interests of Independents.

Section 15(4) of the County Assemblies Powers and Privileges Act, 2017 provides that the functions of the Committee of Powers and Privileges shall be to-

(a) Inquire into the conduct of a Member whose conduct is alleged to constitute a breach of privilege in terms of Section 16.

Section 15(6) of the County Assemblies Powers and Privileges Act, 2017 provides that the Committee of Powers and Privileges shall, within fourteen days of the conclusion of an inquiry, table its findings in the relevant County Assembly together with such recommendations as it considers appropriate.

### *1.3 Committee Membership*

Hon. Speaker, the Committees of Powers and Privileges as constituted in Standing Order 189A comprises of the following Hon. Members;

- |    |                            |               |
|----|----------------------------|---------------|
| 1. | Hon. Florence M. Mwangangi | - Chairperson |
| 2. | Hon. Paul Museku           | -V/Chair      |
| 3. | Hon. Margaret Ndalana      | Member        |
| 4. | Hon. Moses Mitaa           | “             |
| 5. | Hon. Robert Kisini         | “             |

## *2.0 LEGAL FRAMEWORK*

Hon. Speaker, Article 196(3) of the Constitution that provides that the Parliament shall enact legislation providing for the powers, privileges and immunities of County Assemblies, their Committees and Members. To implement this Article of the Constitution, Parliament enacted the County Assemblies Powers and Privileges Act, 2017.

Section 3(2) of the County Assemblies Powers and Privileges Act, 2017 describes what constitute precincts of a County Assembly to include premises used by the County Assembly when sitting outside the Assembly premises.

Section 10 of the County Assemblies Powers and Privileges Act, 2017 states that no proceedings or decision of a County Assembly or the Committee of Powers and Privileges, acting in accordance with this Act, shall be questioned in any court.

Section 15(4)(a) of the County Assemblies Powers and Privileges Act, 2017 provides that the Committee on Powers and Privileges shall inquire into the conduct of a Member whose conduct is alleged to constitute a breach of privilege in terms of Section 16.

Section 15(5) of the same Act provides that the Committee of Powers and Privileges shall, either of its own motion or as a result of a complaint made by any person, inquire into the conduct of a Member whose conduct is alleged to constitute a breach of privilege in terms of Section 16, within fourteen days of receipt of a complaint.

Section 19(a) of the same Act states that where a County Assembly or a Committee requires that any information be verified or otherwise ascertained by the oral examination of a witness, the County Assembly or the Committee may cause such witness to be examined on oath.

Section 16 of the County Governments Act, 2012 provides that no legal proceedings, whether criminal or civil can be instituted against any Member for words spoken before or written in report to a County Assembly or its Select Committee or for any other matter in the course of a Member executing their duties.

Standing Order 171 of the County Assembly of Machakos Standing Orders states that Committees shall enjoy and exercise all the powers and privileges bestowed on Assembly by the

Constitution and statute, including the power to summon witnesses, receive evidence, and to request for and receive papers and documents from the Government and the public.

Section 16 of the County Assemblies Powers and Privileges Act, 2017 provides the following instances as conduct constituting breach of privilege:

- (a) Section 16(a): contravention of Section 25 (broadcasting of proceedings), 26(1) (assault, threats, use of abusive language, obstructing or molesting a Member), 27 (offences relating to witnesses) or 29 (duty of court registrar);
- (b) Section 16(b): commits an act mentioned in Section 28(1)(a) (influencing a Member in the performance of the Members functions), (b) (inducing a Member to be absent from the Assembly or Committee), (2) (soliciting, receiving or accepting any fee, compensation, gift, reward, favour, or benefit to vote ,oppose, or make a representation in any particular manner), (3)(d), (e), (f) and (g);
- (c) Section 16(c): wilfully fails or refuses to obey any rule, Order or resolution of a County Assembly;
- (d) Section 16(d): contravenes any provision of the Speaker's Orders issued under Section 40 of the Act;
- (e) Section 16(e): conducts himself or herself in a manner which, in the opinion of the Committee on Powers and Privileges, is intended, or is likely to reflect adversely on the dignity or integrity of a County Assembly, or of the Members or to be contrary to the best interests of a County Assembly or its Members.

Section 17(3) of the Act provides for the following penalties that can be imposed upon a Member who has committed any breach of privilege, in addition to any other penalty under the Act or any other law:

- (a) A formal warning;
- (b) A reprimand;
- (c) An Order to apologize to the County Assembly or a person in a manner to be recommended by the Committee of Powers and Privileges;
- (d) The withholding, for a specific period of time, of the Member's right to the use or enjoyment of any specified facility provided to Members by a County Assembly;
- (e) The removal or suspension for a specified period of time of the Member from any a County Assembly position occupied by the Member;
- (f) Such fine in terms of the Member's monthly salary and allowances as the House may determine;
- (g) The suspension of the Member for such period as the House may decide, whether or not the County Assembly or any of its Committees is scheduled to meet during that period;
- (h) Vacation of seat pursuant to Articles 75(2)(b) and 194(1)(c) of the Constitution.

Chapter Six of the Constitution provides for the Principles of leadership and integrity which binds all persons occupying State and Public Offices and in particular on the conduct expected of state officers. This Chapter of the Constitution is implemented among others the Leadership and Integrity Act, 2012.



Article 73(1)(a)(ii), (iii) and (iv) of the Constitution provides that the authority assigned to a State Officer is a public trust to be exercised in a manner that demonstrates respect for the people, brings Hon.our and dignity to the office and promotes public confidence in the integrity of the office, among others. Article 260 of the Constitution classifies Members of the County Assemblies as State Officers.

Section 8 of Leadership and Integrity Act, 2012 states that a State Office is a position of public trust and the authority and responsibility vested in a State Officer shall be exercised by the State Officer in the best interest of the office and the people of Kenya.

Further Section 10(b) of the Act provides that a State Officer shall treat Members of the public, staff and other state and public officers with courtesy and respect.

Hon. Speaker, it is important to note that the action that this Committee is to take is subject to the provisions of Article 47 of the Constitution which provides for the right of the individual to fair administrative action emphasizing on the aspect of fairness. This Article of the Constitution is implemented through the Fair Administrative Action Act, 2015.

Section 4(1) of the Fair Administrative Action Act, 2015 in line with the above constitutional provision provides that every person has the right to administrative action which is expeditious, efficient, lawful, reasonable and procedurally fair.

Section 4(4)(a) and (b) of the Act provides that the Administrator shall accord the person against whom administrative action is being taken an opportunity to attend proceedings, in person or in the company of an expert of his choice and be heard.

### 3.0 BACKGROUND

Hon. Speaker, on 1<sup>st</sup> November, 2019, the Committee on Selection was invited to attend a meeting at Weston Hotel in Nairobi to exercise its mandate of nominating Members to Committees as provided for in Standing Order 152 of the County Assembly of Machakos Standing Orders. In the course of discussion of the agenda of the day, it was alleged that a disagreement arose and the meeting was terminated prematurely.

On 5<sup>th</sup> November, 2019, a Statement was sought in the House by Hon. Peter Joseph Mutiso regarding the above matter. The Statement partly read: **(See Appendix 1)**

“.....Hon. Speaker, during a Selection Committee meeting held at Weston Hotel on Friday 1<sup>st</sup> November 2019, Hon. Tariq Mulatya and Hon. Justus Kiteng’u, Members of this Committee, disrupted the meeting soon after Committee Members voted to adopt a draft proposal by Hon. Members of that Committee. They tore up the draft reports under deliberation by the Committee and threw chairs around causing some damage to hotel property. The Chairman of the Committee had to call in the Serjeant at Arms. I seek to know what action has been taken against the said Hon. Members for causing a breach of peace during the said meeting.”

The Statement was committed to the Committee of Powers and Privileges as mandated by Section 15(4)(a) of the County Assemblies Powers and Privileges Act, 2017 and Standing Order 189A of the County Assembly of Machakos Standing Orders for investigation and reporting to the House.

Hon. Speaker, the Committee decided to do the investigation by inviting witnesses and the Members of the Assembly adversely mentioned in the Statement all of whom testified before this Committee on oath in line with the provisions of Section 19(a) of the County Assemblies Powers and Privileges Act 2017 which states that ‘where a County Assembly or a Committee requires that any information be verified or otherwise ascertained by the oral examination of a

witness, the County Assembly or the Committee may cause such witness to be examined on oath.' The hearings were recorded on the Assembly HANSARD; it can be clarified in Appendix 3.

The Member who sought the Statement and the Members adversely named in the Statement were requested in writing by the Committee to appear before it in person together with their respective witnesses as can be confirmed through Appendix 2.

