

REPUBLIC OF KENYA
MACHAKOS COUNTY ASSEMBLY
OFFICIAL REPORT

Wednesday, 20th December, 2017

The House met at 2.44 p.m.

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

PRAYERS

MOTION

ADVISORY BY THE ATTORNEY GENERAL ON THE FORMATION OF THE COUNTY
COMMITTEE AFTER A GENERAL ELECTION

(Hon. Muthoka on 20.12.2017)

(Resumption of Debate on the Motion tabled on 20.12.2017)

Hon. Deputy Speaker: Hon. Members, we do have a motion this afternoon being moved by Hon. Muthoka, the Chairman of justice and legal affairs committee.

Hon. Muthoka: Thank you, Mr. Speaker.

That aware that the Governor is mandated to appoint with approval of the County Assembly, the County executive Committee in accordance with Article 179(2)(b) of the Constitution and aware that the Governor forwarded names of five nominees for approval by the County Assembly;

Further aware that the Assembly did not approve them for want of qualifications in view of the provisions of Section 35(3)(b), (c) and (d) of the County Governments Act and Sections 7, 8, 9 and 10 of the Public Appointments (County Assemblies Approval) Act, 2017 and Chapter Six of the Constitution;

Mr. Speaker, aware that three of the nominees were serving in the first County Executive Committee and have continued to serve after the approval hearings, the committee on Justice and Legal Affairs has found it unlawful for them to remain in office after their nomination was rejected by the County Assembly and aware that Section 42 (2) of the County Governments Act provides that the county executive committee should be constituted within 21 days of the swearing in of Members of the County Assembly after a General Election, I wish to give the notice motion that this Hon. House discusses and approves the report on advisory by the Attorney General on the formation of the county executive committee members after a general election as presented by the Justice and Legal Affairs Committee.

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

Hon. Mitaa: Thank you, Mr. Speaker. I second the motion by Hon. Fredrick Muthoka. Thank you.

Hon. Deputy Speaker: Thank you, Hon. Fredrick and Hon. Mitaa on that Motion. I now propose the question that---

Hon. Ndawa: Point of order.

Hon. Deputy Speaker: Point of order from Hon. Ndawa.

Hon. Ndawa: Yes. Thank you, Mr. Speaker. The Motion which is about to be debated is not within our reach. We have not been provided with the report. So we do not know which one we are going to adopt or approve.

Hon. Deputy Speaker: Let me consult and I get back to you on that just now. Thank you, Hon. Ndawa for pointing that out. I guide that we need to have the report read and then once it is read, you can be able to get the copies distributed to you as he is reading it and then when I do come and propose for you to open for the debate, you will have read the report by that time before it is debated upon.

So, right now what I will do it, I will request Hon. Fredrick Muthoka to just go and read the report as they bring the other reports. He will read the report or you and then the clerk assistants are busy arranging for you to get a copy of the report.

Hon. Ndawa: Thank you, Mr. Speaker, Sir. I just want to confirm whether it is normal practice to read a report when Members do not have a copy. Is it a normal practice or is it procedural to read a report which you cannot confirm?

(Applause)

Hon. Deputy Speaker: Hon. Ndawa, I agree with you and I believe the reports are just entering the door as we speak. So, I will propose as the reports are being distributed, the Hon. Member, Fredrick Muthoka goes ahead and continues reading the report and we will follow it from there. Hon. Muthoka.

Hon. Muthoka: Report of the Attorney General on---

Hon. Kisila: Point of order. Mr. Speaker. I think we need to run this House in a professional way and clerk assistants cannot be giving us reports when we are seated in this House. This Motion was read in the morning and we had a lot of time to prepare the report. It is as if they are assuming this House, it is just a place where they can do whatever they want to do and I think we need to start taking House business with the seriousness it deserves.

In fact, this report should be in our pigeon holes by now. So, I think it is important that we start taking House business seriously. Mr. Speaker, whoever is taking us for granted, should face your wrath. Thank you.

(Applause)

Hon. Deputy Speaker: Thank you, Hon. Kisila. I have already noted it down and it is something I intend to take up with the office of the Clerk as soon as we finish this Assembly to get explanation as to why that report was not even in the pigeon holes as early as 1.00 o'clock so that Members could have had time to go through it before coming into the Assembly in the afternoon for presentation. So, I will handle that, do not worry. Thank you. Hon. Fredrick, proceed.

