

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Tuesday, 24th July, 2018

The House met at 2.39 p.m.

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

PRAYERS

Hon. Speaker: Good afternoon, Hon. Members. Mr. Clerk, again I want to know do we have quorum. It is the beginning of a sitting. Just by looking we have, thank you. I saw Hon. Ndawa running very fast I did not know you are so fast in running. So, Hon. Members we can start the afternoon sitting. Mr. Clerk, please proceed.

COMMUNICATION FROM THE CHAIR
USE OF TECHNOLOGY IN THE ASSEMBLY

Hon. Speaker: Hon. Members, under this Order there is one communication from the Chair and it is about the use of technology in the Assembly. Hon. Members, the Assembly is in the process of embracing information technology and the commonly used word is that it is going paperless in the production of the order paper and its attachments.

This exercise, Hon. Members, is aimed at reducing paper and of course cutting on cost of the paper, ink and repair of machines which are used in producing these documents and also taking the members to the next level of being IT compliant. Hon. Members, remember the Konza ICT City is being put up just a few kilometers from here you do not want that establishment to find you still analogue.

The exercise, Hon. Members, will also hasten dissemination of documents and also accessibility of the documents wherever you are. You could do it in the safe corners of your homes, of course, observing the issue of confidentiality of the business of the House. So, Hon. Members, the Assembly, you remember, procured iPads for all of you so that they can assist you in becoming IT compliant and what Hon. Members, the Assembly plans to do, is to start assisting you to make use of those iPads starting slowly by slowly by doing Order Paper in soft.

So, for that purpose, Members, you are being asked to visit the ICT office and give the details of your emails. If you do not have a functional email, they will assist you register one and usually it is for free. Unless you want to use another domain of the email IP; so you need to call on the ICT office to assist you register the emails then through which you will be getting the Order Paper for the first time and then as you continue other documents will come in soft.

In the meanwhile, Hon. Members, the Assembly appreciates that you need training also on matters of ICT so that the use by you is easier and as you appreciate currently because of the closure of IFMIS system, once it is opened programs will be made as many as possible to make sure that you are well trained in ICT so that you have no problem whatsoever even on installation of applications yourselves on your iPads and any other machinery.

Hon. Members, be notified accordingly. Thank you. Mr. Clerk, proceed.

PETITION

NON-PAYMENT OF SALARIES TO MEMBERS OF KENYA COUNTY GOVERNMENT WORKERS UNION, MACHAKOS BRANCH

Hon. Speaker: Hon. Members, under this Order there is one petition which is Petition No. 11 of 2018 and I am going to read it out to you members because it is by a member of the public. Hon. Members, the Assembly received this petition through the office of the Clerk pursuant to Standing Order 194 of our Standing Orders and it also has a basis in the constitution and it is from the Kenya County Government Workers Union, Machakos Branch.

The petition is dated 29th of June and it is received on the same day, Hon. Members. Hon. Members the petition raises the following grievances:

Non-payment of salaries of three staff of the County Government of Machakos, Executive said for various duration of time dating back to December, 2016. The officers said they have not received any explanation why their salaries have being withheld despite having made several correspondents to the County Secretary; They further say that those working in various departments in Mavoko Sub-County had their salaries stopped from April, 2018 to date for failing to attend a Governor's meeting at the people's park on 17th of April, 2018; It is said further that most of the officers were on annual leave at that time and others were also on terminal leave or sick leave and could therefore not attend a meeting. They further say the County staff was being mistreated by the County payroll Manager; one Mr. Mathew Muteti who was a retired civil servant wand was on contract with the County Government.

Hon. Members, the petitioners have made prayers to this Assembly to intervene as follows:

That the three officers be paid their salaries for the last one and a half years; They have also made a prayer the one Miss. Jacinta Masila, the Chief Officer Treasury, one Mr. Mathew Muteti, the payroll director, one Mr. Grace Muluki Munguti, I am not sure that Mr. Grace carries the prefix of Mr. But it is written on Mr. Grace Muluki Munguti, Chief Officer Public Service Labor and ICT, one Mr. Francis Mwaka, County Secretary be recalled for failure to adhere to the code of conduct and integrity act and other employment laws and conventions; They also make a prayer that the officers of various departments of Mavoko Sub County be paid their salaries held by the County Government since April, 2018; They also ask the Assembly to investigate and take action on the said Mr. Mathew Muteti for mistreatment of County staff;

Hon. Members, Standing Order 200 provides that the Speaker may allow comments, observations or clarification in relation to a petition presented or reported in such total time shall not exceed 30 minutes.

Hon. Members, further Standing Order 201 provides that every petition presented or reported pursuant to this part shall stand committed to the relevant sectoral committee. In this regard, Hon. Members, the Chair allows just 20 minutes to the Members who may have any comment on this petition so that the petitioners may feel that their grievance has reached the Assembly and that the Assembly is going to address them according to the law that is available.

Hon. Members, do we have any Member who wishes to comment on the petition. Any Member who wishes to comment on the petition? Hon. Mitaa?

Hon. Mitaa: Thank you, Madam Speaker. I think I have one observation; Madam Speaker, that you have referred this committee to labor, public service and ICT but I think also these people need justice and in this Hon. House, Madam Speaker, we have an able committee which I think can collaborate with the labor, public service and ICT committee---

Hon. Speaker: Hon. Mitaa, I am yet to refer the matter; I can see you are ahead of me.

(Laughter)

Yes, you are right they have written here but the Chair will give proper guidance. Hon. Kiteng'u. Thank you, Hon. Mitaa.

Hon. Kiteng'u: Thank you, Hon. Speaker and Hon. Members. Madam Speaker, I would like to concur or agree with the petition because I have received several calls in my ward whereby this issue is more happening in the health sector where we have a worker, I do not know which group but the cleaners and the guards of the health facilities in our wards or rather Machakos County, whereby they have gone for more than a year without salary.

So, Madam Speaker, I urge and request also the County Government of Machakos to check on that because they are working day and night and they are not getting their pay. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Kiteng'u. Hon. Helen Matee.

Hon. (Ms.) Ndeti: Thank you, Madam Speaker. I would like to comment on the Statement brought forward; I think it is very dehumanizing for somebody to be denied a salary for that long a period; one and a half years and you are supposed to be earning some in come for your family.

If for sure this employees were properly employed by the County, it is the high time the County did things above board by being very fair, ensuring that their salaries are paid and if they do not need their services, let them get rid of them but let them pay them for the period they have worked for the County. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Matee. Hon. Museku.

Hon. Museku: Thank you, Madam Speaker. This Petition is by the Kenya County Government Workers Union and looking at the issues which have been raised in the petition, it is important for the committee and in deed this Assembly to investigate and come out with the truth

behind the allegations because looking at the Petition, the employees are saying that their salaries were stopped which means they are still working but they are not getting their salaries paid.

Somebody is performing their duty, coming to work and at the end of the month, they are not getting remuneration for what they are working on or working for. These are people with families, these are people who depend on this employment, these are people if they had done any wrong, my expectation would have been they would have terminated their services and given letters thereof.

The reason they are giving here, number three, the staff working in various departments in Mavoko Sub County had their salaries stopped from April, 2018 to date for failing to attend a Governor's meeting held at the People's Park. Failure to attend a Governor's meeting is a criminal offense according to this? That if the Governor calls for a meeting and you do not go, your salary is stopped?

This needs to be really investigated because if that is the reason why these people are actually losing their livelihoods...this needs to be investigated, Madam Speaker---

Hon. Speaker: Point of information, Hon. Museku. Point of information, Hon. Minority Leader.

Hon. Kamitu: Thank you very much, Madam Speaker. In fact, my fellow Mheshimiwa is on line but my point of information is that the meeting that was called by the Governor is that there was a notice; you can ask these Hon. Members all the workers because we have been asking for the ghost workers so on that particular day all employees of the County were called at the People's Park so that every department would give numbers of those present and as you say that was the information.

It was just a special meeting for the workers to be counted so that is why maybe Members are not getting clearly; this statement would have been very clear if they wrote why the meeting was on. Otherwise, that was the point of information, Madam Speaker. Thank you.

Hon. Speaker: Hon. Museku.

Hon. Museku: Madam Speaker, I thank the Hon. Member for the information he is giving us. If he has anything written to substantiate that, I would recommend he takes it to the committee, whichever committee the Speaker, is going to commit this to such information can be provided there. All what I was saying, personally is that it would be frivolous for somebody to be told you do not get your salary because you have not attended a Governor's meeting.

I do not even think if you refuse to attend the President's meeting you will end up losing a job because somebody has to find out why you did not go. For heaven's sake, these people could have been in hospital beds, they could have been attending funerals at home; we do not seem to have that information but I would suggest that the committee does its job expeditiously because we are talking about people's livelihood here. Thank you, Madam Speaker.

Hon. Speaker: Hon. Ndawa.

Hon. Ndawa: Thank you, Madam Speaker. I think the petition which has been brought to this Hon. House is in line with what members or members of the public or civil servant is entitled to. Once you are aggrieved, you have the leeway to petition the Assembly. What I would

urge the House is that we cannot making ruling after getting information from one side. We need to hear the other side so that we can be able to come up with a concrete verdict.

So, Madam Speaker, I think we should be patient so that the petition can be committed to the relevant committee so that they can invite the other party; invite the petitioners and the other party so that we can come up with the most viable verdict. Thank you, Madam Speaker.

Hon. Speaker: Hon. Ndawa, I can assure you that this Assembly is very awake to the requirements of the law and it is a stickler of the law and the constitution and also the Standing Orders and what the Assembly is doing is allowable under Standing Order 200 so that the members have their views on the floor of the house before the matter is committed to the relevant committee.

That committee like any other committee must follow the due process of the law and summon all the parties involved, allow them opportunity to give their evidence and come up with a ruling and bring the recommendations to this House and thank you, very much for your statements. Any other Member? Hon. Mulatya.

Hon. Mulatya: Thank you, Madam Speaker. If I look at this Petition, I think it is very clear that something should be done. If you read number three, it is very clear that failure to go to see the Governor or to attend a meeting can cost somebody life. Madam Speaker, if---

Hon. Speaker: What do you mean by costing somebody life.

Hon. Mulatya: If you deny somebody his salary, that means that person can starve to death, Madam Speaker, according to me.

Hon. Speaker: I understand what you mean.

Hon. Mulatya: Yes, so that is what I meant. Madam Speaker, if I remember very well, I had invitation to visit Level V hospital and I remember the official we met there he told us clearly they cannot access drugs from KEMSA and Medics where they are supposed to get medication from because of debts from there.

You can see now another problem is coming from the public; so something must be done from the executive and just save us from all this shame from big companies which can lead to denial of important commodities like drugs. Thank you, Madam Speaker.

Hon. Speaker: The time allowable is more than 30 minutes but let me allow Hon. Kalumu and the Hon. Majority Leader to close but very briefly; brief remarks.

Hon. Kalumu: Thank you, Madam Speaker. I would like to start by saying that these petitioners are just a few of them from Mavoko sub-county because I met some of them from my sub-county and even my ward and my neighboring ward, stating the same problem that that meeting was called and when they did not appear, their salaries were stopped and up to now they do not have anything to pay school fees and even to feed themselves with.