The following were the Members who appeared before this Committee on 12<sup>th</sup>, 13<sup>th</sup>, 19<sup>th</sup> and 22<sup>nd</sup> November, 2019 and testified as witnesses in the Order they are named and all of whom are Members and Secretariat of the Assembly Committee on Selection:

- (a) Hon. Peter Joseph Mutiso.....Member
- (b) Hon. Jacqueline Nziva.....Member
- (c) Hon. Mark Muendo..... Chairperson
- (d) Hon. Alex Kamitu.....Vice Chairperson
- (e) Hon. Moffat Maitha.....Member
- (f) Hon. Pauline Munguti.....Member
- (g) Hon. Tariq Muema Mulatya.....Member
- (h) Hon. Justus Muasya Kiteng'u.....Member
- (i) Mr. Joel Kiptum- .....Serjeant at Arms (Secretariat)
- (j) Ms. Margaret Wania .....Clerk Assistant (Secretariat)

#### 4.0 COMMITTEE HEARINGS AND EVIDENCE TAKING EXERCISE

Hon. Speaker, the hearing of the witnesses was conducted in compliance with the provisions of Section 4(4) (a) of the Fair Administrative Action Act, 2015. The witnesses testified as follows:

##### 4.1 HON. JOSEPH PETER MUTISO

He appeared before the Committee on 12<sup>th</sup> November, 2019 at 12.30 p.m. and submitted as follows:

That on 1<sup>st</sup> November, 2019, he attended a meeting at Weston Hotel in Nairobi for the Committee on Selection where by the Chairman, the Majority Leader Mark Muendo and the Vice- chairman Hon. Alex Kamitu gave introduction on the matter which was to be discussed.

That the following Members were present; Majority Leader Hon. Mark Muendo, Hon. Alex Kamitu the Minority Leader, Hon. Tariq Mulatya, Hon. Justus Kiteng'u, Hon. Jacqueline Nziva, Hon. Pauline Mene Munguti, Hon. Moffat Maitha, Hon. Christine Koki and others.

The Chair, Hon. Mark Muendo introduced a draft list of proposed Membership in Committees which he said was subject to amendments and that Members were free to comment on the proposal.

That other documents were issued to Members which included the current Committee Membership, party strengths in the Assembly and a summary of the number of Committees each Member had.

That the Chair had consulted all Members in that list and the changes in the Committee Membership was informed by the fact that some Hon. Members had many Committees and responsibilities which needed to be relinquished. He cited himself that he is the Deputy Majority Whip and he is also the Vice Chair in Ward Development Fund Committee and that he was consulted on which position to relinquish.

That individual consultation was done because the matter was individual and that each affected Member was required to state his or her wish. That there was much pressure from affected Hon. Members who had few Committees to have the meeting of the Committee on Selection to address the issue.

The Committee read the proposal dealing with one Committee at a time to identify if the Membership was balanced but much emphasis was put in those Committees which had issues that needed consideration. That the main idea of doing changes was share out responsibilities with those who did not have in addition to increasing the number of Committees for some Hon. Members who had few.

That the process of balancing the Committees Membership started with Maendeleo Chap Chap party (MCCP) whereby the Minority Leader Hon. Alex Kamitu gave his proposals saying that his Members can be given more slots in sectoral Committees. Members agreed on the proposals.

That Hon. Pauline Mene who is in charge of NARC Party said that the draft proposal was okay, only that she wanted a slot in the Finance Committee because previously Hon. Ndawa was previously in that Committee but he was removed and that he needed to be reinstated. The issue was deliberated and was agreed on.

That the Jubilee party which was led by Hon. Moffat Maitha commented on the draft requesting for slots in the Sectoral Committees. The party agreed with the changes.

That WIPER party Members were permitted to raise their proposals whereby Hon. Christine Koki who had four Sectoral Committees was requested to relinquish some and she agreed to drop one Committee in favour of those who had few. That at that point Hon. Tariq Mulatya and Hon. Justus Kiteng'u stood up and said that, there are politics in Committees such as PAIC, Health, Finance and Trade but a few Members calmed them.

The Hon. Chair, Mark Muendo in response said that there are no politics in those Committees since no Chairman had been removed and that if there are politics it is Hon. Mulatya and Hon. Kiteng'u who have them. The Chair added that in case there are politics they will be sorted out.

That the other Members of Wiper party commented that Wiper issues should not be brought before the Committee business. That the Chair, asked a question, "How many Members here are for this draft?" All the other Members supported the proposed changes by raising up their hands except Hon. Tariq Mulatya and Hon. Justus Kiteng'u.

That Hon. Mulatya then forcefully pushed chairs behind him, then together with Hon. Kiteng'u stood up then tore the documents laid before the Members including the attendance register. They then threw the broken (sic) pieces towards the face of the Majority Leader as they walked towards him uttering the words "...this cannot happen, we were not consulted."

The Chair Hon. Mark Muendo on seeing the violent scenario walked out of the room. That on seeing that scenario from the two Hon. Members, Hon. Peter Mutiso stood, moved and stood between Hon. Alex Kamitu and Hon. Moffat Maitha as a way of offering protection. At that juncture, some Serjeant at Arms had already entered the room.

That he shouted "...Hon. Alex Kamitu, can you go and give me my keys.." as a clever way of making Hon. Kamitu to escape from the room since the other Members had already walked out with the Chair Hon. Mark Muendo. Hon. Kamitu got the message and he walked out. The meeting ended but not as required by procedure.

*(Laughter)*

#### *4.2 HON. JACQUELINE NZIVA, THE MINORITY WHIP*

She appeared before the Committee on the on 13<sup>th</sup> November, 2019 at 4.30 p.m. and submitted as follows on oath pursuant to Section 19 (a) of the Powers and Privileges Act 2017 after introducing herself:

That she attended a meeting of the Committee on Selection on 1<sup>st</sup> November, 2019 at Weston Hotel, Nairobi and that the following Members were present: Hon. Mark Muendo, Hon. Alex Kamitu, Hon. Moffat Maitha, Hon. Joseph Peter Mutiso, Hon. Johana Munyao, Hon. Tariq Mulatya, Hon. Justus Kiteng'u and Hon. Pauline Mene.

That the Chair called the meeting to Order at 11.00 a.m. and each Member was given one list comprising of the current Membership in Committees.

That the Chair produced another draft proposal which comprised of changes in Membership and he wanted Members to give opinion on it. This document was only one and so the Chair started taking Members through the proposed changes. The Chair added that he did the changes in the Committee in the spirit of handshake so that responsibilities could be shared to the Minority Leader side.

Members were invited to make their remarks as the Members went the list provided to them. At that juncture Hon. Kamitu, Minority Leader, proposed that elected Members need to be considered in responsibility allowance. Also, the Chap Chap Party Members requested that Hon. John Musyimi be added another Committee. The matters were agreed on by the Members.

As the Members went on considering the changes, Hon. Tariq Mulatya raised a concern, whereby he said he was not consulted on the balancing of the Members to various Committees. As Hon. Tariq Mulatya was raising his concern, she (Hon. Nziva) received a pHon.e call to attend to her baby and so she moved out.

That she later asked Hon. Pauline Mene what transpired and she was informed that there arose differences between the Chair, Hon. Mark Muendo and Hon. Tariq Mulatya. The fracas led the meeting to adjourn indefinitely. That she requested the Clerk of the Committee for the register to sign but she was informed that the attendance register was torn.

#### *4.3 HON. MARK MUENDO, CHAIRPERSON COMMITTEE ON SELECTION*

He appeared before the Committee on 13<sup>th</sup> November, 2019 at 12.30 p.m. The Member was interviewed under oath as provided in Section 19(a) of the County Assemblies Powers and Privileges Act, 2017.

After introducing himself, he submitted as follows:

That being the Chairperson of the Committee on Selection, he invited Members for a meeting at Weston Hotel, Nairobi on 1<sup>st</sup> November, 2019. The meeting was informed by the fact that there was need to re-constitute the Membership of Committees following requests from Members. Further it was because there was also need to have balanced responsibilities.

He cited the following Members present in that meeting: Minority Leader Hon. Alex Kamitu), Deputy Whip Hon. Mutiso, Hon. Moffat Maitha, Hon. Jacqueline Nziva, Hon. Pauline Mene, Hon. Christine Koki and others.

That he had two documents which were a list of the current Committee Membership and another list containing proposed changes in Membership which were also shared to all Members. The different parties were requested to propose their views on the proposed Membership changes. The first was NARC represented by Hon. Pauline Munguti who proposed changes

involving consideration of Hon. Judas Ndawa. The matter was sorted out and Members were in agreement.

Next was Jubilee Party where Hon. Moffat Maitha of Jubilee party who said he was comfortable with the list considering that he is a Chairman, a position that was donated to him by Wiper party.

Then the Maendeleo Chap Chap Party gave their proposals which were also addressed well by the Chairman saying that he had three vacancies of Vice Chair and one in the Speakers Panel which were to be allocated to this party.

That Wiper Party was also requested to give their proposals on proposed changes. At that time Hon. Tariq Mulatya pointed out two Committees and said there is politics in Finance and PAIC Committees and that he will not accept then he stood up. Hon. Justus Kiteng'u also stood up. The said Members were calmed by Hon. Alex Kamitu.

That the Chair warned them that the meeting was not a Wiper meeting and so they could only contribute by giving proposals just like the way the other parties did. The Chair then put the question on how many Members of the Committee were in support of the proposed draft Membership. All the Members lifted their hands up in support of the question except Hon. Tariq Mulatya and Hon. Justus Kiteng'u.

That at that time Hon. Mulatya rose up again and forcefully pushed chairs behind overturning them. Hon. Kiteng'u also stood up and both walked towards him (Chair) as though they wanted to fight him. As they walked they picked documents on the table tearing them into pieces and throwing them to the face of the Chair.

That the Chair on noticing the violent scenario, walked out because he sensed war adding that he has an experience where the two Hon. Members beat another Member. The other Members including Hon. Joseph Mutiso who was protecting him followed the Chair out of the room.

*(Laughter)*

That the Serjeant at Arms entered the room, four of them. The Chair said that he requested for many Serjeants at Arms since he had prior information that the said Members were planning to beat him. The Chair left and went home, scared and did not even take lunch.