Hon. Muthoka: Mr. Speaker, the Justice and Legal affairs is a sectoral committee established pursuant to Machakos County Assembly Standing Order 190.

Background

Mr. Speaker, on 8th November, 2017 during debate on the motion to approve the report on the five Nominees for the position of County Executive Committee Members, tabled by the Committee on Appointments, the Leader of the Majority Party sought to know for how long a member of the County Executive Committee can hold office in an acting capacity after a general election.

The Chair issued an interim communication on that matter and informed the House that she would make a comprehensive communication on the same at a later date.

Through a communication from the Chair made on 20th November, 2017, the Hon. Speaker committed the matter of the advisory from the Attorney General to the Justice and Legal affairs committee for further consideration. The Committee was to table the report on the advisory in this Hon. House on 13th December, 2017 at 10.00 a.m. However, the time was extended to Wednesday, 20th December, 2017 at 10.00 a.m.

Committee Mandate

Mr. Speaker, the mandates of the Committee includes constitutional affairs, the administration of law and justice, including elections, ethics, integrity, anti-corruption and human rights.

Membership of the Committee

Mr. Speaker, the Justice and Legal Committee comprises of the following Members:

Hon. Fredrick Muthoka	Chair
Hon. Eric Musembi	V/Chair
Hon. Alice Nzioka	Members
Hon. Anthony Mulu	“
Hon. Dominic Ndambuki	“
Hon. Francis Kalumu	“
Hon. John Musyimi	“
Hon. Mohammed Ali	“
Hon. Moses Mitaa	“
Hon. Robert Kisini	“
Hon. Stephen Mwanthi	“
Hon. Tariq Mulatya	“

Hon. Winfred Mutua “

Committee Findings

Mr. Speaker, on 20th November, 2017, the Hon. Speaker wrote to the Attorney General of Kenya as follows: -

LEGAL ADVICE ON FORMATION OF COUNTY GOVERNMENT AFTER A GENERAL ELECTION

Pursuant to Article 156 of the Constitution and Section 5(1)(b) of the office of the Attorney General Act, No. 49 of 2012, the County Assembly of Machakos hereby seeks the advice/ legal opinion of your office on the following issues:

1. In view of the provisions of Section 42 (2) of the County Governments Act, No.17 of 2012 read with Section 5, 7, 9 and 11 of the Public Appointments (County Assemblies Approval) Act, 2017, kindly advice on the time frame for the formation of a new County Executive Committee after a general election.
2. Kindly advice on the legal implications of failure to form a County Executive Committee within the period stipulated by law after a general election.
3. Article 179 of the Constitution provides that:

1. The Executive authority of the County is vested in, and exercised by, a County Executive Committee;
2. The County executive committee consist of:
 - a. The County Governor and the Deputy Governor; and
 - b. Members appointed by the County Governor, with the approval of the Assembly, from among the persons who are not members of the Assembly.

Arising from the above, kindly advice on how long the office of a County Executive Committee member can be legally held by a person in an acting capacity.

4. Section 44 of the County Governments Act, 2012, provides for the office of the County Secretary who is competitively appointed by the Governor with the approval of the County Assembly. In view of that provision of the law, kindly advice on how long that offices can be legally held by a person in an acting capacity.
5. Section 45 of the County Governments Act, 2012, provides for the competitive appointment of Chief Officers. In view of that provision of the law, kindly advice on how long that office can be legally held by a person in an acting capacity.
6. Sections 58(1)(a),(b) and (C) of the County Governments Act, 2012, provides for the competitive appointment of the chairperson, members and a certified public secretary respectively, of the County Public Service Board with the approval of the County Assembly. In view of that provision of the law, kindly advice on how long those offices can be legally held by persons in acting capacity.
7. In Machakos County, the Governor forwarded names of five nominees for approval by the County Assembly for appointment as County Executive Committee (CEC) Members. The assembly did not approval them for want of qualifications in view of the provisions Section 35(3)(b), (c) and (d) of the County Governments Act, Sections 7, 8, 9 and 10 of the Public Appointments (County Assemblies Approval) Act, 2017 and Chapter six of the Constitution. Three of the nominees were serving in the first

County Executive Committee and have continued to serve after the approval hearings. Kindly advise on whether it is lawful for them to remain in office after their nomination was rejected by the Assembly, and if they can, for how long.