Machakos County is on record of violating the law; labor laws and also non-payment of salaries to the people who give the services to them. Madam Speaker, this Petition has come at the proper time and right time to rescue the cries of people who send us here. Something must be

done to rectify what went wrong because time in time out, every time we are receiving petitions over the same issues of non-payment of salaries.

I do not know what will be done unless we come together as an Assembly to fight for our own people and we put politics aside that is when we will go to the right direction. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Kalumu. Hon. Majority Mark Muendo.

Hon. Muendo: Thank you, Madam Speaker. These three petitioners, Madam Speaker, are not the only people in this County who are suffering from salary being stopped. In fact, Madam Speaker, most of these health facilities in our county, like in my ward I have Timboni health center where I have an officer who has not been paid for the last seven months and that is a fact.

So, I think I would urge this House, Madam Speaker, this problem is caused because we do not have County Public Service Board which is supposed to deal with these matters. Here is a case of discipline mentioned here by the petitioners who is going to discipline these people if this House does not install a County Public Service Board because at the moment, Madam Speaker, we do not have a County Public Service Board. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Mark Muendo. Hon. Members, this matter will stand committed to the committee on labor...I just want to get it right; it is a long name. There are two committees. Hon. Members, the matter stands committed to the committee on labor, public service and ICT jointly with the committee on legal affairs noting that matters of employment are matter of constitutional rights protected under the Bill of Rights and the relevant employment laws in the country.

That committee is required to file a report, the joint committee that is, to file a report in this House on or before the 25th day of September, 2018; I am taking note that Members in the month of August or thereabout, the Assembly will be on recess. Hon. Members, kindly take note of that. Mr. Clerk, proceed.

MOTIONS

APPOINTMENT OF CEC MEMBERS WITHOUT APPROVAL BY THE COUNTY ASSEMBLY

Hon. Speaker: On motions, Hon. Members, there are two motions and I notice that the one listed under No. 8 by Hon. Joseph Wamba Musau, chairperson of PAIC and there is another motion by Hon. Koki which seeks adjournment of the House to discuss matters of urgent importance definite to the County. Hon. Koki

Hon. (Ms.) C. Koki: Madam Speaker, I stand under Standing Order 30 on adjournment of definite matter of urgent county importance. If you allow me, Madam Speaker, I would like to move the motion.

Madam Speaker, that aware that the Constitution of Kenya 2010 is the supreme law of the Republic of Kenya and that it binds all persons and state organs at both levels of Government and that no person may claim or exercise state authority except as authorized under the constitution---

Hon. Speaker: Hon. Koki, just a moment. You said you are standing under what Standing Order?

Hon. (Ms.) C. Koki: 30.

Hon. Speaker: What does it say?

Hon. (Ms.) C. Koki: Adjournment on definite matters of urgent County importance.

Hon. Speaker: Please read out the Standing Order.

Hon. (Ms.) C. Koki: Standing Order 30 'adjournment on definite matter of urgent county importance.

1. Any member may at any time rise in his or her place and seek leave to move the adjournment of the House for the purpose of discussing a definite matter of urgent county importance.
2. A member who wishes to seek leave to move the adjournment of the House shall, at least two hours before the commencement of the sitting, hand to the Speaker, written notification of the matter but the Speaker, shall refuse to allow the claim unless the Speaker, is satisfied that the matter is definite, urgent and of county importance and may properly be raised on a motion on adjournment of the House.
3. If the Speaker is satisfied in terms of paragraph two and not less than ten other members rise in their places and support, the Speaker, shall nominate a time on the same day at which such motion maybe moved.
4. No Member speaking on a matter under this standing order shall speak for more than five minutes without the leave of the House except that the mover may speak for 10 minutes.

Hon. Speaker: Going forward, Hon. Members, I am making a request that we need to be guided by procedure; we need to be guided by the law, by the constitution and that is why I want Hon. Koki to satisfy the Speaker, as to the importance of the business on account of which she wants this House to adjourn and discuss and make sure you comply with the Standing Order 30 I notice that you are supposed to be supported by a number of members.

Hon. (Ms.) C. Koki: Thank you, Madam Speaker.

Madam Speaker, that aware that the constitution of Kenya 2010 is the supreme law of the Republic of Kenya and that it binds all persons and state organs at both levels of Government and that no person may claim or exercise state authority except as authorized under the constitution;
Further aware that every person has an obligation to respect, uphold and defend the constitution and that any attempt to establish a government other than in compliance with the constitution is unlawful;

Aware that the constitution has created a devolved system of Government at National and County level and that the County Government consists of the County Assembly and the County Executive;

Aware that the executive consists of the Governor, Deputy Governor and members appointed by the Governor with the approval of the County Assembly from among persons who are not members of the County Assembly;

Noting that on October, 2017 the Assembly under the provisions of the Public Appointments (County Assemblies) Approvals Act 2017 and the County Governments Act 2012 rejected persons who the Governor had nominated for appointments as members of the County Executive Committee;

Aware that the Governor claimed to have appointed three of those persons as members of the County Executive Committee without the approval of the Assembly;

Further noting that while a debate is pending before the Assembly on the approval of the seven persons the Governor has again proceeded to claim to have appointed them without the approval of the Assembly;

Acknowledging that the County Executive Committee must be accountable to the people of Machakos in the management of the affairs of the County which is the implementation of the Country budget and that the role can only be performed by persons who have been appointed to the County Executive Committee in strict compliance of the Constitution, the Public Appointments (County Assemblies) Approvals Act 2017, the County Governments Act 2012, among other laws;

Madam Speaker, I wish to seek leave to move the adjournment of the House under Standing Order 30 to discuss and resolve as follows:

- a. That the appointment of County Executive Committee Members by H.E. the Governor on 20th July, 2018 and sworn into office on 23rd July, 2018 as null and void.
- b. That the Assembly informs all relevant Government agencies and general public not recognize the said CECs.

Thank you, Madam Speaker. At that point I would like to call my seconder, Hon. Margaret Mwikali. Thank you.

Hon. Speaker: I am noting that if you are to seek an adjournment, it is not just a seconder, Hon. Koki; it is not less than 10 members. Mr. Clerk, for the record, do you have at least 10 members standing in support of seeking the leave?

(Several Members stood in their places)

Hon. Members, have a seat those who are on their feet. Hon. Members, the Chair notes the basis for seeking this adjournment that has been laid by the Hon. Koki; she is alleging breach of the constitution. She is alleging breach of various statutes; she is alleging possibility of the affairs of the county not being managed by persons who are not appointed with the approval of the County Assembly and that is a clear indication that it is an urgent matter, definite and of

importance to the county and the Speaker will allow the leave that is being sought for adjournment to debate that motion.

Hon. Members, I notice that the motion that is proposed is that the appointment of the CEC members by His Excellency the Governor on 20th July, 2018 and sworn in to office on the 23rd July, 2018 is null and void and that the Assembly informs all the relevant government agencies and the general public not to recognize those CECs.

Hon. Members, , for purposes of prosecuting the motion which I notice has been brought under Standing Order 30 allow me to propose the question for debate.

(Question proposed)

Hon. Members, the motion is open for debate, Hon Cosmus Masesi.

Hon. Masesi: Thank you, Madam Speaker. I support and voice my input on the same; I want to start by quoting our constitution, Chapter 1 whereby it says that the sovereign power belongs to the people of Kenya---

Hon. Speaker: Are you talking about chapter Hon Masesi or Article 1?

Hon. Masesi: Chapter 1, Article 1.

Hon. Speaker: Okay

Hon. Masesi: Yes Madam Speaker. It says that all sovereign power belongs to the people of Kenya and shall be exercised only in accordance with this Constitution. Madam Speaker, Article 1(2) says the people may exercise their sovereign power either directly or through their democratically elected representatives.

Madam Speaker, in this case, in Machakos County, the Assembly of Machakos exercises the power of Machakos people---

Hon. Speaker: Hon. Alice are you using the telephone and so openly so when the debate is going on? You are reading the constitution. At least that is commendable because you are IT compliant. Carry on.

(Applause)

Hon. Masesi: Thank you, Madam Speaker. I want to believe the Hon. Member has found that Chapter. Secondly, I want the House to go with me on our County Governments Act Section 30 where we have the functions of the County Governor; Part 4 says that subject to the constitution, the Governor shall appoint with the approval of the County Assembly, the County executive committee in accordance with Article 179(2)(b) of the Constitution.

Madam Speaker, I was surprised by the action of the Governor where he purportedly appointed and swore in the CEC members without the approval of this Assembly.

(Applause)

We all know that the proposed nominees had been vetted by the Appointments Committee; the report was brought to this House only that the report is pending reading and debate by the Assembly. Madam Speaker, we want to believe when the matter was not read and debated, it was sent back to the HBC for balloting to come back to this House.

I want to believe that the House is still within the timelines because the law says that the matter should be tabled back after 21 sitting days upon the matter is being sat on the first day by the committee. Madam Speaker, bearing in mind that the matter was first set (??) by the committee on Appointments on 29th May, 2018, we are far much before the expiry of the 21 sitting days. This action is unconstitutional, illegal and belittling this Hon House.

(Applause)

More so, the supremacy of the people of Machakos. Article 3(2) of our Constitution says that any attempt to establish a government otherwise than in compliance with the constitution is unlawful. Thank you, Madam Speaker; I want to rest my case.

Hon. Speaker: Thank you Hon. Masesi. Hon. Museku.

Hon. Museku: Thank you, Madam Speaker. Like the mover of the motion has said and I am in support, I was also very surprised, when I saw His Excellency the Governor, in his speech purporting that this Assembly had contravened the law and that the 21 sitting days stipulated by the law had elapsed. Madam Speaker, it is my believe that His Excellency the Governor being the Governor of this county has at his disposal, resources to get a team of experts who should be able to advise our Governor on matters legal and constitutional so that he does not go making false statements to the public.

When His Excellency the Governor says 21 sitting days have elapsed and therefore goes ahead to invoke a Parliamentary Act and do appointments; who did for him the counting of the days?

I am not even going to talk about what the constitutions says, the law talks about 21 days after the first sitting of the committee to discuss that which as you have heard was on the 29th May, 2018. I am not going to go with that, let us go with the timelines of when he submitted that report to the House.

The report was brought before the House on the 21st May, 2018 and I want us to make a very clear understanding of what we mean by a sitting day; a sitting day of the Assembly consists of morning sitting and afternoon sitting that is one sitting day. The Assembly only sits two days in a week and that is Tuesday full day and Wednesday full day; those are the only sitting days of the Assembly in a week.

We do not count when the Assembly goes on recess as sitting days; the Assembly has its own calendar which it has put recess days long before..... remember the Assembly approved its calendar before the beginning of the session. I am going to read for you the days which have elapsed so that everybody who wants to listen can hear and am not even going to base it on the 29th May, 2018 when the committee sat but I am going to base my timelines on the day the report was read by the Speaker before this Assembly which is on the 21st May, 2018.

The sitting days were on Tuesday, 22nd and Wednesday 23rd of May; two sitting days. On the 24th May to 4th June the Assembly went on short recess; no sitting was done within those days. The Assembly resumed again and sat on 5th June and 6th June, two more days. 12th and

13th June, two more days; 19th and 20th June, two more days, 26th and 27th June, two more days, 3rd and 4th July; two more days.

The Assembly went on recess between the 5th July and 16th of July, 2018 for a short recess and it resumed again on 17th July and 18th July, 2018 when that report was brought before this House.