*(Laughter)*

#### **4.4 HON. ALEX KAMITU, MINORITY LEADER**

He appeared before this Committee on 13<sup>th</sup> November, 2019 at 1.30 p.m. and was interviewed under oath as provided in Section 19(a) of the County Assemblies Powers and Privileges Act, 2017. He submitted as follows after introducing himself:

That being the Vice Chairperson of the Committee on Selection, he received an invitation for a meeting in Weston Hotel, Nairobi on 1<sup>st</sup> November, 2019.

That he attended the meeting which was chaired by Hon. Muendo, the Majority Leader. Other Members who were present include Hon. Jackline Nziva, Hon. Johanna Munyao, Hon. Tariq Mulatya, Hon. Pauline Munguti, Hon. Justus Kiteng'u and others---

*(Hon. Ndawa spoke off record)*

**Hon. Deputy Speaker:** Hon. Member, just a minute. The Hon. Member is reading a report and you are raising a point of Order. On a report?

**Hon. Ndawa:** Yes.

**Hon. Deputy Speaker:** I won't allow it. Please proceed and finish.

**Hon. Ndawa:** It is just a way of---

**Hon. Deputy Speaker:** Let him proceed and finish. it is a report and you cannot raise a point of Order on a report being read before the House. Let the report be read then you raise all the points of Order that you can. Please continue.

**Hon. Ndawa:** Mr. Speaker---

**Hon. Deputy Speaker:** Hon. Judas, I overrule you. Continue Hon. Moses.

**Hon. Mitaa:** Thank you, Hon. Speaker. That the Chair informed the Members that he had a proposal in form of a written document consisting of proposed changes in Membership. In addition, he had a list of the current Membership of Committees. The documents were issued to all Members.

The Chair read the proposals and said that Members were open to state their opinions concerning the proposals. That Hon. Pauline Munguti of NARC party was the first to present her opinion where she said that she was comfortable with the list only that she requested Hon. Judas Ndawa to be given more Committees.

Hon. Moffat Maitha of Jubilee Party was the next to give his opinions. He said that he was comfortable with the arrangement. That he (Hon. Alex Kamitu), the Minority Leader who is also in charge of Chap Chap Party, requested the Chair to be allowed to consult with his party Members on which responsibilities to request for in favor of their party.

That before the consultation was over, Hon. Tariq Mulatya, stood up and said that he was not consulted when the document was being prepared and neither were the other Members. The said Member requested to be allowed to call the other Members to confirm if they were actually consulted.

In response, the Chair told Hon. Tariq Mulatya that on several occasions he had been calling him for meetings to do consultation but he did not turn up. That in the course of exchange of words, Hon. Justus Kiteng'u also stood up saying that they were not consulted and that they will not agree with the proposals.

Hon. Mulatya walked where the Chair was seated, picking the documents on the table, tearing them and throwing them towards the Chairman. At the same time, Hon. Peter Mutiso came in and stood between the Chair and Hon. Mulatya as a defense tactic. That the other Members were amazed on what happened.

That the Chair, Hon. Mark Muendo, assessed the situation as dangerous and walked out and the other Members followed him. That the meeting ended prematurely and he (Hon. Kamitu) requested the Clerk of the Committee to report the matter to the Assembly authority.

#### 4.5 HON. MOFFAT MAITHA

He appeared before this Committee on 13<sup>th</sup> November, 2019 at 2.30 p.m. and stated as follows on oath as provided under Section 19(a) of the County Assemblies Powers and Privileges Act 2017 after introducing himself:

That he attended a meeting of the Committee on Selection on 1<sup>st</sup> November, 2019 at Weston Hotel, Nairobi. That other Members present were: Hon. Mark Muendo, Hon. Kamitu, Hon. Pauline Munguti Hon. Christine Koki, Hon. Jacqueline Nziva, Hon. Tariq Mulatya and Hon. Justus Kiteng'u.

He said that the meeting started at around 11.30 a.m. then all the Members were given the documents to read from. The documents were a list of proposed changes and the current Membership. That the Members were given room by the Chair to give their proposals on the changes done.

That he (Hon. Maitha) representing the Jubilee party proposed a change of moving Hon. Antony Mulu from Agriculture Committee to the Committee on Delegated Legislation. That next was Hon. Pauline Munguti of NARC party who also gave her proposals. Afterwards, Hon. Alex Kamitu of Chap Chap Party gave his proposals.

Later the Wiper Party was given a chance to present their views whereby resistance arose when Hon. Tariq Mulatya and Hon. Justus Kiteng'u complained that they were not consulted and that a meeting for Wiper Party was required to help sort their issues.

That he (Hon. Moffat Maitha) told Hon. Mulatya that previously Hon. Cosmas Masesi was moved from the Committee of Finance to Committee of Health and he (Hon. Tariq Mulatya) did not do any consultation.

The Members through the guideline (sic) of the Chair, Hon. Mark Muendo were requested to vote for the proposed changes in the Membership by raising hands. All the Members voted for the changes except Hon. Tariq Mulatya and Hon. Justus Kiteng'u.

That after voting, the two Hon. Members Hon. Mulatya and Hon. Kiteng'u continued shouting saying that the changes cannot happen and that the exercise was futile. The Members rose up and went to where the Chair was seated. As they moved, they tore the documents given to the Members, throwing the pieces on the table. That some Sergeant at Arms came in and then the Chair Hon. Mark Muendo walked out. The other Members also walked out.

#### *4.6 HON. PAULINE MENE MUNGUTI*

She appeared before this Committee on 13<sup>th</sup> November, 2019 at 3.30 p.m. and submitted as follows on oath as provided under Section 19(a) of the County Assemblies Powers and Privileges Act, 2017 after introducing herself:

That she attended a meeting of the Committee on Selection on 1<sup>st</sup> November, 2019 at Weston Hotel, Nairobi and that the following Members were present: Hon. Mark Muendo Hon. Alex Kamitu, Hon. Tariq Mulatya and Hon. Justus Kiteng'u.

That the Chair, Hon. Mark Muendo began by saying that he had a draft proposal containing the intended changes of Membership which he wanted the Members to discuss.

That the draft changes were informed by some Members who had relinquished some positions which the Committee wanted to replace with other Members. Jubilee Party was the first to give proposals where they said they were comfortable with the proposals.

Next was Chap Chap Party where some proposals were raised and they were well addressed by the Members.

That for Narc Party, Hon. Pauline requested that Hon. Judas Ndawa who had one Sectoral Committee be added other Committees. The matter was resolved and Hon. Judas Ndawa was assigned the Committees of Finance, Education and Trade.

That when the time for Wiper Party came for them to give their proposals, Hon. Tariq Mulatya and Hon. Justus Kiteng'u complained that they had a problem with the draft proposal and that they did not understand why Members were being moved from one Committee to another without their consultation. The other Members went on with the discussion and Hon. Koki agreed to relinquish one Committee.

At that time, Hon. Tariq Mulatya and Hon. Justus Kiteng'u rose up and started shouting saying that they were not in agreement with the draft proposal.

The Hon. Chair calmed them to sit but they refused saying that the discussion cannot continue. The Chair put question on how many were in agreement with the proposal. Hon. Christine Koki was non-committal. All the other Members agreed with the proposal except Hon. Tariq Mulatya and Hon. Justus Kiteng'u who were already standing saying the meeting cannot continue.

The two Hon. Members started moving to where the Chairman and Hon. Kamitu were seated. As they moved, they picked documents on the table, tore them and threw them on the table. That immediately the Chair, Hon. Mark Muendo rose up and left the room fearing the charged Members. That the two Members called some other Members from the other rooms and showed them the draft proposal.

#### 4.7 HON. TARIQ MUEMA MULATYA

This is one of the Members adversely mentioned in the Statement tabled before the House on 5<sup>th</sup> of November, 2019. He appeared before this Committee on 19<sup>th</sup> November, 2019 at 12.30 p.m. and stated as follows on oath under Section 19(a) of the County Assemblies Powers and Privileges Act, 2017 after introducing himself as, among others, the Majority Party Whip:

That he attended the meeting of the Committee on Selection on 1<sup>st</sup> November, 2019 and the meeting started at 9.00 a.m. He went on to say that he spoke on behalf of the Wiper Members that they were not ready for the meeting since he, as the Majority Whip, was not consulted on the Agenda of the day.

He stated that he recalled that sometimes back when he was in a trip to China, he learned that one of his deputies, Hon. Peter Joseph Mutiso, had sought from one of the Clerks, whom he opted not to name before this Committee, seeking to be given a list of Committee Membership. That when he came back to Kenya and during the CASA games held in Eldoret in September, 2019, he called the Majority Leader, the Chair on Committee of Selection, and asked him when he was planning to invite the Committee on Selection for a meeting.

He said that the Majority Leader promised him that he will call a meeting once they return to the Assembly. He later shared with Hon. Alex Kamitu on the challenges the various parties had and the need to have a meeting for Selection Committee.

He cited that prior to this meeting at Weston, there was a lot of bitter exchanges on *WhatsApp* for the NASA Coalition and allegations that Hon. Paul Museku was influencing the Majority Leader on matters of Committee Membership.

He added that before any meeting on Selection Committee, it was a practice that Party Leaders meet for consultation on Membership and that for the meeting in question there was no consultation meeting.