Further to this letter, the Assembly wrote to the Attorney General of Kenya on 27th November, 2017 seeking legal advice on the office of the County Executive Committee Member for Finance. The letter reads as follows:-

REQUEST FOR LEGAL ADVICE ON THE OFFICE OF A COUNTY CHIEF EXECUTIVE COMMITTEE MEMBER, FINANCE DEPARTMENT

Further to my letter Ref. No. MKSCA/LRL/LEG/VOL.2/53 dated 20th November, 2017 (copy attached) the County Assembly of Machakos hereby seeks the advice/legal opinion of your office on the following issue;

Under the provision of Section 103 of the Public Finance Management Act, 2012, the County Treasury is established headed by the Chief Executive Committee member, Finance. Under Section 104 and 105, the County Treasury has immense responsibilities and powers as regards the management of the County finances.

In view of the above legal provisions, kindly advise whether a County Executive Committee member for Finance who by dint of law is to head the County Treasury, can perform the above functions of the office without his/her appointment having been approved by the County Assembly as stipulated under Article 179(2)(b) of the Constitution and the relevant provision of the County Government Act, 2012 and the Public Appointments (County Assemblies Approval) Act, 2017.

Mr. Speaker, the legal opinion of the Attorney General on the issue of the appointment of a County Executive Committee after a general election was as follows:-

LEGAL OPINION ON FORMATION OF A COUNTY GOVERNMENT AFTER A GENERAL ELECTION

We refer to your letter dated 20th November, 2017 in which you requested for our legal opinion regarding the formation of a County Government after a general election. Having considered the request in light of the applicable laws, we advise as follows;

Background

1. The request is stated to be premised on the following facts:
 - i. That in Machakos County, the Governor forwarded names of five nominees for approval by the County Assembly for appointment as County Executive Committee (CEC) members.
 - ii. That the Assembly did not approve them for want of qualifications in view of provisions of section 35(3)(b), (c) and (d) of the County Government Act; Section 7, 8, 9 and 10 of the Public Appointments (County Assemblies Approval) Act, 2017 and Chapter six of the constitution.
 - iii. That the three of the nominees were serving in the first County Executive Committee and have continued to serve after the approval hearings.

Issues

2. From the foregoing and in consideration of the specific questions for our legal opinion, we discern the following legal issues for our legal opinion;

- i. Is time of essence in the formation of a County Executive Committee after a General Election?
- ii. Is it lawful for a County Executive member to remain in service as such after their nomination is rejected by the County Assembly?
- iii. Does the law contemplate an acting County Executive Committee member? And who qualifies to be appointed in an acting capacity if a situation arises?

Is time of essence in the appointment of a County Executive Committee Member after a General Election?

3. It is our considered legal opinion that based on the democratic principles and the separation of powers, the Constitution under Article 176 (1) state in mandatory term that a County Government consist of a County Assembly and a County executive.
4. Article 179(1) (b) of the Constitution as exemplified by section 30(2)(d) of County Governments Act, empowers the Governor to appoint, with the approval of the County Assembly.
5. It is our considered legal opinion that while the Constitution at Article 179 defines the composition of the County Executive Committee and the manner of appointment of the members of the executive committee, the Constitution does not expressly stipulate the time within the appointment and subsequent approval by the County Assembly must be made.
6. However, by dint of Section 42(2) of County Government Act, the Constitution of a new executive committee after an election should be finalized within 21 days of the swearing in of the members of County Assembly. It states ‘the constitution of a new executive committee after an election under subsection (1) shall be finalized within twenty-one days of the swearing in of the members of the County assembly.’
7. Therefore, it is our considered legal opinion that based on the clear, precise and unambiguous provisions of section 42(2) of the County Governments Act, time is of essence in constituting a county executive committee, which should be finalized within 21 days.

Is it lawful for County Executive Committee member to remain in service as such after their nomination is rejected by County Assembly?