If somebody cared to count those days, you would have realized that even from the time the report was brought here the Assembly had only spend 14 sitting days.

(Applause)

That is why I am surprised that with all that mechanism at his disposal of interpreting to him a simple thing as what is a sitting day and what does it entail. He goes to tell the people of Machakos that the 21 sitting days have long elapsed; contrary to the law. I believe Hon. Members of this House that the Public Appointments (County Assemblies) Approvals Act 2017 under which any approval is made under for County Assemblies stipulated that the committee had 21 sitting days.

If the committee had up to their utilized 14 days, it brought the report to the Assembly within the 21 days. Up to now, those 21 days have not yet elapsed and for a whole Governor to tell the people of Machakos that the 21 sitting days have elapsed; sincerely speaking is an act in futility and it is something which needs to be questioned.

The intentions behind the Governor's appointment, swearing in of these people before the County Assembly's timelines have even expired shows impunity of the highest order and disregard for the law. I would request this Hon. House not to sit down and allow, as the Hon. Member has said here, the constitution lays the supremacy of everything on the people and the people have elected these Hon. Members here to come into this legislative Assembly to be able to perform their constitutional mandate and anybody foregoing that is in breach of the law and should face the full force of the law. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Museku. Hon. Ndawa.

Hon. Ndawa: Thank you, Madam Speaker. I oppose the motion which has been brought t this House by Hon. Koki on the following grounds; Article 179(2)(b) and section 30(2)(d) and e and Section 35 of the County Governments Act 2012 gives the Governor the powers to appoint the CECs.

Hon. Speaker: Just a moment Hon. Ndawa, please resume your seat briefly.

Hon. Muendo: Thank you, Madam Speaker. Can he elaborate what is the Act of 2012 because it must be elaborated; not just quoting?

Hon. Ndawa: Madam Speaker, I believe most of the problems we have in this House is because most of the Members here are protégés and that is why---

(Loud consultations)

Hon. Speaker: Hon. Members, the Speaker is speaking you need to keep quiet and the speaker has eyes and ears to hear. Hon. Ndawa, please resume your standing position and switch on your microphone please. You said that most of the Members here are protégés; what is the meaning of protégé?

Hon. Ndawa: They are beginners.

Hon. Speaker: They are beginners in what?

Hon. Ndawa: This is their first appointment as Members of this County Assembly.

Hon. Speaker: And that includes you?

Hon. Ndawa: Including myself.

Hon. Speaker: So then what are you saying about being a beginner?

Hon. Ndawa: I am saying they don't have experience that is why most of the time they are trying to sabotage or suffocate the operations of the county.

Hon. Speaker: What are you saying Hon. Ndawa, are you abusing your fellow colleagues or what is the issue?

(Loud consultations)

I said Hon. Members, I am speaking

Hon. Ndawa: Madam Speaker, if they don't understand the meaning of the word, they can consult their dictionary and they will get it clearly.

Hon. Speaker: Hon. Ndawa, there is no time a Member will not understand and I think you have gone through a lot of training particularly on using respective terminology to your colleagues and when you say they don't understand and you are equally a beginner you are also telling yourself you don't understand, is that so?

Hon. Ndawa: Myself, I do understand, Madam Speaker.

Hon. Speaker: So, do you still stand by that statement or will you withdraw?

Hon. Ndawa: I withdraw it.

Hon. Speaker: Thank you very much. Continue.

Hon. Ndawa: Thank you, Madam Speaker.

Hon. Masesi: Point of information Madam Speaker.

Hon. Speaker: I will allow the Member to continue.

Hon. Ndawa: Thank you, Madam Speaker for the protection. Section 9 of the Public Appointments Act provides as follows;

Hon. Speaker: Which particular Act?

Hon. Ndawa: Section 9(8)

Hon. Speaker: Which particular Act?

Hon. Ndawa: Public Appointments Act.

Hon. Speaker: Yes, which Act? Hon. Ndawa, there is Public Appointments (County Assemblies Approval) Act and there is Public Appointments (Parliamentary Approvals) Act; which of the two are you talking about?

Hon. Ndawa: We are talking about the County, this is not national.

Hon. Speaker: Thank you. Proceed.

Hon. Ndawa: It is very clear; it says 21 days after the names of the appointees are brought to the House. The Committee on Appointments is supposed to investigate and work on those names and table the report to the Assembly either to accept or reject.

Hon. Speaker: Can we assist Hon. Ndawa. Hon. Kiteng'u, allow me to assist the Member; remember the debate is not a property of any of you, it is the property of the House so we assist each other. I am asking Hon. Ndawa be given that Act so that he can read it out. Let Hon. Ndawa read it so that then we also don't fall in to the risk of misquoting the law.

(Hon. Ndawa was given the Public Appointments (County Assemblies Approvals) Act 2017)

Hon. Ndawa: It is Section 9 and the title is 'period for consideration and report.' (1) states that 'unless otherwise provided in any law, a committee shall consider a nomination and table its report in the County Assembly for debate and decision within twenty-one sitting days from the date on which the committee first sits to consider the nomination.

(Applause)

Hon. Speaker: Hon. Members, please do not disrupt the Member; he had not finished reading, kindly can you repeat so that they can understand.

Hon. Ndawa: I believe they have understood.

Hon. Speaker: I am asking that you repeat so that they can understand; they disturbed the last part of your reading.

Hon. Ndawa: Unless otherwise provided in any law, a committee shall consider a nomination and table its report in the County Assembly for debate and decision within twenty-one sitting days from the date on which the committee first sits to consider the nomination.

Hon. Speaker: Thank you. You want to continue or is that the end of the section.

Hon. Ndawa: Yes.

Hon. Speaker: It just depends on what you want to read from there so you can continue from there now.

Hon. Ndawa: I can as well go ahead and read the other part.
Section 9(2) At the conclusion of an approval hearing, the committee shall prepare its report on the suitability of the candidate to be appointed to the office to which the candidate has been nominated and shall include in the report such recommendations as the Committee may consider necessary, including a recommendation on whether or not the nominee should be approved for appointment to public office. Rejection of nominees---

Hon. Speaker: You also wanted to read---

Hon. Ndawa: I don't want to go that far---

(Laughter)

Hon. Speaker: Please, proceed.

Hon. Ndawa: Madam Speaker, the same Act is very clear; it says 21 days once they elapse...

(Loud consultations)

Don't put words in my mouth, Madam Speaker, I would request for protection and since you have given me time to speak.

Hon. Speaker: I think the requirement is to use the terminology used in the law.

Hon. Ndawa: Yes.

Hon. Speaker: So that even yourself don't fall risk of misquoting the law; so what does the law.

Hon. Ndawa: The law is more likely like the Bible; it depends on how one wants to interpret it.

Hon. Speaker: Hon. Ndawa, please take a point of order. Hon. Mulatya.

Hon. Mulatya: Madam Speaker, I think the Hon, Member is misleading this House because we are talking about 21 sitting days; him he is talking about 21 days.

Hon. Speaker: Do you notice, Hon. Ndawa, there is a word you are omitting which you can't because the law---

Hon. Ndawa: According to my interpretation, Madam Speaker, morning session is a sitting day and afternoon session is another sitting day.

Hon. Mulatya: Point of information, Madam Speaker.

Hon. Speaker: Hon. Ndawa,

Hon. Mulatya: Yes, we have a---

Hon. Speaker: Hon. Mulatya, I have not allowed you.

(Laughter)

Hon. Speaker: What is your basis of saying your interpretation is; please guide us with the Standing Order or the law or the Constitution and so on because everything you do must be guided by the---

Hon. Ndawa: Madam Speaker, if we say we talk of one sitting day, we talk of a continuous plenary from morning to afternoon but since there is a break, those become two sittings and that is why we sign twice. We signed attendance in the morning and we have also signed in the afternoon.

Hon. Mulatya: Point of information, Madam Speaker, please.

Hon. Speaker: Hon. Mulatya, can you just keep quiet please; I will come to you. Hon. Ndawa, I asked you to give us the law which says that one day will constitute two days.

Hon. Ndawa: I am talking about sittings.

Hon. Speaker: If you don't have the particular law you are basing your argument on, can you proceed to another point.

Hon. Ndawa: Thank you, Madam Speaker.

Hon. Museku: Madam Speaker, can I just inform him please.

Hon. Speaker: We have agreed Hon. Museku we proceed on another point; so just proceed, Hon. Ndawa.

Hon. Ndawa: Madam Speaker, after the expiry of the 21 days, if the nominees are not approved or not rejected, it is deemed to have been approved; that is according to the constitution. That is Section 9---

Hon. Speaker: Hon. Ndawa, the good thing is you are addressing the law and I think sometimes back I learnt you are also reading the law and you need to do justice to the law. So, read for us that section which says that they are deemed to have been appointed after the 21 days, no matter how you calculate them.

Hon. Ndawa: I don't have the---

Hon. Speaker: You will be given. Hon. Members those who have iPads please assist the Hon. Member. Which law do you want?

Hon. Ndawa: Section 9.

Hon. Speaker: Which law?

Hon. Ndawa: Public Appointments Act.

Hon. Speaker: Which particular one? And you need to stand up Hon. Ndawa when you are talking to Members.

Hon. Ndawa: I am talking about the appointment of the county Assembly---

Hon. Speaker: County Assemblies Approval Act?

Hon. Ndawa: Yes.

Hon. Speaker: Can you kindly , Hon, Kiteng'u, you have it please assist the Hon. Member to read for us the deeming section, the section that says they are deemed to have been appointed. Start with the heading of the law you are reading and the section. Hon. Kiteng'u, do not consult loudly.

Hon. Masesi: Madam Speaker, can I inform the Member as he tries to look at the Act.

Hon. Speaker: But you are informing him on another point, he is on a different point. Hon, Ndawa, do you want to take some time?

Hon. Ndawa: Yes, Madam Speaker, if you allow me.

Hon. Speaker: Then you come back

Hon. Ndawa: Thank you, Madam Speaker.

Hon. Speaker: Hon. Cosmus Masesi, you want to inform the Member; he has sat down. What are you informing him on?

Hon. Masesi: Yes, thank you, Madam Speaker---

Hon. Speaker: What are you informing him on; he has sat down?

Hon. Masesi: I was to inform him on the---

Hon. Speaker: Hon. Masesi, you are late; he has already sat down.

Hon. Masesi: He is still on search on the same point, Madam Speaker.

Hon. Speaker: Unless he comes back to ask; just resume your seat, Hon. Masesi.

Hon. Kalumu: Thank you, Madam Speaker. I would like to start by echoing the words of the current Chief Justice of Kenya Maraga; he quoted one time that the in this part of the nation one needs to apply; the greatness of a nation replaced with a county is based on fidelity to the constitution and adherence to the rule of law and further more above all is fear of God.

Madam Speaker, what we have seen in Machakos County is infidelity of the law, mutilation of the constitution and non-adherence to the rule of law because I was amazed by the turn of events that the approval of the CECs was in the process of being approved by this Assembly. I was surprised to hear that they were already appointed and they were sworn in without even being gazetted.

Those Executive Members of Machakos County who are already being.....the report is with the Assembly, they have not been vetted already and approved by this House and that is gross misconduct and violation of the Constitution. If someone can wake up today and say 'i will call upon so and so to be Members of these Executive committee of this County.