That in the meeting he saw the following Hon. Members: Hon. Joseph Mutiso, Hon. Justus Kiteng'u, Hon. Pauline Mene, Hon. Christine Koki, Hon. Alex Kamitu, Hon. Jacqueline Nziva and others.

He stated that before the meeting started, Members were asking for re-arrangement list of Committee Members of which he informed them that he was not aware of.

That when the Chair /Majority Leader came in, he provided a list of proposed changes in Membership and the list was shared to all Members. That he raised a concern on the proposed changes saying that NASA Coalition Members were not consulted in the rearrangement. That the Chair did not address his concern instead he depicted rudeness and told him to sit down.

That when the Members of the Minority Party were asked to give their views, they said they were not comfortable with the list on grounds of non-consultation and that the proposed list was a making of the Chair/Majority Leader alone.

He stated that the other parties despite non consultation, they were given room to propose changes in the list but there was no full agreement. At that point, he rose on a point of Order that NASA Coalition was not ready for the agenda of the day regarding changing Members in Committees on grounds of non-consultation. The Chair responded that he consulted individual Members who were affected by the changes.

That all parties except NASA Coalition agreed with the changes made after their issues were addressed by the Chair. That he requested for permission from the Chair to call the Members who were affected by the changes such as Hon. Thomas Mutinda and Hon. Margaret Mwikali and put them on speakerphone to confirm if they were consulted and they confirmed that they were not consulted. Also, he stated that he was seated next to Hon. Christine Koki and she told him that she had been moved from a Committee and that she had not been consulted.

Further, he stated that he told the Majority Leader, ".....see now, Members have not been consulted including myself and his deputy Hon. Kiteng'u who told me he had not been consulted. The Majority Leader said this list will go as it and that is to come to the House. I told him that since the list had not agreed on, there was no way, it was going to become a property of the House since one of the party, NASA, had not agreed on it. I want you to look at it at this point. A Member is raising a point of concern, then the Chair is trying to sideline. You can see the Committee is becoming chaotic and the environment as he is putting it. It was becoming chaotic because you could find many Members talking at the same time.

Then at this particular time, and I know that is why we are here now, at this particular time, the Majority Leader instructed the Clerk to file that document in our Committee file. I saw the Majority Leader as the Chairman was becoming biased, so as the Majority Whip and my duty is to make sure that my Members are comfortable by any means and that I should work towards the interest of the party and make my party stronger, I stood up because at this point, the Majority Leader was not respecting any one. So I stood up and took the purported proposal and I tore them up to prevent them from becoming a property of our Committee when we had already disagreed."

*(Laughter)*

On being asked on behalf of this Committee, how many copies of the proposal he tore, he answered ".....just like two, because he was proposing that they be filed by the two clerks. So I tore the two he was trying to give the Clerks."

On being further questioned on where he was seated, he answered, "...I was seated in the middle. I was far from the Majority Leader. I walked around the conference table, I came to the clerks and I took the two proposals and I tore them so that those proposals will not become a property of the Committee since we had not agreed and then I tore them to prevent them from being filed...at this point things became chaotic because all Wiper Members were saying, no we have not agreed."

The Member continued to state that other Members of the Committee also tore their papers and on seeing that, the Hon. Chair walked out and then some Serjeant at Arms, on hearing the chaos, came in. He also stated that the other Members also walked out and the meeting ended.

When asked whether he had any witnesses to call, the Member said he had only himself and the CCTV footage of the conference room where the meeting took place.

*(Laughter)*

At this point, the Committee resolved to request the management of the Weston Hotel in writing to view the CCTV footage. By a letter Ref: MKSCA/PCS/CMM/Vol.2/23 dated 20<sup>th</sup> November, 2019, the Committee made the request to the hotel and a response from the hotel was received vide a letter dated 22<sup>nd</sup> November, 2019 to the effect that the boardroom did not have CCTV mounted and a CCTV can only be temporarily mounted in a boardroom on request of the meeting holders. (Appendix 4 and 5).

#### *4.8 HON. JUSTUS MUASYA KITENG'U*

He is the other Member adversely mentioned in the Statement presented to the House on 5<sup>th</sup> November, 2019. He appeared before this Committee on 20<sup>th</sup> November, 2019 at 3.00 p.m. and submitted as follows under oath provided in Section 19(a) of the County Assemblies Powers and Privileges Act 2017 after introducing himself as a Member of the Selection Committee:

That he attended the meeting on 1<sup>st</sup> November, 2019 and the meeting started at 11.00 a.m. That all Members were issued with a list of proposed changes in Membership. That he raised a point of concern to the Chair/Majority Leader on how he came up with proposed changes in Committees since under normal circumstance each party is consulted to nominate its Members and that he himself as Deputy Majority Leader he was not consulted.

He added that the other Members of NASA Coalition were not consulted. That the Chair advised that they go through the list party after party then in case of issues the Committee will settle.

That they began with NARC Party, then to Chap Chap Party, Jubilee Party and issues of each party were addressed. When it was the turn of NASA Coalition, he (Hon. Kiteng'u) and Hon. Mulatya raised a concern that they were not consulted when the new arrangement of Members was being done.

That Hon. Mulatya requested for five Minutes break for NASA to consult on proposed changes but the Chair refused to grant them the chance. At that time they called several Members including Hon. Thomas Mutinda, Hon. Grace Mutwiwa and Hon. Agatha Mutunga on proposed changes. They all confirmed that they were not consulted. He further stated that there were other Members who they could not manage to call.

Further, he went on to state that he insisted to the Chair to excuse NASA Party to have a side meeting first to consult among themselves but the Majority Leader managed to move on.

He stated that “.....moving on the Majority Leader wanted to be the NASA and did not want to consult anybody else. He wrote the document he has come up with. Remember we had already consulted NARC-Kenya, they were okay and the Maendeleo Chap Chap they were okay. Although Maendeleo Chap Chap they had an issue were they said they were also going to consult but if Majority Leader was saying that he called each and every Member of Maendeleo Chap Chap and consulted that I will remove you from this Committee and to the other and they accepted but us on the Majority side were not consulted.”

That the Majority Leader refused and asked Members how many were comfortable with the list. I told the Chair that “....It will not happen that way.”

That he further stated that Hon. Whip requested that there be a new reallocation of Members to Committees and then we ignore the one that the Majority Leader had brought. That the Chair told Mr. Muange to adopt the proposed list as the agreement of the Committee since it had been adopted by the Committee and to write a report that it had been agreed by the Committee. At that point he (Hon. Kiteng’u) out of anger, tore his copy while seated and told the Majority Leader that the document should not be filed.

He further stated that he stood up when the Chair walked out of the meeting and the meeting ended but not in a procedural way.

At this point, this Committee wanted to hear the evidence of Mr. Mathew Muange, the Assistant Committee Clerk for the Committee on Selection when it was informed that he had travelled out of the County to attend to a personal matter. Owing to the limited time that this Committee had under the law to present a report to the House, it decided to hear evidence on the matter under investigation from Margret Wania, who deputized Mr. Mathew Muange in the Committee at the time.

When asked whether he had any witnesses to call, he stated that he will rely on the CCTV footage for that room.

Hon. Speaker, in view of the request by the Hon. Members, this Committee by a letter dated 20th November, 2019 via a letter Ref; MKSCA/PCS/CMM/VOL2/23, this Committee wrote to the Chief Security Officer, Weston Hotel, requesting for CCTV footage for the proceedings of the Committee on Selection held on 1<sup>st</sup> November, 2019 in Bogol boardroom. This was done to confirm the actual happenings of the Committee on Selection proceedings in relation to the complaint tabled in the Statement.

On 22<sup>nd</sup> November, 2019, the Chief Security Officer replied to the Assembly via a letter which was received in the office of the Clerk on 25<sup>th</sup> November, 2019 at 2.30 p.m. In the letter it was confirmed that Weston Hotel does not mount CCTVs in boardrooms in compliance with Article 31 of the Constitution of Kenya on Personal Privacy (*Copy of the letter attached*)

#### 4.9 MR JOEL KIPTUM- SENIOR SERJEANT AT ARMS

The above witness appeared before this Committee on 22<sup>nd</sup> November, 2019 at 10.00 a.m. The officer was interviewed under oath as provided in Section 19(a) of the County Assemblies Powers and Privileges Act, 2017 and after introducing himself he submitted as follows:

That he and his team comprising of Mr. Daniel Ndambuki and Erastus Mutua attended the meeting on the Committee on Selection on 1<sup>st</sup> November, 2019 at the Weston Hotel and they prepared the Committee rooms for several Committees which were meeting in the Hotel at that day.

That the meeting of the Committee on Selection started at 11.00 a.m. and that he and Mr. Daniel Ndambuki were strategically standing at the door of the boardroom on the outside with the door closed but it had a glass panel on top through which they could see inside the room.

That they were surprised to hear two Members shouting and saying 'no' and through the glass panel they saw that the Members shouting were Hon. Kiteng'u and Hon. Mulatya. That they went into the room and saw the two Hon. Members tearing the papers and throwing the pieces all over the room and on reading some of the pieces he realized the document torn was a list of Committee Membership.

That he further stated that the two Members were shouting to the Clerks of the Committee that they should not come up with a report on that meeting and on assessing the general mood in the room, they classified it as chaotic.

That he approached the two Members who were shouting and tearing papers and told them not to continue tearing the papers and that they should leave the room. That the Majority Leader and other few Members walked out after he had directed Hon. Kiteng'u and Hon. Mulatya to leave the room.

#### *4.10 MS MARGRET WANIA (CLERK ASSISTANT II) DEPUTIZING MR. MATHEW MUANGE IN THE COMMITTEE ON SELECTION*

The above witness appeared before this Committee on 20<sup>th</sup> November, 2019 at 11.15 a.m. She was interviewed under oath as provided in Section 19(a) of the County Assemblies Powers and Privileges Act, 2017 and after introducing herself submitted as follows:

That she attended the meeting of the Committee on Selection on 1<sup>st</sup> November, 2019 and the meeting started at 11.00 a.m. She stated that she was deputizing Mr. Mathew Muange in the Committee.

That she saw the following Members in the meeting: Hon. Mark Muendo, The Chairperson Hon. Alex Kamitu, the Minority Leader and the Vice-Chair, Hon. Justus Kiteng'u, Hon. Tariq Mulatya, Hon. Jacqueline Nziva, Hon. Moffat Maitha, Hon. Pauline Munguti, Hon. Johana Munyao.

That the main agenda for that day's meeting was to nominate Members to serve in various Committees after the Committee received several complaints. That NARC party had earlier written a letter requesting for consideration of representation in various Committees.

The Chair availed to all Members copies of proposed changes in Membership of Committees. That the Chair informed the Members that they were free to make changes in the document provided.

That the approach adopted was to consider Party after Party whereby Jubilee was the first to give its submissions. The Jubilee party Members were comfortable with the list. However, they requested consideration of Hon. John Musyimi to be given more Committees.

That with the advice of the secretariat, the Committee considered to balance the number of Sectoral Committees each Member had for the advantage of those who had few. The next party was NARC whereby Hon. Pauline Munguti raised the issue of Hon. Judas Ndawa to be addressed as per the letter she had presented and the issue was sorted out as requested.

That the Chap Chap Party was the next to present their views but they did not present since Hon. Tariq Mulatya interrupted saying that the proposed document was done without consultation.

That the Chair responded that he had consulted individual Members and at the same time Hon. Justus Kiteng'u complained that Hon. Tariq Mulatya being the Majority Whip need to have been consulted.

That there was a lot of heated arguments and in the process Hon. Mulatya and Hon. Kiteng'u stood up and started tearing the documents that were on the table.

That at that time, the Chair called for a vote on the proposed Membership to determine those who were in support and those who were not in support and the environment turned to be very chaotic.

That no proper voting was done since the number of those who supported and those who did not was not determined and at that point the Chair adjourned the meeting and walked out immediately. She was cautioned by Hon. Moffat Maitha to shut her laptop for fear of it being damaged since the scenario was chaotic.

*(Laughter)*

### *5.0 REQUEST FOR CCTV VIDEO CLIP*

Hon. Speaker, on 20<sup>th</sup> November, 2019 via a letter Ref: MKSCA/PCS/CMM/VOL2/23, the committee wrote to the Chief Security Officer, Weston Hotel, requesting for CCTV footage for the proceedings of the Committee on Selection held on 1<sup>st</sup> November, 2019 in Bogol boardroom.

This was done to confirm the actual happening of the committee proceedings in relation to the complaint tabled in the Statement.

On 22<sup>nd</sup> November, 2019, the Chief Security Officer replied to the Assembly via a letter which was received in the office of the Clerk on 25<sup>th</sup> November 2019 at 2.30 p.m. In the letter it was confirmed that Weston Hotel does not mount CCTVs in boardrooms in compliance with Article 31 of the Constitution of Kenya on Personal Privacy *(Copy of the letter attached)*

### *6.0 COMMITTEE OBSERVATIONS*

Hon. Speaker, from the Statement sought in the House on 5<sup>th</sup> November, 2019 by the Hon. Peter Joseph Mutiso against the Hon. Tariq Muema Mulatya and Hon. Justus Muasya Kiteng'u and the submissions made before this Committee by the witnesses and the two Members against whom the statement was sought, this Committee identified the following three issues:

1. Did the Hon. Tariq Muema Mulatya and Hon. Justus Muasya Kiteng'u disrupt the meeting of the Committee on Selection on 1<sup>st</sup> November, 2019 at Bogol Hall, Weston Hotel, Nairobi?
2. Did the Hon. Tariq Muema Mulatya and Hon. Justus Muasya Kiteng'u tear some of the documents which were being utilized by the Committee on Selection in its meeting held on 1<sup>st</sup> November, 2019 at the Bogol hall, Weston Hotel, Nairobi?
3. Did the Hon. Tariq Muema Mulatya and Hon. Justus Muasya Kiteng'u damage property of the Weston Hotel, Nairobi, during the meeting of the Committee on Selection held on 1<sup>st</sup> November, 2019 at the Bogol hall, Weston Hotel, Nairobi?

This Committee observed as follows with regard to the three issues above:

1. On the issue whether the Hon. Tariq Muema Mulatya and Hon. Justus Muasya Kiteng'u disrupted the meeting of the Committee on Selection, this Committee observed that the

Hon. Tariq Muema Mulatya and Hon. Justus Muasya Kiteng'u DID DISRUPT the meeting by tearing up the said documents.

Further, from the submissions of witnesses, this Committee observed that the Hon. Tariq Mulatya and Hon. Justus Muasya Kiteng'u stood up from their seats, uttered words of discontent and walked on the pathways of the Committee room without first seeking permission from the Chair. The combined effect of the conduct of the two Hon. Members resulted in the abrupt and premature ending of the meeting.

Nevertheless, the Committee observed that the Chair of the Committee on Selection requested Assembly Party Members present to confirm whether they were in agreement with the draft list of the proposed Membership of Committees and the Jubilee Party, Maendeleo Chap Chap Party and Narc Party confirmed that they were in agreement with the draft but the position of the . NASA party could not be recorded due to the interruption of the meeting.

2. On the issue whether the Hon. Tariq Muema Mulatya and Hon. Justus Muasya Kiteng'u tore some of the documents which were being utilized by the Committee on Selection in its meeting held on 1<sup>st</sup> November, 2019 at the Bogol hall, Weston Hotel, Nairobi, this Committee observed that the Hon. Tariq Muema Mulatya and Hon. Justus Muasya Kiteng'u did tear some of the documents presented before the said Committee. This is confirmed by the evidence given by the various witnesses who appeared before this Committee and indeed by the admissions of the Hon. Tariq Muema Mulatya and Hon. Justus Muasya Kiteng'u in their submissions before the Committee. (See Clause 4.7 and 4.8.

The reason that the two Hon. Members gave the Committee for their tearing of the documents was that they were angry for not having been consulted by the Hon. Chair of the Committee on Selection on the compilation of a draft list of proposed changes of Membership in the Assembly Committees, which list had been tabled before the Committee on selection by the Chairperson.

However, from the observations made by this committee, all the other Assembly: parties were also not consulted during the compilation of the said draft list of proposed changes of Membership in the Assembly Committees, and none of those other party Members caused disruption in the meeting.

3. On the issue whether the Hon. Tariq Muema Mulatya and Hon. Justus Muasya Kiteng'u damaged property of the Weston Hotel, Nairobi, during the meeting of the Committee on Selection held on 1<sup>st</sup> November, 2019 at the Bogol hall, Weston Hotel, Nairobi, this Committee observed from the submissions of the witnesses and further from the fact that the Hotel has never to date made any complaint of damaged property, that NO PROPERTY of the Hotel was damaged.

## 7.0 FINDINGS

Hon. Speaker, from the above observations, this Committee made the following findings:

1. THAT Hon. Tariq Muema Mulatya and Hon. Justus Muasya Kiteng'u disrupted the meeting of the Committee on Selection held on 1<sup>st</sup> November, 2019 at the Bogol hall, Weston Hotel, Nairobi.

2. THAT Hon. Tariq Muema Mulatya and Hon. Justus Muasya Kiteng’u tore some of the documents which were being utilized by the Committee on Selection in its meeting held on 1<sup>st</sup> November, 2019 at the Bogol hall, Weston Hotel, Nairobi.
3. THAT the Hon. Tariq Muema Mulatya and Hon. Justus Muasya Kiteng’u did not damage property of the Weston Hotel, Nairobi, during the meeting of the Committee on Selection held on 1<sup>st</sup> November, 2019 at the Bogol hall, Weston Hotel, Nairobi.
4. This Committee makes a further finding that whereas the Chairperson of the Committee on Selection in the meeting held on 1<sup>st</sup> November, 2019 at the Bogol hall, Weston Hotel, Nairobi had the powers to take action against the Hon. Tariq Muema Mulatya and Hon. Justus Muasya Kiteng’u under Standing Order 103 of the County Assembly of Machakos Standing Orders, but did not, it was left for this Committee to address the matter under the provisions of the County Assemblies Powers and Privileges Act, 2017.
5. In addition, this Committee makes a finding that whereas the concerns raised by the Hon. Tariq Muema Mulatya and Hon. Justus Muasya Kiteng’u that they were angry because they had not been consulted on the preparation of the proposed draft list of the changes in Memberships of Committee’s may have been well placed, they should not have addressed the matters in the manner they did. In the Book of Ephesians 4:26 it is commanded that “Be angry and do not sin...” NKJV

*(Loud consultations)*

### 8.0 RECOMMENDATIONS

Hon. Speaker, on the basis of the totality of the above stated, this Committee hereby recommends that:

1. That Hon. Tariq Muema Mulatya and Hon. Justus Muasya Kiteng’u each of them having been found to have committed a breach of Privilege be given a formal warning as provided in Section 17(3)(a) of the County Assemblies Powers and Privileges Act, 2017. The formal warning be issued and personally be served upon the Hon. Tariq Muema Mulatya and Hon. Justus Muasya Kiteng’u by Clerk of the County Assembly of Machakos within two days upon the resolution of the House on this report. However, this Committee further recommends that should there be a repeat of any conduct constituting breach of privileges as set out under Section 16 of the County Assemblies Powers and Privileges Act, 2017 on the part of Hon. Tariq Muema Mulatya and Hon. Justus Muasya Kiteng’u, the Hon. Members shall face the full force of the Law including the penalties provided for under Section 17(3)(d),(e),(f),(g) and (h) of the Act.
2. Further, the Hon. Tariq Muema Mulatya and Hon. Justus Muasya Kiteng’u be Ordered each to apologize to the House in writing through the Speaker specifically for disrupting the meeting of the Committee on Selection held on 1<sup>st</sup> November, 2019 at the Bogol hall, Weston Hotel, Nairobi and for tearing up some of the documents which were being utilized by the Committee. The written apology by each of the two Members should be

delivered to the Office of the Speaker of the Assembly for official receipt within seven days upon the resolution of the House on this report.