Madam Speaker, in October last year, some of the Members who were appointed were brought in this House for vetting and some of them were rejected by the same House. I don't know how they got their way back to be appointed again while the people of Machakos through their elected leaders rejected them.

(Applause)

The direct appointment of the three members of the Executive which were made before the seven others who were on the report was against the law and violation of the constitution. It will be known that every time that such approvals are being done in this Assembly, the Executive, through the Governor, does something weird which belittles this Assembly.

The Governor has belittled the Assembly through approving for himself and putting in people as CECs in Machakos who have not been vetted by the people representing this county. The appointment of the DG as the finance CEC was also against the law.

(Applause)

Going to section 35 of the Devolution Act volume 1, says this---

Hon. Speaker: Hon. Kalumu, which is Devolution Act?

Hon. Kalumu: County Governments Act, Volume 1 section 35(4) says; a member of the county executive committee shall not hold any other State or public office. Even going back to Section 35(3)(d), any Executive member should be appointed to an office where he has knowledge and experience, distinguished to the same field, portfolio of the department to which the person is being appointed.

To the best of my knowledge the DG of this County is an engineer, he is not an accountant. It was against the law for him to be appointed as the CEC Finance for this County where he doesn't have any basic knowledge and experience of accounting. There is no law which permitted the Governor to appoint him as the CEC finance and that has gone to the record.

Hon. Speaker: Point of information, Hon. Muendo.

Hon. Muendo: Thank you, Madam Speaker. Let me also inform the Member that Section 35(c), I will read from (a) that; to support the appointment of CEC in finance is guided in the laws of Kenya.

That person:

- a. must be a Kenyan Citizen;
- b. is a holder of at least a first degree from a university recognized in Kenya;
- c. satisfies the requirements of Chapter Six of the Constitution; and
- d. has knowledge, experience and a distinguished career of not less than five years in the field relevant to the portfolio of the department to which the person is being appointed.

Maliti is an engineer, he is not a finance person.

Hon. Speaker: Hon. Mark Muendo, we have a title to the person you have just referred to.

Hon. Muendo: Sorry, Madam Speaker, Deputy Governor.

(Laughter)

Hon. Speaker: Hon. Kalumu.

Hon. Kalumu: Thank you, Madam Speaker, thank you Majority Leader for that information; I stand guided. If we allow things to go the way they are going, we are going to mix things and have no way of approving things because here the process is on the process, things are on the process to approve, the executive committee of this County yet we hear that they have already been put in office.

I beg this House today, be strict to your duties which were given to you because the law and the constitution is very clear on the guidelines on the rules and regulations and even laws meant for appointment of those officers to those offices. Let us uphold the constitution to the letter so that we can have a smooth running. Thank you, Madam Speaker.

Hon. Speaker: Hon. Mueni.

Hon. (Ms.) Mueni: Thank you, Madam Speaker. Mine is to echo the Mheshimiwa who has brought the motion, Christine. This House if we leave these people to be in the office, the Assembly will not be having work, you have to go home because how can we not vet the people and they start working on our Ksh. 12 billion which we gave the Machakos County.

I think this, the Governor was not doing his work because this is not somebody's home to employ workers so even the person who was going there to help the Governor swear the people, the magistrate, he has to be---

Hon. Speaker: Hon. Mueni, point of order from Hon. Minority Leader.

Hon. Kamitu: Thank you, Madam Speaker. We should take consideration in regard to the work of the executive and the work of the Assembly. So, is the Hon. Member, Hon. Mueni in order to talk that the Governor has no power; he is the appointing authority. So, in this question, we should know the subject matter; the Governor or the executive is the appointing authority, so is Hon. Mueni in order to make a statement that Governor has no power to appoint or to fire, Thank you, Madam Speaker.

Hon. Speaker: Hon. Mueni, proceed.

Hon. (Ms.) Mueni: Thank you Minority Leader and I know you have to work and talk but that is the truth of the whole matter; we cannot, we will not be having work if we are here not seeing what the things are going; we have to have eyes and understand. I think you are being seen by the whole world not Machakos County the way you are doing and you are elected by people to come here to look for their money and to know the way they are working.

If we give that person that office to sit in, when you call him to come here in a committee, what will you be asking him or her? You will not be having mandate because you have not employed him or her.

(Applause)

That is why you call people to come here because you have employed them and you have seen them they are capable and they are having the degrees to do the work. Do not be talking because you have to talk and because you have been told to come and talk in the Assembly say this and this; it is very unfair.

Hon. Speaker: Point of order, Hon. Mueni.

Hon. (Ms.) Mueni: I am almost finishing; I do not know whether I need any information.

Hon. Kaloki: Thank you. Madam Speaker,

Hon. Speaker: Hon. Mueni has finished unless you are contributing, Hon. Ikusya; she has finished. Hon. Kisila.

Hon Kisila: Madam Speaker I stand here to oppose that motion, this is that first, the Majority Whip when I was about to start to read the report stood up on a point of order to extend the days but if you quote what he said, he said that we cannot discuss that report until the matter in the court is determined.

Now, Madam Speaker I want to go further we are all on HANSARD, we are all actually recorded. Our Minority Leader stood here; he is a member of the appointments committee and read a Statement in this House on the 26th June, 2018. In the Statement and I want to read it here, he said:

Hon. Speaker, Pursuant to Article 179(2)(b) of the Constitution, H.E. the Governor, forwarded to the Speaker of the County Assembly, a message of notification of nomination of the following seven persons vide letter ref: MCG/GOV./Cab.02/18 dated 17th May 2018 which was received in this house on 21st May, 2018 for consideration and approval by the County Assembly and eventual appointment to serve as County Executive Committee Members in the following portfolios: he listed down the members, seven members.

He went further in the Statement which has been adopted by this House. He said 'in a sitting of the House held on 21st May, 2018, the Hon. Speaker informed the House of the message from H.E the Governor and pursuant to Standing Order 42(1) and (2), the matter was committed to the Committee on Appointments. The Committee was directed to report to the House within 21 days in accordance with Section 9(1) of Public Appointments (County Assemblies Approval) Act, 2017.

Hon. Speaker, the Committee via an advertisement, he went further elaborated, put an advert I do not want to read that. He also went further and said, Hon. Speaker, through a Gazette Notice No. 5747 dated 12th June, 2018; Friday, 15th June, 2018 was declared a public holiday to accord Kenyans the opportunity to make preparations to mark *Idd-Ul-Fitr*.

Consequently, the Assembly through an advertisement on the Daily Nation dated 14th June, 2018 and written notices to the remaining three nominees rescheduled the approval hearings to 18th and 21st June, 2018.

Hon. Speaker, previously and after receipt of the message of notification of nomination from H.E. the Governor, starting from the 6th to 8th June, 2018, the Assembly engaged in public participation of Budget Estimates for the Financial year 2018/2019; an exercise that took place in all the 40 wards in the County and involved Hon. Members of the County Assembly.

Last second last paragraph, the Minority Leader said; Hon. Speaker, in accordance with Section 9(1) of Public Appointments (County Assemblies Approval) Act, 2017, the report of the Committee on Appointments is due for tabling in this Hon. House on 29th June, 2018, that is the Statement last paragraph it says; Hon. Speaker, in view of the foregoing events that occasioned interruptions to the approval hearings schedule, I wish to seek an extension of fourteen days to enable the Committee finalize and report to this house on 17th July, 2018.

(Applause)

Now, what---

Hon. Speaker: Point of information Hon. Kisila.

Hon. Museku: Madam Speaker, I would like to stand here and inform the Hon. Member that a Statement written by a Hon. Member here and brought before the House which is not based on law, which is not researched in law does not change the law.

(Applause)

I would like to inform the Hon. Member that this House is guided by the constitution acts enacted by parliament, and any other laws which have been put in place. If the Hon. Member went and put a statement and put 21 days quoting a law which states 21 sitting days that is a personal issue which he made a mistake on; we are sorry for him but the law remains the law. Thank you, Madam Speaker.

Hon. Kisila: Thank you for wasting valuable House time. I did not mean that.

Hon. Speaker: Hon. Kisila, that is very much out of order; you cannot say that the Hon. Member is wasting the House's time. This is a member that is representing Hon. Members of the public of his ward and he cannot be here to waste the time. Can you withdraw that statement? Can you withdraw the statement Hon. Kisila?

Hon. Kisila: Madam Speaker, I withdraw the statement.

Hon. Speaker: Thank you.

Hon. Kisila: I want to pursue my thinking, I ask Members I have enough information please, do not give me more information I want to pursue my thinking. When a Statement is made in this house it becomes a property of this House and the fact that member of this committee who is also a Minority Leader stood here and said the report should not be done.

Madam Speaker, I want your protection from Hon. Museku; please stop gesturing and pointing at me when I making a comment. I gave you all the leeway when you were making your statement and I want you to respect all of us please.

Hon. Speaker: I have not seen the gesturing and if it is there, Hon. Kisila, why would you want to speak when the Speaker is speaking? I had not finished my statement; I was saying I have not seen that gesturing and if it is there it needs to stop. Can you proceed?

Hon. Kisila: Thank you, Madam Speaker. Again my thinking is being disrupted; I wanted to say if a Hon. Member comes to this House and make a Statement and it is adopted by this House it becomes a property of this House. What I was expecting while I was standing there to read my report from my brother, when my brother stood up to seek a point of order, he should have sought extension.

But when woke up, he stood and wanted us not to discuss the report---

Hon. Speaker: Point of information from Hon. Mulatya.

Hon. Mulatya: Yes, Madam Speaker, I would like to inform Hon. Member that we adjourned the House and that report was committed back to the House Business Committee so that it can find its way back to the House. Thank you.

(Applause)

Hon. Speaker: Hon. Kisila.

Hon. Kisila: The beauty about what we say, it is all captured in the HANSARD and it is a document which actually can be filed in a court of law and that is why it is very important---

Hon. Speaker: Hon. Betty, that is not the way to go in this house.

Hon. Kisila: that is the reason why we need to be very careful when we are in this House; when you are outside there you can say whatever you want to say. When you are in this House all the recordings, my brother Tariq Mheshimiwa, are recorded. So, when, allow me to finish, I am not going to take long.

So when he stood here and said on 17th, what expecting from you is an extension when I was seated there, he did not do that. Madam Speaker, I want to say one thing; a sitting is when we sit and sign unless you want to say you have been paid more days and the sittings in that case, then in that case we need to pay back the money---

Hon. Speaker: Point of information from who? Hon. Cosmus Masesi.

Hon. Masesi: Madam Speaker, the time has come for my information where I wanted to inform Hon. Ndawa and Hon. Kisila is there again; I would urge the Hon. Member to turn with me on page 14 of our Standing Orders where we will find the interpretation of what is a sitting day in the sitting.

Madam Speaker, it clearly says that a sitting day means any day, not just a sitting any day on which the Assembly sits. Madam Speaker, on sitting means a period during which the Assembly is sitting continuously without adjournment and includes any period during which the Assembly is in committee but two or more periods of sitting within the normal period of one sitting or within an equivalent period shall not rank as more than one sitting.

So, Madam Speaker, our Standing Orders are very clear, we need to be true to ourselves.

(Applause)

Hon. Speaker: Hon. Kisila, please proceed.