3. This Committee further recommends that the Committee on Selection should proceed upon all due consultation to finalize the intended changes of Membership in Committees of the House ensuring fair distribution of Members in the various Committees in line with the provisions of the relevant provisions of the Standing Orders of the County Assembly of Machakos within 14 days upon the resolution of the House on this report.
4. Every member be reminded always to conduct themselves in a manner that brings honour to the Office which they occupy of a State Officer.

#### *9.0 CONCLUSION AND ACKNOWLEDGEMENT*

Hon. Speaker, the key objects of the leadership and integrity code is to establish standards of integrity and ethical conduct in the leadership and management of public affairs of the County Assembly. This can be achieved ensuring that the State Officers respect the values, principles and provisions of the Constitution of Kenya, 2010 and other applicable laws or policies on the standards of conduct and performance expected of holders of public office in the discharge of their duties.

The committee wishes to acknowledge the Members of the committee for the many hours they spent in interviewing the witnesses and in compiling of this report. Special thanks go to all the witnesses for turning up for questioning in the various dates they were invited despite their busy schedule. The committee also wishes to appreciate the Members of the Secretariat for their technical advice and devotion in compiling the report.

Hon. Speaker, it is therefore my privilege, on behalf of the Committee, to table this report on alleged breach of privileges and recommend it to this House for adoption. Thank you, Hon. Speaker.

**Hon. Deputy Speaker:** Thank you, Hon. Moses Mitaa, for that lengthy report that you have read.

*(Question proposed)*

**Hon. Deputy Speaker:** Hon. Steve Mwanthi. Hon. Judas, I will come to you next.

**Hon. Mwanthi:** Thank you Hon. Chair. Hon. Speaker, we have listened to the report from Powers and Privileges Committee and it concentrated so much on the happenings from Weston but not give light to the real issue that has been affecting this House. Hon. Speaker, it is just some few minutes ago when we had the same, same chairperson sitting on a different committee still bringing names of people without consulting his people, just some minutes ago.

*(Applause)*



Now we are here again debating over the same committee being led by the same person again over the same allegations. Going through the report, it is very well evident that by the time that person was leaving here he had already planned for the chaos in that committee.

*(Applause)*

The reason being; how come one committee called for four Serjeant at Arms to go to Weston hotel just to check on one committee?

*(Applause)*

We have always been going to Weston hotel so many other committees without even the Serjeant at Arms but they left here with prior information that I am going to cause chaos there so that these people may be named and that one we know Hon. Speaker.

Hon. Speaker, on this side and possibly I can apologize to the other Members, you see today we have failed a certain report that is very essential for this House and it was named that the Majority Leader side failed the other Hon. Members because you have seen yourself that they all consulted the other Members. On this side it is true that people have not been being consulted and it is something that Hon. Speaker we don't think we can go by that, we expect all Members to be respected, Hon. Speaker.

We are chairpersons and if you go through the research that I have done, the Selection Committee has only sat three times since the inception of this House. Secondly, being led by the same member, so he has only managed to sit with one committee and bring good findings to this Hon. House; this was just the second meeting yet other Chairpersons sit with the same Members being mentioned here and we have never seen such chaos in our committees and we have been having good committees with them.

So, Hon. speaker I think the committee ought to have even cautioned the Chairperson also to conduct himself even in a manner that would lead this House, Hon. Speaker, to higher heights but not forcing and forcing things that have not been consulted on, Hon. Speaker.

*(Applause)*

So, as I conclude, Hon. Speaker, it is my appeal to this House and my feeling that when mentioning or saying these people or these two Members go and apologize to this House, I have not seen any reason so as to why they are supposed to do that, and so I am against that report, Hon. Speaker. Thank you.

**Hon. Deputy Speaker:** Hon. Judas Ndawa.

**Hon. Ndawa:** Thank you, Mr. Speaker, for the opportunity. Mr. Speaker before I say whether I support or I oppose, there are some issues that need your indulgence or your determination. Number 1, Mr. Speaker, the committee has listed the Members of Powers and Privileges committee, they have given us the list which included the Hon. Speaker of this County Assembly which also include Hon. Paul Museku who is the Chairperson of Committees and the presiding Speaker today, Hon. Ndalana, Hon. Moses Mitaa and Hon. Kisini as Members. That is the only information provided.

When it comes to the time of interviewing the witness, the Committee is not clear who were in attendance at that particular time. It is not clear; it is only written that committee hearing and evidence-taking exercise. I think the committee should have given us the list of who were in attendance because we need to know who chaired the meeting. If the Hon. Speaker, Madam Florence Mwangangi is the one who chaired the meeting, or if Hon. Museku is the one who chaired the meeting. It would not be proper for whoever sat as the Chair at that particular time to sit down and preside over this exercise.

*(Applause)*

**Hon. Deputy Speaker:** Hon. Ndawa, let me finish. First of all, I would like to guide you there immediately. All the sittings of the Powers and Privileges Committee are chaired by the Hon. Speaker. All witnesses present and all interviews were interviewed in the presence of the Hon. Madam Speaker and that is the reason why you are seeing me sitting on this seat today. It is only that in the report, which was drafted by the Clerk to that Committee, did not start every day by saying Members present and seated were as follows.

To the best of my knowledge, apart from one or two sittings all Members were present it is only Hon. Ndalana who was not present in one or two of the meetings; Hon. Kisini was not present in one meeting but all the other Members were present during all the interrogations which we held in those meetings and all the Members who were interviewed can attest to the fact that the committee was being chaired by the Hon. Chair and therefore the issue you have raised as to whether the report should be indicating who was chairing, Members present during the interrogation, that is an amendment which can be done to the report but I don't think it is going to affect the gist of the matter in as far as the findings of the report are concerned. You may conclude your submission, Hon. Judas Ndawa.

**Hon. Ndawa:** Thank you, Mr. Speaker, for your guidance and direction. That was item number one item number two, Mr. Speaker, you will agree with me this afternoon almost the whole session we have wasted the whole of this afternoon discussing issues which do not concern the Assembly and only concern a single political party and not the Assembly.

According to this report Mr. Speaker, this is an issue of seniority; who is senior to the other in that particular political party. So, Mr. Speaker it is my humble request we should not waste the whole of this afternoon discussing personalities. It is not fair; we need to sit down here and discuss issues that are going to add value to our electorates.

*(Applause)*

The other issue that I wish to raise Mr. Speaker, in law we have what we call facts of the matter and again we have facts of the law. Yes the committee is giving us facts of the matter or what transpired but here we are going to be guided by facts of the law not facts of the matter and we cannot make a determination using facts of the matter.

If I slap you and you kill me because I have slapped you, the facts of the matter is that I started the fight, but now the law says if you are slapped you report to the relevant department, you don't have to take the law in your hands. So, Mr. Speaker, I would request this Hon. House to throw away this report and we discuss something which is going to add value to our people. Thank you, Mr. Speaker.

*(Applause)*

**Hon. Deputy Speaker:** Hon. Francis Ngunga.

**Hon. Ngunga:** Thank you, Hon. Speaker, of today, for catching my hand, which was very clear that I had something to offer here. Mr. Speaker, I first want to echo what my two colleagues who have spoken before me have said better. I appreciate what Hon. Mwanthi has us highlighted to us that there was actually a pre-arranged or a predetermined system that was already there before the committee sat at the Weston Hotel.

*(Applause)*

Reason being Mr. Speaker, all of us have been to the Weston hotel and when you look at the artillery of the Serjeant at Arms that were there that particular day there was already a plan that something was going to happen. Mr. Speaker, now this takes me to the second question that has been asking myself; who is it that authors and official document in a committee?

So that this document that we are talking about here is actually deemed to have been an official document of that particular committee because I have not heard from your findings here Members of that Committee saying that any of the Clerk Assistants had this misguidance and that these two Members snatched that document from the Clerk Assistants who are supposed to be the officiating Members who are supposed to be the custodian of the official documents.

*(Applause)*

Mr. Speaker and dear colleagues, this is to say that, as Hon. Ndawa has said, here there was a lot of provocation and if anything, I want to say that these two Hon. Members are my heroes today because these are Members who were acting on behalf of other Members whose rights were trampled on.

*(Applause)*

Mr. Speaker, this is not the first time we are talking about the Selection Committee, this is not the first time we are talking about the unfairness that existed in the distribution of committees and here was a Member that was trying to even trample down on Members on the same day. It is evident here two Members were out on record as having not been consulted; they confirmed to the Committee Members. It is true that the other Members of the other political Party's had consulted but here is a political party that had consulted.

Mr. Speaker, what do I say? I have worked with the two gentlemen, Hon. Mulatya is my Whip, I have worked with Deputy here and I do not know them to be of this character.

*(Applause)*

In fact, this is not their character; these are champions that should be given accolades tonight and I want to say this, Mr. Speaker, they cannot be guilty and Mr. Speaker, they are not

going to apologize, this Committee erred in finding these two gentlemen guilty. In fact, they were acting out of provocation.

*(Applause)*

The Chair of that committee provoked these Members here and defiance he did not even take lunch. Why did he not take lunch? Surely, how is tearing of a document and associated? Mr. Speaker, one of the recommendations of the committee that has brought this report here is to say that the Selection Committee should sit again and consider this. I do not think that this Selection Committee can sit with this mood. Is it possible? Why are you endangering the Members of that Committee? You can see there is war here. This committee must be disbanded.

*(Applause)*

Mr. Speaker, I go against the recommendations of the committee and propose to the House that this report finds its way into the cabinets where dust is going to collect forever and ever. Thank you, Mr. Speaker.

*(Applause)*

**Hon. Deputy Speaker:** Thank you. Hon. Members, as a Chair it is my duty to give you directions. In as far as committee findings are concerned, in as far as what the Hon. Judas Ndawa talked about here, it is important to note that if I slapped you, as he said, it does not mean you are going to your pocket and bring out your gun and shoot me. If I slap you and you shoot me and I die, when you go to court, what you will be charged with? It is not that I slapped you, you will be charged with you killed somebody. As state officers and I would like to look at the report which I have given you, there are.....Hon. Steve Mwanthi let me finish what I am saying.

There are guidelines which have been given here on the way a state officer should behave and the decision this House is going to reach and that is why I am giving guideline, is going to give precedence to what is going to happen to this House in future and even when you will not be sitting on that chair. Therefore, as a House and as a committee, I am just giving guidelines that, there are recommendations which have been given on when somebody is proven to have done a breach of privilege, a breach of privilege whether it is provoked or not provoked, remember that a privilege is something bestowed upon you.

I am trying to give you guidelines so that even as we make a decision it can go down on record that I said that, it is good for us to look at this thing objectively and not subjectively. Do not look at it as if it is going to affect you only; this decision which is going to be made by this House will be made as a reference in future and it will be turned against other Hon. Members and against the seat of the Speaker as such and therefore, I would like us as we are looking at this report to note that we are deliberating on a report which was chaired by the Hon. Madam Speaker and that the decisions which have been reached by that committee are impartial and look at the facts of the matter as it was. You may continue. Hon. Johana.

**Hon. Munyao:** Thank you, Mr. Speaker. I stand to share my mind on the report. Mr. Speaker, in law, provocation is when a person is considered to have committed a criminal act

partly because of the preceding set of events that might cause a reasonable person and I repeat, a reasonable person to lose self-control.

*(Laughter)*

Mr. Speaker, this makes them less morally culpable than if the act was premeditated and done out of pure malice. The circumstances which surrounded the allegations presented to this House today, to me the report does not address fully the circumstances.

*(Applause)*

What was the source of provocation? How has it featured in this report? Mr. Speaker, we have also heard the mandate of the Powers and Privileges Committee and unless one of the mandates is to nurture impunity, we cannot sit and deviate from a normal committee procedure. To me, a Chair in any committee sitting is there to preside and give guidance.

*(Applause)*

During the Selection Committee meeting, it was very different you cannot chair and become the Whip. In the other meetings, we have had the various Whips sit and guide there parties and make presentations on what was agreed upon during their party meetings. Things were different here because it has featured in the report that there was a draft that is featuring popularly in that report and one wonders who was the author of that draft.

*(Applause)*

So, I want to categorically stand to defend the two heroes and to me consider the acts as an unnecessary evil and going by that I follow the recommendations of previous contributors that we throw this report into the dustbin. Thank you, Mr. Speaker.

*(Applause)*

**Hon. Deputy Speaker:** Hon. Titus Kaloki.

**Hon. Kaloki:** Thank you, Mr. Speaker. I want to say that I personally disagree with this report. I have looked at it keenly, I have listened to the other contributors and I want to say that we might be setting a very bad precedence in this House. If we go by what the report says, it means that and if you look at the report keenly, to me it appears like there was a lot of malice witch-hunt, some people were provoked intentionally---

*(Applause)*

Someone had already had a predetermined decision on what was going to happen at Weston. I belong to Maendeleo Chapchap and I belong to that committee on selection and as a Maendeleo chapchap team, we had not even been consulted also to come up with a list of the people who are going to replace and also substitute with others in the same committee. I want to

say that unless we change the way we are doing things in this Assembly because it appears like some people are overstepping their mandate.

*(Applause)*

Or maybe they do not understand the mandate or responsibilities bestowed upon them in their current positions. I want to say this; when we came here, we came as elected Members of this County Assembly and nominated Members of County Assembly, we are all equal. We are equal Members of this House the few positions we have allocated ourselves, the few positions we have voted ourselves as Members are not quite permanent and we may end up misusing them to mistreat, to frustrate other Members and to demoralize and these are Hon. Members.

What I want to say is that two wrongs do not make right. As you said earlier, if you are provoked and you shoot someone and kill, you will never be jailed for murder but manslaughter because you were provoked.

*(Applause)*

These Members were provoked for reasons best known to the person who provoked them. This afternoon we witnessed a similar situation where people were never consulted but we as Maendeleo Chapchap we did not have an issue with our list but if you do not in management, whenever you are going to make any change, in change management you must involve the parties concerned, you must get their views, you must prepare them for the change.

Going forward we must learn to co-exist as Members of this Assembly, we must learn to respect one another, we must learn to consult and we must understand one thing; that we are all Members of the same House and we are equal. I want to say that if you look at the report, for example towards the end, you can see very clearly that Weston did not even make a simple or single complaint because nothing was damaged.

I was once a victim, I was thrown out for 28 days; I went for Christmas without money for my family with other Members of this House. We were not given an opportunity to be questioned by the same Powers and Privileges committee. If you look at this report, it such a huge report which spent so much time and money paying for allowances; to me it is actually a waste of money, waste of resources and waste of time.

*(Applause)*

I want to conclude by saying that if you are given a demand letter by a lawyer to apologize or withdraw a statement issued somewhere within seven days, then once you do that it means you are admitting liability. My fellow Members, we have less than two and half years to go and if we continue treading that way, then I think we are not in the right direction. These Members have no reason to apologize to anyone and we are going to throw or reject this report and personally I reject. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** Thank you. May be there is one thing I would like to clarify Hon. Member; that there are different Standing Orders. Standing Order 103 I believe is what was utilized in you being send out of the House. There are different scenarios. If something happens in the face of the Chair and the Chair reprimands you while you are in the precincts, you are

physically evicted from here. You were ordered to get out of here; I am just trying to put it right. You were ordered to get out of the Assembly and you did not; the Hon. Chair was seated here had to call the Serjeant at Arms to remove you.

The Standing Order which guided that is very clear and says the punishment is 1-2-3. What the report is talking about and what we are discussing are under very different Standing Orders; yours was dealt with under a different Standing Order. Hon. Kisila.

**Hon. Kisila:** Thank you, Mr. Speaker, for catching my hand which I have been raising for a long time. First of all, I would like to say this is the lowest report ever produced by this Assembly. In fact, it should go in the history as a report I do not know how it got into a House Business Committee. I kind of feel it should be torn apart and thrown away based on just like the Members were being told. I would like to even recommend that it should be deleted from our HANSARD. We have stooped too low.

**Hon. Deputy Speaker:** Hon. Kisila, point of order please. You cannot direct a report being generated by the House to be deleted in the HANSARD. I would like to withdraw that statement please because reports for this Hon. House regardless of what are reports which have been presented by Hon. Members of the House and become property of the House from now and forever and cannot be deleted. What can be done is you make your submissions but you cannot order or suggest a House to go ahead and delete a report.

**Hon. Kisila:** Mr. Speaker, this is my submission.

**Hon. Deputy Speaker:** Please I am saying you are saying it needs to be deleted.

**Hon. Kisila:** Okay. Mr. Speaker, *shingo upande* I withdraw and---

**Hon. Deputy Speaker:** Hon. Kisila.

**Hon. Kisila:** I withdraw, Mr. Speaker. But let me tell you one thing Members of this Assembly; power corrupts even the noble. I want to tell Members that the same people who have been elected in these positions should not imagine that they have reached a level where they can start being other people's prefects. When we first came in to this Assembly, we all came as equal and we did not know each other; we elected a Speaker, a Deputy Speaker and we have a Minority Leader and all the officials of this Assembly. Let nobody ever imagine that they cannot be removed from those positions.

*(Applause)*

I would like to make it very clear, we cannot continue wasting our time discussing on issues which are not affecting *wananchi*. Time is running out and I was just looking at my brother Hon. Mitaa, going through a lot of pain and reading some things which are so petty as I read the report and it is absolutely petty. The level of intelligence in this Assembly has actually been raped.