Hon. Kisila: Thank you, Madam Speaker. I want to finish with one word; we failed, we gave away our mandate, if we were serious, we should actually allowed the report to be tabled. We failed and the fact that we failed we come back here and say the executive should stay forever until---

Hon. Speaker: Point of information from Hon. Stephen Mwanthi.

Hon. Mwanthi: Thank you, Madam Speaker. Madam Speaker, I think the Member is not in order when he says that we failed. I think as a House we still have enough time; the time for that same document lapses on 8th August so I do not know where he is reading that or he is saying that the House failed. We did not fail; we are still following the order that the Governor ought also to follow.

Hon. Speaker: Hon. Kisila.

Hon. Kisila: I can see I am engaging my Hon. Members very well. Now let me take the fact of the matter is that we gave away our power which we have as a House to the executive because the Governor cannot stay with a lacuna of no appointment by us failing to adhere to the stipulated time by the constitution.

Now we can actually sit here and start having different interpretations but when the fact of the matter and even if this issue was to get to any other interpretation, the fact of the matter that Mheshimiwa Tariq Mulatya stood on a point of order and he asked for the report not to be tabled, that is exactly what he said. He said---

Hon. Speaker: Hon. Kisila.

Hon. Kisila: Yes, Madam.

Hon. Kisila: For the benefit of the House, it is in order that you be asked to substantiate not only you but every member here who speaks on whatever matter and the Speaker is asking you, can you substantiate and give the constitutional provision or the legal provision that says that the Assembly can give away its mandate not even to the executive, to anybody else.

Hon. Kisila: Madam Speaker, I do not want to quote any law.

Hon. Speaker: You do not want to quote any law?

Hon. Kisila: No, I would not want to quote any law but what I am saying---

Hon. Speaker: Do you have any.....Can you substantiate by citing a law, the constitution or any statute that this Assembly and starting with you as a Member that you are allowed to give away your mandate?

Hon. Kisila: No, I want to explain why I said that, why I said that---

Hon. Speaker: My question is not to you to explain but to give the basis for your assertion.

Hon. Kisila: Exactly, that is what exactly what I am doing, Madam Speaker.

Hon. Speaker: So which law did the Assembly use?

Hon. Kisila: I am not a lawyer to be quoting laws.

Hon. Speaker: So you do not have the law.

Hon. Kisila: By the way if I do not have the law, it does not mean that mean that my point is not valid.

Hon. Speaker: No, it is very easy just to say you do not have the law and you carry on.

Hon. Kisila: Exactly, fine, fine.

Hon. Mulatya: Point of information we can inform him.

Hon. Kisila: No, I do not want to be informed.

Hon. Speaker: It is not---

Hon. Mulatya: We can inform him.

Hon. Speaker: Hon. Mulatya, I have not allowed you. I have not allowed you. Hon Kisila, it is okay to say you do not have the law nobody will force you to say what you do not have.

Hon. Kisila: Thank you, Madam Speaker, but I want to elaborate my point, whether I have the law or I do not have the law. The minute you do not stick to the guidelines provided by the constitution, that is exactly what I am saying that we had the opportunity to table that report and---

Hon. Mulatya: Point of order, Madam Speaker.

Hon. Speaker: Hon. Mulatya, you will not have a point of order. Let me just inform the Member, Hon. Kisila; we went through legislation here you remember we did the supplementary budget and you remember when we were dealing with the Bill, if the Assembly sends that bill for approval and the Governor neither approves or disapproves, after a given time it becomes law. Are we clear with that?

So the question is; do we have a similar provision for the situation in which we are in? Do we have a provision in the constitution, let me finish, in the constitution or the statute that guides the appointments in County Assemblies where you can say this is to be deemed as having taken place. That is the question. I am on Hon. Kisila.

Hon. Kisila: Madam Speaker the provision of that law is section 9(1) of Public Appointments (County Assemblies Approval) Act, 2017 which says 21 days. Now..... excuse me, Madam Speaker when I am..... I think this is a House of order.

Hon. Speaker: If any member has information, please do it in the proper manner but do not just talk from behind the seat. Otherwise, then you would be disrupting the Member. If anyone has a point of information must do it in the proper manner. Allow the Member.

Hon. Mulatya: Yes. Madam Speaker, Hon. House, I would like to request the Member or even.... okay, let me inform him that it is not 21 days, it is 21 sitting days. Stop misleading the House Hon. Member.

Hon. Kisila: It is the same way you misled us on Wednesday and I am telling you it is the same way you misled us on Wednesday because the adjournment you brought to this House had no *modus operandi*. You should---

Hon. Speaker: Hon. Kisila, do not address yourself to the Hon. Mulatya; address yourself to the House and on the point you are submitting.

Hon. Kisila: Thank you, it is 21 days and I will go ahead with that. What I am trying to say is we should have sought an extension, we did not---

Hon. Speaker: Hon Kisila, you have talked of 21 days but we need to agree it is 21 sitting days up to that point and I referred you to a law that deems as an action is having been if it is not done; if it is not done within the time the law has set. Kindly guide the House, under section 1 of section 9, does it say that if the 21 days expire then it will be deemed to have passed and note the 21 days refer to the committee of appointments bringing the report to the House and not the House making a decision on the report.

Please let us be guided by the law properly.

Hon. Kisila: My brother here said we are all new to this thing and it is true and we need to refer ourselves also we are guided by the national law, the parliament, and the national law.

Hon. Speaker: Hon. Kisila, I am addressing myself to you. Do we have a law that guides appointments in County Assemblies?

(Laughter)

Hon. Kisila: You know, Madam Speaker, I had all these points but the fact that there are serious disruptions from Members, you lose your reasoning but I want to finish by saying this, Madam Speaker. I want to finish let me finish.

Hon. Speaker: Alright finish.

Hon. Kisila: Let me finish, we can quote laws and quote laws but what I am trying to say here is the interpretation and actually I had come to you when we were still debating and you told me there is a lacuna. The time limit of 21days is vague but we should have on Wednesday sought an extension not postponement of the discussion.

So, Madam Speaker, before I sit down, I want to say the Governor was within his right to appoint those CECs and they are going any Member who feels aggrieved can seek any other

interpretation from any court of law because the Governor has acted within the law and he has actually as it is today we have CECs in place.

Hon. Speaker: Hon. Kisila, has finished so you are not going to raise a point of order. Hon. Muthoka.

Hon. Muthoka: Thank you, Madam Speaker. I am happy today because I have seen my fellow Hon. Members quote the Law. Thank you very much.

(Applause)

But it is also a sad day and time for Machakos County. I do not know for how long Machakos County is going to be governed by impunity and illegality; I do not know for how long but soon I will see God hearing the cry of people of Machakos. This will come to an end. Even I am surprised a magistrate being misled to go and swear in people who have not been approved by this Assembly.

(Applause)

Hon. Kisila: Point of order.

Hon. Speaker: Point of order Hon. Muthoka, please resume your seat. Hon. Kisila.

Hon. Kisila: I want to correct the Member; he was not just a magistrate, he is a Chief Magistrate of Machakos.

(Applause)

Hon. Speaker: Hon. Muthoka.

Hon. Muthoka: I do not care about the status of the Magistrate but somebody who should be protecting the law is mutilating it. I even want the media to report this.

(Applause)

Hon. Speaker: Hon. Muthoka, please resume your seat. I just beseech you, Hon. Members, some terminology; let us not use it in this House. You must always care; let it never be that you do not care. Proceed, Hon. Muthoka.

Hon. Muthoka: I am saying a magistrate who should be protecting the law is not protecting it or he or she is acting illegally and I even want the media to report this; we are asking the Judicial Service Commission to investigate this magistrate we know under which acts. How can you go and swear in people without even a gazette notice?

(Applause)

How, where? Only in Machakos. This has to stop and I know even if it will take 100 years, this impunity will have to be paid and I want again to correct my Hon. Brian; this House is still powerful and soon you will know this House is powerful we have not given out our powers. We will act and we will follow the constitution and I want to urge the members and the committee; do not recognize these people, they are strangers and even we are asking our Serjeant at Arms and security that these people should not enter that gate and anybody, any contractor who is acting with these people just know it is illegal, null and void.

(Applause)

As an Assembly, as the people of Machakos, we will not recognize them.

Hon. Kamitu: Point of order.

Hon. Speaker: I am not allowing you Hon. Minority Leader, let the Member finalize. You will not ask me why Hon. Minority Leader, there is no point of order let the member finalize. Hon. Minority Leader, can you keep quiet.

Hon. Muthoka: Thank you, Madam Speaker for protecting me.

Hon. Speaker: You were not under any attack, Hon. Muthoka, can you proceed.

Hon. Muthoka: We will not turn this House to be a sycophantic House; we will say the truth and the truth will set us free. These people are illegal we will not recognize them, we will not call them, they will not transact anything in Machakos County and they will have to pay for it. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Thank you Hon. Muthoka. Hon. Alice.

Hon. (Ms.) Nzioka: Ahsante Bi. Spika kwa kunipa hii nafasi. Nimesimama kupinga hiyo mswada ambao umesomwa. Bi. Spika, sheria ni msumeno; sheria hukata mbele na hukata nyuma. Sisi kama wabunge hapa, kama Gavana wa Kaunti ya Machakos alifanya makosa ama alivunja sheria kwa kuteua mawaziri ambao waliapishwa, tuna uhuru kama wabunge na Mheshimiwa amabaye hajatosheka ana uhuru kwenda kortini ili kumleta Gavana wa Machakos kusema sheria

Hon. Speaker: I am not allowing point of information.

Hon. (Ms.) Nzioka: Sheria ambayo alitumia kuwateua hao mawaziri. Kwasababu tunajua bunge letu ni bunge la sheria na kama sheria imevunjwa kuna mahali huyo mtu anapelekwa. Asante.

Hon. Speaker: Thank you Hon. Alice. Hon. Kiilu.

Hon. Kiilu: Thank you, Madam Speaker. Madam Speaker, I am just surprised I don't know how long these Hon. Members will take to say this is right and this is wrong. I think we are all Hon. Members and we should stand to our status. Actually, as my colleague Mheshimiwa from Mitaboni has said, today I have seen something very amazing; Members were very busy consulting their acts, their Standing Orders, the Constitution and everything but no matter how long we look for these loopholes, we have to do the right thing for the people of Machakos.

It is time that you know Hon. Members that you are very important in this County that you must be consulted in all matters that affect your particular wards; not that if anyone feels that he should do something in your ward, he decides to do it straight away without any questioning

Madam Speaker, it is taking too long for some of us, too long for some of us to understand what a day means; a day has 12 hours of daylight and 12 hours of darkness. It is common knowledge that we are supposed to work during the day that is 12 hours and what is being referred is 12 sitting days as simple as that.

21 sitting days so the argument should start from.....I don't know why we are looking for loopholes to turn 21 sitting days to 21 days; it will never be possible. Hon. Members, actually I feel perturbed and Hon. Speaker, this is the reason why there is a push and pull; it is the reason why this Hon. Members are being belittled.

A whole chairperson of the committee of education like me, bursaries were being awarded without the knowledge of the chairperson or some of the Members of the committee. It is very disturbing, too bad and it is not good and I am saying as you have said; the Governor has the powers but let him also consult the Hon. Members of this House who represent the people of Machakos.

Madam Speaker, as much as we would want to make this much noise, you can really understand why some of us are making noise. I got this document; it was forwarded to me by somebody on how the bursary was awarded. It is a pity to hear that some wards were getting, students were awarded Ksh. 153,000 (??) as bursary.

Hon. Ndawa: Point of order.

Hon. Kiilu: I do not believe whether there is a point of order there. I will read yours also.

(Laughter)

Kangundo West has 153, Muthesya, where I come from and I am the Chairman, I thank God, I was given 13 only.

(Laughter)

When you go to Mheshimiwa Matuu, he has 96 and you are asking for a point of order; you have 96.

(Laughter)

When you go to others like Matungulu North, you have 9.

Hon. Speaker: Can you stop disturbing the submissions by the Member. Proceed Hon. Kiilu.

Hon. Kiilu: I think there should be balancing of all the Wards as much as the bursaries are being awarded.

(Applause)

Secondly, we are very busy summoning the CO and the Finance Department to tell us where the supplementary money went and all over sudden the bursary is being awarded without the knowledge of the Committee Members. This is wrong and, actually Members we should stand to say it is wrong, it is immoral, it is very wrong and we should accept that whatsoever. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Hon. Mark Muendo.

Hon. Muendo: Thank you, Madam Speaker. I would like to stand to support this Motion and I would like also to caution the Members; if you are not aware of the law you are quoting, do not mislead us. Madam Speaker, I saw the Governor quoting Appointments Act of 2012 of Parliament. I would like to guide the Governor and tell him that in our Counties, we follow Public Appointments (County Assemblies Approval) Act of 2017 and that one is law, Hon. Ndawa; that is law.

Madam Speaker, there is always a gazette notice after the approval of the House. This House after they have approved the nominees, what follows is gazette notice, Hon. Ndawa and that gazette notice was not done. Madam Speaker, this House makes laws, let us not bury our heads on the sand and purport that, the Governor's appointments were done according to the law; they were not done according to the law.

(Applause)

Madam Speaker, let me talk about this games which are being played by the Executive. As you know up to today, we have the wrong CEC in Finance, Madam Speaker. The law was not followed; this House should not keep quiet. Madam Speaker, the County Public Service Board is not legally constituted for the last five years. This House should wake up, do what Wajir did, the Assembly of Wajir stood on their foot and threw away the County Public Service Board and now they are appointing the new County Public Service Board.

(Applause)

Madam Speaker, I wonder how some Members are trying to put things together to make lies to this House. I want this to be very clear; this is House of law, let us call a spade a spade, let us not debate on 21 days when there is a sitting in the law. We must say 21 sitting days Madam Speaker and I like to say, if we continue like that, this County is going to suffer because if we are

not going to follow the law, there is nobody above the law including the Governor, Dr. Alfred Mutua.

Let me say, I hear some of the Members saying we move to Court. Madam Speaker, this is not what this House is looking for; those advising him to go to Court and they are this House, they should know this House is equivalent to a High Court. We can execute what we want here.

(Applause)

So, Madam Speaker, I urge the Members, please the Committees let us not allow these people because they are strangers; they are not appointed according to the law to come to our sittings and address us. It will be illegal and we cannot have them coming to answer questions on the Committee. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Thank you, Hon. Mark Muendo. Hon. Agatha.

Hon. (Ms.) Mutunga: Thank you, Madam Speaker. Madam Speaker, personally, I condemn this impunity done in Machakos County and these impunity and belittling, does not only affect Machakos County Assembly, it is affecting every person in Machakos County that is in the 40 Wards.

(Applause)

It is affecting the old, the little, from Muthesya to Kalama, from the other end to the other end. So, I am urging Machakos County, the public not allow these cinemas from Afrocinema to Cobra Squad cinemas continue---

(Laughter)

Hon. Speaker: Hon. Agatha, I just want to remind you that the language of the House is Kiswahili, English and sign language. If you choose to use English, you continue with English and do not mix. I understand cinema to mean in Kiswahili unless you want to prove to me that, that is an English word. Do not mix English and Kiswahili.

Hon. (Ms.) Mutunga: Thank you, Madam Speaker, I stand guided but I meant movies.

(Laughter)

Hon. Speaker: Point of order from Hon. Minority Leader.

Hon. Kamitu: Madam Speaker, my point of order is that, can the Member elaborate and define the word movies because I am aware that whatever is done in this Assembly, we debate; we do not make movies. So, as a point of order, can she be able to tell the House what she means by saying that? Thank you, Madam Speaker.

Hon. Speaker: Hon. Agatha, can you substantiate what you mean by movies?

Hon. (Ms.) Mutunga: Yes, Madam Speaker, I can. Movies mean acting not real.

(Laughter)

So, when I mean.....I go ahead, Madam Speaker?

Hon. Speaker: Proceed.

Hon. (Ms.) Mutunga: So, what I am saying is that....I hope the Member understood that is from Oxford Dictionary. So, what I am trying to say is this---

(Loud consultations)

Hon. Speaker: Hon. Minority Leader, no point of order.

Hon. (Ms.) Mutunga: I am saying that, the Members of public should not stand against this impunity anymore. Enough is enough and the last, I would urge the public not to allow the belittling of this Assembly anymore. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Thank you, Hon. Agatha. Hon. Mulatya.

Hon. Mulatya: Thank you, Madam Speaker. Madam Speaker and the Hon. House, I will start by saying that, it is way too much now; it is getting out of hand. When we find our Governor breaking laws right, left and center while we are watching---

(Applause)

Madam Speaker, I will start by Section 4 of the Public Appointments (County Assemblies Approval) Act; it is very clear and I will read. "Exercise of power of Appointment" and I want to be very clear on this particular section. 'An appointment under the Constitution or any other law for which the approval of a County Assembly is required shall not be made unless the appointment is approved by the relevant County Assembly in accordance with this Act.'

With this Act is the main point here Madam Speaker. The Public Appointments (County Assemblies Approval) Act but not the Public Appointments (Parliamentary Approvals) Act, Madam Speaker.

(Applause)

Our Governor used the Public Appointments (Parliamentary Approvals) Act to act on approving the CECs which is not allowed in the County Assembly; Madam Speaker, that is breaking the law.

Madam Speaker, the Constitution is the supreme law and Article 179(2)(b), stipulates very clearly Madam Speaker, if we can even go and visit this particular Article, I can read quickly. Article 179(1)(b) of the Constitution of Kenya, Members are appointed by the County Governor with approval of the Assembly from among persons who are not Members of the County Assembly.

Madam Speaker, it is clear that we were within our sitting days and if we were to count these days, our days expire on 8th August, Madam Speaker. There again you can see the Governor went ahead and did what he wished but not according to the law.

(Applause)

Madam Speaker, I would like to urge this House to write to all offices including Controller of Budget, DPP office, Anti-Corruption, all these offices barring these CECs from transacting on behalf of Machakos County people.

(Applause)

Madam Speaker and the Hon. House, if we refresh and minds back, I do not have County Governments Act with me here, the one I want to read but 42(2), it is very clear, it says that, 'when the fresh elections are completed, the Governor has 21 days to constitute his Government.' Our Government has taken almost one year Madam Speaker.

(Applause)

He comes back again stating the same laws which he has already broken. Madam Speaker, I therefore propose in this House that, to pass a resolution that, the Assembly does not recognize appointments and swearing in done by our Governor. Thank you, Madam Speaker.

Hon. Member: Point of information, Madam Speaker.

Hon. Speaker: The Hon. Member has finished submitting---

Hon. Mulatya: I can continue if it is him.

Hon. Speaker: You cannot inform him. Hon. Kisini.

Hon. Kisini: Thank you, Madam Speaker for also giving me this chance. I want to thank the Member who has brought this Motion and also try to echo our Deputy Speaker who has just guided us on the key words; the 21 sitting days. I really support that interpretation which has given us light.

My question is, today we have discussed everything in the wrong way and my big question is this; why the wrong awarding of bursaries? Why the wrong appointments as we are discussing now? Why the wrong sacking of employees?

(Applause)

Why is everything wrong? Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Kisini. Hon. Kituku.

Hon. Kituku: Thank you, Madam Speaker. Actually, Madam Speaker, you know a wrong is wrong and we will keep repeating that, a wrong is always a wrong and when powers that are bestowed upon us, the County Assembly of Machakos, is being taken by an individual, we cannot just sit and relax.

(Applause)

I cannot remember even a single day when I transferred powers give to me to somebody else.

(Applause)

Actually, for the few days I have been worried and why am I an MCA, if somebody can perform my duties? No, we will not sit and say that everything is going on well when things are going in the wrong direction. Things are not good and we as the Assembly, we have to be very keen and say when things are going in the wrong direction.

So, I am strongly in support of the Motion that we have not done what we should do as an Assembly and we have all the powers. So, let us still continue holding the places that we are holding and tell those who are saying that we have given other people our powers, that we have not and we are the MCAs of Machakos County and we will continue serving in those positions that we actually took oath on. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Hon. Rozina.

Hon. (Ms.) Kanini: Thank you, Madam Speaker for catching my eye. First, I want to congratulate the mover of the Motion because it is timely. My advice to the Governor is first to differentiate between the powers of the executive and those of the County Assembly and stop taking the Machakos County Assembly for granted.

(Applause)

I would also like to inform him that, gone are the days, when Machakos County Government used to be a one man show; respect is paramount. Thank you.

(Applause)

Hon. Speaker: Hon. Kiteng'u.

Hon. Kiteng'u: Thank you, Madam Speaker. Madam Speaker, I would like to state that, whoever advised the Governor, he or she might have not been aware of the law or Madam

Speaker, the Government or His Excellency the Governor just want to do his own things to lead Machakos. As you know Madam Speaker, our Kenya Constitution Chapter 1 states very well that, the sovereign power belongs to the people.

We cannot just allow things go ahead and happen. You realize, Madam Speaker, that, we have been having acting CECs, acting Chief Officers in Machakos County for the last six years and with that respect, Madam Speaker, you realize those CECs and the COs do not respect this Hon. House.

(Applause)

I can attest Chairman, Education went one day to see the acting CEC, Education and he was told that, I am heading somewhere, I have a meeting somewhere, that kind of mistreatment. Madam Speaker, I must say that, and I caution His Excellency the Governor, Dr. Alfred Mutua, to respect this Hon. House.

(Applause)

His Excellency going ahead and appointing his Ministers and going ahead and swearing them in his office without this House, terminates his business with the same list(??) To me, it is disrespect to this House. Madam Speaker, I would like to caution something else going on in this County, we have the Ward Administrators, we have the Village Administrators. Madam Speaker, the interview took place yesterday at People's Park and I tried to find out and I was told that. it was an inside job whereby in my Ward nobody was interviewed.

Then I must ask; who will come to work in my Ward as Ward Administrator and Village Administrators whereby in my Ward we also have people who can represent in other Wards or rather in the same Ward I come from.

Madam Speaker, gone are the days whereby, we us Hon. Members should condemn and stop this behavior of His Excellency the Governor trying to overtake everything and leave this Hon. House as a shell (??)

Madam Speaker, if we go ahead and give the loophole that, those CECs take their offices, the big question is; how and where will they respect the Committees in this House when we call them? And again, Madam Speaker, I must caution Public Appointments (County Assemblies) Approval Act on Section 11(1), where it states that, the Clerk shall notify the appointing authority of the decision of the County Assembly within 14 days of the decision of the decision.