*(Applause)*

Because for you to bring such a cheap report to this Assembly you are raping our intelligence. If any of my electorates---

**Hon. Deputy Speaker:** Hon. Member, can I speak please. I would like you to have a seat. Hon. Members, let us accord respect to the House and to the various reports made by the various committees. This is a report which has been prepared by a committee and you can either agree or disagree with the details of the committee but to say a report chaired by the Hon. Speaker of this House is cheap. I think we are undermining, you can contribute to the report but let us watch our language because every other committee in this House will present a report before the House.

I am trying to say let us watch our language and what we say when we are submitting because Hon. Members there is tomorrow. Today is a report, there is always a tomorrow; the report which is before us today may be the way it is but it has been sat upon and presented to this House by a Hon. Member of the House. If at all anything else, respect that Hon. Member who stood before this House and read the report. Criticize, poke holes on the report and that is my argument but do not make fun of the entity of the Member because they were all Hon. Members who were presenting that report. It is important to preserve the dignity of the House. Hon. Kisila, please.

**Hon. Kisila:** Let me continue.

**Hon. Ngunga:** Point of order, Mr. Speaker

**Hon. Deputy Speaker:** Let Hon. Kisila finish Hon. Ngunga; you already contributed.

**Hon. Kisila:** When you make reports to this Assembly; we make as Members of committees, we dont make them as seniority and for anyone to bring a report here they should actually think twice. Does it pass the test of the intelligence of the Members of that Assembly? You cannot; I have a lot of respect for you as my Deputy Speaker and for Madam Speaker, but I do not think this passes the intelligence and the test of times of this Second Assembly. I do not want to be associated with it because I do not want to go home and my people tell me, *Mheshimiwa* you were there discussing a report which is exactly cheap.

*(Applause)*

I do not want to be associated with it. Mr. Speaker, power or when you are given permission to vet other Members, we should always work on the precept that we are all equal. *Na waswahili husema ukiona cha mwenzako kinanyolewa*, this report is setting a very serious precedence and we will never accept it in this Second Assembly. I want us to in fact move amendments in the Standing Orders and amend the Powers and Privileges Committee because I kind of feel they are overstepping their powers. I do not think I read the powers, I did not see anywhere which gives you right to organize kangaroo courts against Members.

*(Applause)*



Consultation is key we agree. We have got very many chairmen who are seated here, my Finance Committee Chairman is here, my Trade Committee Chair, my Environment Committee Chair is here but we have never got to a meeting and found them dictating to us what we are doing. In fact, theirs is just like what you are doing to facilitate the process and guide us but you cannot start putting your foot down.

We are not school children to get warning letters and we will not apologize. In fact, none of us will ever apologize unless they have committed a serious offense which affects and this offense committed here is not an apology. These two heroes stood on our behalf and we are looking for a way and let me tell you Hon. Orengo said one time; please understand the same system you are supporting will start haunting you tomorrow and you start coming to us looking for support.

I want to conclude by saying that this report should be torn and should go to the archives of this Assembly as the lowest report ever submitted to this House and we should reject in total. In fact, we should not vote, we should reject it *in toto*.

**Hon. Deputy Speaker:** Hon. Kieti.

**Hon. Kieti:** Thank you, Hon. Speaker, for giving me this opportunity. I have stood to reject the report in good faith because I smell---

*(Laughter)*

**Hon. Deputy Speaker:** Order, Hon. Members! Let the Hon. Member contribute consult quietly please. Hon. Member, continue.

**Hon. Kieti:** Hon. Speaker, I smell a false start of this Session if this trend is not addressed and at the same time it is very unfortunate that we are not rising to the occasion and to the expectations of the electorate in addressing matters that concern them because what we have been dealing with this afternoon as my colleagues have said are matters that are concentrating on an individual and not the electorate and matters that need to be addressed on the ground.

Mr. Speaker, you agree with me that the degree of impunity is killing trust and accountability in this Assembly if we do not engage in consultation. So it is my simple request that anything that is being done by any Chair in any Committee consultation is paramount and no one should work without consulting the people whom he/she leads. It is very simple and clear when you look at the report and I request that this should never be repeated in future because according to the report we are just amplifying an issue or some issues to create room either for a Committee to earn some sittings and enhance divisions in the House.

So, if it is very unfortunate that the committee had an opportunity to earn the sittings, we have no problem with that but we should not give room to enhance division and impunity in this House, Mr. Speaker.

*(Applause)*

I want to say that for any progress to be realized in this House and success of our endeavor as Hon. Members in this House, we should respect consultation and therefore, Mr. Speaker, I do not agree with the findings and with the resolutions of the committee and the Hon.

Members so named in the report have nothing to apologize for because at the same time we are setting a precedence which tomorrow will haunt Kieti and the day after tomorrow it will be Mr. Speaker, who is sitting at the Chair in the moment.

So as I conclude there is an issue that I have observed even the Members I do not know whether a report should be owned the committee because they have brought us a report that has not been signed. So we have been discussing a report that the Committee itself does not own. As I sit down, Mr. Speaker, I request that we be serious as a House and come up with business that touch on matters of importance to the electorate and to our county. Thank you, Mr. Speaker.

**Hon. Deputy Speaker:** I call upon the mover of the motion to respond please.

**Hon. Mitaa:** Thank you, Hon. Speaker. Thank you, Hon. Members; it is clear that the report is not going to see the light of day.

*(Laughter)*

Hon. Speaker, every Member in this House is in one or another committee. It does not make you a criminal to be a member of a Committee. Us as powers and privileges committee under the committees mandate we played our role very well. I am a bit, I lack words to respond to Hon. Kisila because as much as he might not agree with the Report, he has used very strong words and well we must agree that we cannot be equal; we might have some shortcomings which can also not be a wrong.

Hon. Speaker, it is good to understand that this committee is like a court and one thing we found it very hard is how to judge a fellow colleague. That was very obvious, Hon. Speaker, and I am actually very happy that it has come on the first day of our sitting so that it gets over us because even us to come with the resolutions it is not easy to judge your fellow colleague and I think whatever we try to come up with, as per the regulations, whether it was adopted or not adopted was the most fair we could do to a colleague.

Nothing more than that because these colleagues of mine are my friends, we sit together we will be together God willing until 2022 and I cannot run away from them just as much I could not run away from my work or else the committee Members could not run away from their work. So Hon. Speaker, let it go on record that as much as we can tell there is a problem somewhere, it should not flow to the Committee because if a matter happens and it finds its way to the committee definitely we have to work. Whether we work for free *pro bono* or we work under salary so we have to work.

*(Laughter)*

So, Hon. Speaker, we did not create business; business was created---

*(Laughter)*

**Hon. Deputy Speaker:** Order, Hon. Members!

**Hon. Mitaa:** We had to play our role. We have quoted very well within 14 days we have to bring back a report whether it is accepted because it is not the first report which is refused to

be accepted, it is not the first neither will it be the last. So Hon. Speaker, let the Hon. House, with all due diligence, let us as it has been repeated by different colleagues of mine, embrace peace, unity and togetherness because we are just here for a limited time. Tomorrow we will be meeting along the streets maybe I will not be able to get time to even say Hi.

So we should create that environment which suits our people because even us Hon. Speaker, we are under pressure to serve our electorate but now sitting on a report until late at night on matters which could actually be solved at a different stage also becomes a problem for us.

So, Mr. Speaker, I want to absolve any allegation to the Committee Members as I repeat there is nothing as hard as being put to judge your colleague. It is not easy and whatever we came up with was the simplest as per the rules and regulations given. So Hon. Speaker, let it not be seen as witchhunt; we are not here to witchhunt anyone because we have got no business, we represent different people on the ground and we have different businesses. The only thing that brings us together here is the roles which we have been given to play in this House. Thank you, Hon. Speaker.

**Hon. Deputy Speaker:** Thank you, very much Hon. Moses for the response you have made.

*(Question put and negatived)*

*(Applause)*

Hon. Members, as I conclude on this report today, I think you have heard the report and you have gone through whatever findings as the Hon. Member has said the Committee did find in as far as the allegations which were made. The Committee has gone to great lengths in trying to establish the truth; you have read what each and every single Member of that committee said about the action. The report is there what each and every single Member who came to give witness before the committee what they said is documented.

What the Committee arrived at is supported by what you saw or what you have heard was discussed by the various Members. Mine as a fellow Member and as the Chair, I would like to tell you even as you throw away this report, some of you said they are going to throw it away it is going to go down in archives; recommendation No. 4, let us always keep it close to our heart. Every member is reminded to always adhere and conduct themselves in a manner that brings honour to the office which they occupy and that is the office of a state officer. Even as we go home today, let us behave, let us exemplify ourselves in a manner which brings honour to that office for which you are called a Hon. Member.

That will be a good take away for all of us here to behave in a honourable manner because we are all each and every one of us represents very many people. When I look at Hon. Johana, I see 27,000 people I do not see Hon. Johana sitting there I see 27,000 people he represents in this House. When I see Hon. Tariq Mulatya I see the more than 15,000 people he represents in this House.

That is what I see not just the person; the people who have put their trust in each and every one of us to come and represent then in this august House in a honourable manner. May God guide us and may we always make judgement and make decisions that are true to the spirit of what we have been called for.

**ADJOURNMENT**

This House stands adjourned to resume again on Wednesday, the 19th day of February, 2020 at 10.30 a.m. Enjoy your evening.

The House rose at 5.30 p.m.