My question is, did the Clerk of this County Assembly notify the Governor that the report was withheld and directed back to the House Business Committee for balloting or the Governor just assumed this Hon. House.

(Applause)

Madam Speaker, my opinion; these CECs, the ten of them, we should make sure we stop them from transacting any business, any public money in their offices until we follow the right procedure. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Hon. Ikusya.

Hon. Kaloki: Thank you, Madam Speaker. I stand here to oppose the Motion that has just been tabled a while ago by one of our Hon. Members. Madam Speaker, today I have just been sitting very keenly and listening; to me it has been a very unique day where Members have been treated to a lot of legal interpretations.

Some of our Members have actually proved to be quite scholarly in terms of law but I think such matters, we need also to be given time also to go and consult and also research. It appears like the supporters of the mover had really prepared for the Motion---

(Applause)

I want to say, they had prepared themselves according to their own interpretation; the way they try to interpret the law. The law is about interpretation just like the Bible, it is the way you want to understand it, sometimes, you can understand it the other way round depending on how you want it to suit you.

What I want to say is that, as Members of this House, it is important that we are true and honest to ourselves; we need not to preach water and take wine. The people out there are watching us. It is one year down the line since we were elected.

By the time we were presenting the just concluded budget, I remember we had put a clause there and we had kept on demanding for CECs to be brought before this House and as a Member of the budget Committee I remember we had put a condition that, we were going to pass the budget on one condition that; the CECs are brought to this House only for the report to be stopped from being tabled, it was never tabled before this Hon. House.

What I want to say is that, some of the Members who are claiming, I will not mention names, who are claiming that the CECs are illegally in office, I can confess that, not one or two.....actually three or four Members of this Hon. House, have visited the new CECs in their offices, paying courtesy calls from this Hon. House and also looking for services.

(Applause)

We know them, we have met this morning in some of the CECs offices and we need not to pretend that these people are not in office. The other thing I want to say is that---

(Loud consultations)

Hon. Speaker: Hon. Ikusya, I am speaking. Can you resume your seat briefly? Hon. Members, do not disrupt a Member when they are submitting and I want him to be given the time to finalize. If you notice that is what I have been doing so let Hon. Ikusya finalize. If you have any matter you will put up your hand and you will address when your time comes.

(Applause)

Hon. Kaloki: Thank you, Madam Speaker. Actually, I had a lot of interruptions and intimidation and I thank you for that---

Hon. Speaker: Personally, I have not seen any intimidation. I have seen interruptions but no intimidation.

Hon. Kaloki: Okay, I withdraw. Madam Speaker, what I wanted to say is that, today I have evidence I have met some of the Hon. Members from this House, in some of the new CECs offices seeking for services and also paying courtesy calls and they are the same people sitting here saying that they do not recognize. We have had a lot of contradictions and confusion and we are actually confusing the electorates.

The other day we said in this House that, we do not have CECs, we do not have Chief Officers. When the Hon. Member Mulatya was presenting a Motion to stop the presentation of the report. I remember---

Hon. Speaker: Hon. Mulatya, please let the Member finish.

Hon. Kaloki: It is in the HANSARD.

Hon. Mulatya: He is misleading the House.

Hon. Kaloki: Let me finish. I remember---

Hon. Speaker: Let the Member finish.

Hon. Kaloki: Thank you. I remember when Hon. Mulatya was presenting a Motion into stopping the presentation of the report, he acknowledged that, we have had acting CECs and Chief Officers for the past one year. It is the same Members of this House are here saying that, we have no Members, we have no CECs or acting Chief Officers in the office. What I want to say is this; His. Excellency the Governor of Machakos County brought a list of CEC Members before this Hon. House, they were tabled and referred to the necessary Committee on Appointments.

The Committee on Appointments did their good work and they brought their report here and the same report was rejected and I remember the Hon. Speaker---

Hon. Speaker: The report was not rejected.

Hon. Kaloki: Sorry, the report was stopped from being discussed.

Hon. Speaker: Alright.

Hon. Kaloki: It was stopped from being tabled and I remember quoting Madam Speaker's words, 'we have the report, we have done our work, you can do with it whatever you want to do with it.' Hon. Members, of this House, it is the high time we need to become solution-oriented Hon. Members. We cannot hold this County forever; our people are watching, we need to come up with solutions, we need to move forward, we have a budget which has already been assented to.

The Governor went ahead and appointed and went ahead and swore in the CECs so that he could get down to business; it is one year down the line, you want us to waste another one year? What shall we tell our people? We are accountable to the people who elected us.

What I want to say is this; if there was any contravention of the law, we would probably need proper interpretation but I think the Governor did whatever he did according to the law, it is the high time we needed to get down to business and start working and serving our people. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Hon. Museku, I will come to you. Let Hon. Betty first submit. I can allow it especially if a point a Member has mentioned, he feels he needs to respond.

Hon. (Ms.) B. Nzioki: Thank you, Madam Speaker. Madam Speaker, let us call a spade a spade and I want to seek from this Hon. House; does it mean that being a Governor is above the law? That he is not supposed to adhere to the law and to the Constitution of our Country and even the laws that are abiding us, as Machakos County. Madam Speaker, I want to support this Motion because the fact of the matter is that, we did not, us as the Hon. House we did not vet these Cabinet Ministers to be in office.

(Applause)

He also went ahead and the Ministers were sworn in. Madam Speaker, I wanted to seek an advice through this Hon. House, whoever did it or she did it, did they do it in contrary to the law or was he within the law? Madam Speaker, I want to challenge this Hon. House; we are trying to prevent some of the things and I want to quote a verse in the Bible that says that, whatever is being done in darkness, one day shall come into light.

We have been lying to the public, our Governor himself has been lying to the public that we are trying to frustrate him not to work for the people whom have elected us and here we are crying day and night fighting for the rights of these people. Madam Speaker, I want to urge this Hon. House, let us fear God but not a human being whom God has created with his own breath and his own clay because one day, one time, we shall all give an account of what we did at the Second Assembly of Machakos County. God have mercy on us. Thank you, Madam Speaker.

(Applause)

Hon. Speaker: Hon. Museku.

Hon. Museku: Thank you, Madam Speaker. One thing I would like to quote, Madam Speaker, is that, the County Governments Act, we seem to be Hon. Members, so much no---

Hon. Kamitu: Point of order, Madam Speaker.

Hon. Speaker: I indicated that a Member, I can allow. Hon. Minority Leader, I know he has spoken and I have allowed him to speak.

Hon. Kamitu: Some of us have not spoken.

Hon. Speaker: Yes, if you want to speak, you will speak and as a matter of fact Hon. Minority Leader, you have talked so many times. We have our record but we are still going on with the debate. We have not finished the debate Hon. Minority Leader and you are in the habit of reporting, repeating back and responding to the Speaker as they are speaking. I do not want to take action against a Hon. Member and a leader of the House. Hon. Museku.

Hon. Museku: Thank you, Madam. As I was saying, we seem all over sudden the Governor and his team seems to be very keen on timelines, seems to be very keen on quoting timelines and when he did what and when he did what. The County Governments Act, Section 42(2) states, the Constitution of a new executive Committee after an election under sub section 1, shall be finalized within 21 days of the swearing in of the Members of the County Assembly.

That is a law; the Governor never met that law, the Governor ignored those timelines yet today, he is telling the people of Machakos, timelines, timelines, when he is the very first person who is ignoring timelines based on the law.

We have just witnessed, Ksh. 8 billion spent on the 2017/2018 budget; we passed a supplementary budget before this House on 28th of April, 2018 which was assented to by the Governor on the 3rd of May for more than Ksh. 3 billion. We gave money to various vote heads and we gave Ksh. 66 million for bursaries and I want this to be quoted very clearly that, Ksh. 66 million was given for bursaries so that each Ward could be able to get Ksh. 1.6 million for bursaries---

Hon. Kamitu: Point of information.

Hon. Museku: That kind of impunity is the same one we are seeing---

Hon. Speaker: I have not been allowing information, Hon. Minority Leader.

Hon. Museku: Lack of implementation of that supplementary budget and this Hon. House we are going to see what I can call a reasonable, a logical conclusion to the funds which were approved by this Assembly in the supplementary budget.

(Applause)

The so-called acting CECs or people who are in place during that time, we are going to hold them accountable; we approved more than Ksh. 120 million for grading of roads only a few have been graded.

We are going to ensure that the Controller of Budget confirms to us where the funds are with him; if they are not with him it is an economic crime because we approved funds to do a specific item.

(Applause)

Therefore, what I am trying to say is this; the supremacy of the people of Machakos is vested in this Assembly and the people of Machakos vested their powers on us to represent them here, to vet the people who are going to hold offices to spend their money.

As an Assembly, if we have been given power by the people of Machakos to vet the people who are going to have executive powers to utilize funds on behalf of the people and we have not yet done that Hon. Members, then it goes without saying that any person who purports to have been approved by any other authority apart from the approving authority which is the County Assembly of Machakos, is doing so unconstitutionally, illegally and shall be held personally accountable for any transactions there are going to do outside the approval of this Assembly. Thank you, Madam Speaker.

Hon. Speaker: Thank you, Hon. Museku. Hon. Minority Leader.

Hon. Kamitu: Thank you, Madam Speaker. Madam Speaker, I do not want to say that I am standing here wondering but Madam Speaker, that the Hon. House is very much aware on our today subject matter we are talking about the CECs; a motion that I am standing to oppose on the strength that we cannot bring the impression to our electorate that the Governor did not do what is regard to approval hearing or to appointment of CECs.

The Hon. House, the Members of Machakos County, the electorates are aware that the Governor brought five nominees when he was re-elected as the Governor and they were rejected by this House. What is the meaning in the sense of CECs is to give service delivery into their respective departments. Us as a House, on a sincere note Madam Speaker, on a sincere note Members it is procedural, yes for the nominees to be brought into this House for approval and then sent back to the executive for them to be appointed and be put in their respective departments.

In the first instance, the normal work of the Governor was rejected. I am wondering that our Hon. Members, on a sincere note, have been singing, they have been requesting for nominees to be in their respective offices and this are the same Hon. Members who rejected the first lot.

Madam Speaker, you are the Chairperson of these Hon. Members in regard to committee of appointments; I am also a member of that. On the second nominees, in reference to a letter that was written by the Governor to this Hon. House, it was brought to this Hon. House for approval; what happened?

We are the same people who have been requesting the same nominees to be nominated so that they are put into their respective offices for service delivery to the mwananchi of Machakos County. It is the same, Hon. Members that are here, my brothers and my young brother for this sake Madam Speaker, Hon. Mulatya on 18th of this month, when the report was supposed to be read by one Hon. Brian Kisila, Hon. Mulatya stood up in this House and surprisingly and shockingly said that we have to await for a court ruling. I am asking my Hon. Members, what has the Supreme court ruling got to do with work of the Assembly in relationship to the Executive because we cannot go alone and the Executive cannot do alone, the Assembly as well; we have to work together because we relate we are working for the people of Machakos County.

(Applause)

My Hon. Brothers, this is the time we are supposed to come up with elaborate and things that can add value to Machakos County.

Hon. Speaker: That excludes the Hon. Sisters?

Hon. Kamitu: It does not exclude, it includes them, Madam Speaker. Thank you, Madam Speaker for the guidance.

On this same strength Hon. Members, this is the time now, we are supposed to sit down and look at things that are beneficial to this House, to the Executive and to crown it all to the members who elected us to this House. Madam Speaker, all is not lost; I was in the first Assembly, I was the only Elected Member who came back to this House and for that sake Madam speaker, I respect you and I should been given a chance to give guidance to the Hon. Members in this House.

Time has come, Madam Speaker that we should sing one song where things have gone wrong that it is this House that is supposed to keep things right and at this juncture Madam Speaker, I want Hon. Members and quote me well that this time round our Governor, Madam Speaker, in accordance to Article 179(2)(b) of the Constitution of Kenya 2010 and section 30(2)(d) and (e) of the County Governments Act 2012, he submitted the names of the nominees and the portfolio to which he had nominated them and in that regard that letter of 17th May, 2018 was brought into this House.

The list was submitted to this House and subsequently all the nominees Madam Speaker, as you are aware, as the chairperson of appointments Committee appeared before the appointments committee for their vetting on different dates starting from 11th June, 2018.

Hon. Speaker: Hon. Minority Leader, you have served in this House before like you said, we agree and honour you for that but you know the very Standing Orders that you were part in formulating do not allow you to debate just by reading. I am referring you to Standing Order 30(4) 'no Member speaking on a matter under the Standing Order shall speak for more than five minutes without leave of the House except that the Mover may speak for 10 minutes' and at the same time when you are submitting, you are not supposed to be reading for a manuscript.

Hon. Kamitu: It is surprising but I am not shocked because some Members have been doing the same and they have not been brought to notice.

(Applause)

Hon. Speaker: I did not see any Member reading, I have seen you reading and you agree you are holding a paper; you are holding actually some printed work. I have not seen them reading I have seen you reading.

Hon. Kamitu: I am saying I stand to be guided; Kamitu stands to be guided---

Hon. Speaker: I believe it is Hon. Kamitu.

Hon. Kamitu: Thank you, Madam Speaker. To finish my submissions is that many Members, Madam Speaker, they are talking about that it may go to the court but as far as I know, there also some separation of power that us as an Assembly there those we are supposed to do and there those that have an appointing authority to do that is the Executive is supposed to do.

So, in that regard Hon. Members, the Governor has the power to appoint and to fire; so it is my ample time to request Hon. Members that the nominees that were brought to this House were appointed by the Governor and they work. *Kazi iendelee*. Thank you, Madam Speaker.

Hon. Speaker: Hon. Kamitu, you mixed the two languages; I appreciate that you were finalizing and let the Members and the public know that all power which is exercised in any office is also regulated in the every manner you exercise. Hon. Mutiso.

Hon. P.J. Mutiso: Thank you, Madam Speaker. I am happy because of this motion because I see all members are awake; it is a good motion. But my worry is we have been talking all through about three nominees, who have who went to the court to challenge the decision of this Assembly and even I am worried on what ground or basis the Governor appointed them when he knows that they have a case in court.

(Applause)

I am worried what we are talking about because you are a teacher of law, a guru of law, I know a bit of law, I am not a teacher of law you can guide us on that.

Hon. Speaker: I am not a teacher of law, Hon. Mutiso. I also am not a guru of law I do not even know what the word guru mean? I have a legal background; I have two degrees in law so doesn't make me a teacher.

Hon. P.J. Mutiso: So, what I know is that we have a problem with our Governor because I do not see the basis as to why he appointed the three nominees who have a case in court. That is my worry. Another thing, what I can suggest is that let our Clerk of the County Assembly write a letter to the DPP and EACC.

Hon. Speaker: What are you reading Hon. Mutiso?

Hon. P.J. Mutiso: No, I have just noted because sometimes you know you forget, I am not reading anything. So, can our Hon. Clerk of this County Assembly write a letter to the DPP and EACC for the Governor to be investigated for abuse of office, if possible?

(Applause)

Let the Clerk also write a letter to the three nominees who are nominated informing them that the Assembly is yet to respond on their vetting and therefore purported appointment is illegal and that they should not purport to act as CECs on behalf of this County Government of Machakos and if they do it they must face the law, Madam Speaker. Thank you.

Hon. Speaker: Hon. Members, may the mover of the motion reply.

Hon. (Ms.) C. Koki: Thank you, Madam Speaker and Hon. Members for the debate it was a healthy debate there were proposers, supporters of the motion there were opposers of the

motion and all that is allowed in this Hon. House but then I stand still strong with my motion as majority of the Members have supported the motion.

I stand still to say that the action that the Governor took of appointing and swearing in of the CECs was very illegal and is very wrong and the law should be followed. The Governor should know that there is separation of powers. He has his mandate, the County Assembly has their mandate. His mandate is to appoint, ours is to vet and approve, so why should he intimidate or why should he belittle the Assembly and partake their mandate or partake their roles.

This is the high time that the Governor should know that these are Hon. Members, who were elected by the Hon. People of Machakos County to represent them and whenever, He belittles this Assembly, he belittles the entire County of Machakos. Thank you, Madam Speaker.

DIVISION

(Question put and the House divided)

(Several Members stood in their places)

Hon. Speaker: Hon. Members, there is a division demanded and it must be given. Serjeant at Arms, please ring the bell and open the doors and Members from outside can come in but Members from inside cannot go out.

(Division Bell rung for 10 minutes)

Hon. Members, during Division when the bell is ringing the house there must still be Order. If you are consulting, consult in a manner that does not disrupt the House order. You can also lobby in an orderly manner.

(Laughter)

Hon. Members, remember Standing Order 66 where we do electronic voting but we do not have electronic voting so what we normally do is counting; we have done it before so that we have one Clerk Assistant who will count the YES and another who will count the NOES and there may also be Abstentions.

(Question carried by 26 votes to 12)

(Applause)

Hon. Members, the resolution this House has just passed is going to be communicated by the Clerk immediately to the appointing authority, His Excellency the Governor Machakos County and the Clerk will do the other communications as per the resolution that the House has just passed.

REPORT OF AUDITOR GENERAL ON THE FINANCIAL STATEMENTS OF MAVOKO WATER AND SEWERAGE COMPANY FOR THE YEAR ENDED 30TH JUNE, 2016

Hon. Speaker: We have the Motion by the Hon. Joseph Musau the PAIC report.

Hon. Wambua:

Madam Speaker, that aware that Article 229 (7) of the Constitution states that Audit Reports shall be submitted to Parliament or the relevant County Assembly; Further aware that pursuant to Article 229 (8) of the Constitution, within three months after receiving an audit report, the Parliament or the County Assembly shall debate and consider the report and take appropriate action;

Cognizant that the Committee on Public Accounts and Investments is established pursuant to Standing Order 185 and is mandated to examine reports, accounts and workings of the County Public Investments;

Remembering that in April 2018, the Committee undertook interrogation exercise of the Audit Report on Financial Statements of Mavoko Water and Sewerage Company for the year ended 30 June 2016;

Madam Speaker, I wish to move the motion that this Hon. House discusses and approves the Report of Auditor General on the Financial Statements of Mavoko Water and Sewerage Company for the year ended 30 June, 2016.

Thank you, Madam Speaker. I ask Hon. P.J. Mutiso of Machakos Central ward to second this motion.

Hon. P.J. Mutiso: Thank you, Madam Speaker. I second the Motion.

Hon. Speaker: Hon. Musau.

Hon. Wambua: Madam Speaker, before the House is a report of Auditor General.

Hon. Masesi: Point of Order, Madam Speaker.

Hon. Speaker: Point of order from Hon. Cosmus Masesi.

ADJOURNMENT

Hon. Masesi: Thank you, Madam Speaker. Madam Speaker, I would like to stand on Standing Order 28 on the adjournment of the House. Standing Order 28(1), Madam Speaker, where a member at any time for reason stated seek to move 'that this House adjourns,'

Due to the fact that Madam Speaker we have been within since morning, the matter in front of the House is of great importance where members would like to visit it with fresh minds. Thank you, Madam Speaker.

Hon. Speaker: Do you have a seconder to your Motion?

Hon. Masesi: Madam Speaker, I want to call upon Hon. Kiteng'u to second my Motion.

Hon. Kiteng'u: Thank you, Madam Speaker. I do second the Motion Thank you.

Hon. Speaker: Hon. Members, I am looking at the Standing Order 28(1) under which the Member brings the motion adjournment of the House. I also look at Standing Order 28(1) which he did not read; I guess he let it for me to read.

It says that the Speaker if she is of the opinion that the motion is frivolous, vexatious or in abuse of the proceedings of the House, the Speaker may forthwith decline to grant the motion.

I do not see the motion being moved as frivolous, vexatious or in abuse of the proceedings of the House. I do notice that it is 5.30 p.m. Members have been sitting from 10 o'clock in the morning, of course, with the lunch time break and I will allow the motion so that Members can address the matter when the matter is fresh in their minds.

I do notice that Hon. Kisila is beckoning and speaking in gestures to me; the only bad thing is we do not have a sign-language interpreter. What is Hon. Kisila saying?

Hon. Kisila: Madam Speaker, this document is property of this House and I suggest that you instruct the Serjeant at Arms to collect the documents and give it to us when the motion will be read.

Hon. Speaker: As a matter of fact Hon. Kisila, I understood what you were telling me earlier on but I just wanted the Members to know what you are saying. You notice that when we have matters that are still pending as reports of the committee, some of us members are unfortunately walking out with them and circulating them in social media. It is an unfortunate report of the appointments committee that forms part of the subject matter the report is all over the social media and Hon. Kisila last time also requested the members to leave that report behind.

So, that is a lesson that we need to learn; Serjeant at Arms, the instructions of the Chair actually with the blessing of the House is that no Member should ever walk out with a report when it is still property of the House. Only after the matter has been discussed and a resolution taken by the Assembly, then a Member can walk out with it and it is for you Serjeant at Arms to make sure that the reports which are yet to be discussed by the House do not leave that door.

Thank you, Hon. Kisila. Hon. Members, please hand over the reports to the Serjeant at Arms and again there is another Member speaking to me in gestures that is Hon. Whip.

Hon. Mulatya: Madam Speaker, I wanted to say thank you for giving me the opportunity to say that we are 59 in this House and it is very dangerous to see some information from the Hon. House to public domain so I was requesting if it is possible because we are 59 and we have numbers, that all documents coming to the House can be addressed to each and every Member from Majority Leader to the Minority Leader so that it can have the name of the Hon. Member. Thank you.

Hon. Speaker: Thank you. That is wise thinking Hon. Members and the Clerk's office should take heed; as a matter of fact, there should be serialization of the documents and a member is given a document against a serial number.

ADJOURNMENT

Hon. Speaker: Hon. Members, as we adjourn the sitting today the 24th of July, 2018, at 10 a.m. please be reminded that the County Public Service Board was here having been summoned by the General Oversight Committee comprising again all of you; they were coming to address matters of ward administrators, of expired contracts of some of the employees and employment of a County Band and so Members you will appreciate that you still need to address the matter, you will have the board appear on another suitable date.

The Clerk did the apologies on your behalf because you were engaged on the matter definite of urgent importance to this County that is why you were not able to attend to them. Hon. Members, at this juncture, the sitting for this House is adjourned to 25th July, 2018 at 10.00 a.m. That is tomorrow. Have a good evening, Hon. Members.

The House rose at 5.42 p.m.