8. It is our considered legal opinion that by dint of Article 198 of the Constitution, the executive committee of the County, as last constituted remains competent to perform administrative functions until a new executive committee is constituted after an election. Article 198 provides; ‘while an election is being held to constitute a county assembly under this chapter, the executive committee of the County, as last constituted remains competent to perform administration functions until a new executive committee is constituted after the election.’
9. It is our considered opinion that pursuant to Article 198 of the Constitution, the executive committee members only cease to have competence to continue holding the office after a new executive committee is appointed, approved by the County Assembly and duly sworn into office. It does not contemplate rejection by the County Assembly.
10. The tenure of the outgoing County executive in transition is reiterated under section 42(1) of the County Governments Act that, when a general election is held, the outgoing County executive committee shall remain in office until a new County executive committee is constituted after the election.
11. However, it is our considered legal opinion that based on the express language of Article 189 of the Constitution, the competence of the outgoing County executive committee member during transition is limited to administrative functions and further subject to statutory time limitations of 21 days from the date of swearing in a County assembly.

12. The law by dint of section 42(2) of the county Governments Act contemplates the finalization of the Constitution of the executive committee within 21 days.
13. Therefore, it is our considered legal opinion that based on that clear, precise and unambiguous provision of section 42(2) of the County Government Act, time is of essence in constituting a County executive committee, which should be finalized within 21 days.
14. However, the express stipulation of the period within which to finalize the constitution of a county executive committee gives rise to a legal question; whether the validity of the Act is affected by failure to comply or whether some other consequences of failure to comply can be imputed.
15. Having considered the contextual meaning section 42(2) of the Act, it is our considered legal opinion that in a situation where it is not possible to constitute a county executive committee within 21 days, the same does not invalidate or prevent the appointment and the approval of the members beyond the 21 days but only extinguishes the right of the ongoing executive member from continuing to hold office during transition beyond 21 days from the date of swearing in of the County Assembly.

(Applause)

16. It is our considered legal opinion that the 21 days period under section 42(2) of the Act is couched in the context of the continued exercise of county executive authority by the ongoing executive members during transition in an election. It is in this context that the short title of section 42 is couched, county executive to remain in office after an election while subsection (1) thereof empowers the outgoing county executive members when a general election is held to remain in office until a new County executive committee is constituted after the election.
17. Accordingly, it is our legal opinion on the specific question whether it is lawful for a county Executive Committee member to remain in service as such after their nomination is rejected by County Assembly to be dependent whether the rejection has exhausted the 21 days period under section 42(2) of the Act. If yes, then it would be unlawful for the outgoing county executive committee member to remain in office without undergoing a formal re-appointment process---

(Applause)

.....and vetting mechanisms under the public Appointments (County Assemblies Approval) Act.

Does the law contemplate an acting County Executive Committee member? And who qualifies to be appointed in an acting capacity when a situation arises?

18. It is our considered legal opinion that by dint of section 53 of the Interpretation and General Provisions Act, the powers of the County Executive Committee is not curtailed or affected by a vacancy in the membership thereof.
19. By dint of Article 179(2) of the constitution a county executive committee consists of the County Governor and the Deputy County Governor; with the approval of the Assembly. Accordingly, by implication in case of a vacancy in the membership appointed under clause (2)(b) of Article 179 of the constitution, the Governor or Deputy Governor or any person duly appointed and approved under clause (2)(b) can competently perform the functions of the county executive portfolio.

20. It is our considered legal general opinion that the Governor has the requisite legal authority by dint of section 52(b) of the Interpretation of General Provisions Act to appoint a duly qualified person to be a temporary member in the County executive committee in the place of a substantive member who is precluded by any reason from exercising his/her functions.

(Laughter)

Conclusion

21. In consideration of the foregoing, we advise as follows;

- i. That based on the clear, precise and unambiguous provisions of section 42(2) of the County Governments Act, time is of the essence in constituting a County Executive Committee, which should be finalized within 21 days;
- ii. That, however, in the context of section 42(2) of the County Governments Act, in a situation where it is possible to constitute a County executive committee within 21 days, the same does not invalidate or prevent the appointment and approval of members beyond the 21 days but only extinguishes the right of the outgoing executive members from continuing to hold office during transition beyond 21 days from the date of swearing in of the County Assembly;
- iii. That the tenure of the outgoing county executive is preserved under Article 198 of the constitution and section 42(1) of the County Governments Act during electoral transition, by authorizing the outgoing County Executive Committee to remain in office until a new county executive committee is constituted after the election;
- iv. That by dint of section 53 of the Interpretation and General Provisions Act, the powers of the County Executive Committee is not curtailed or affected by a vacancy in membership thereof; and
- v. That the Governor has the requisite legal authority by dint of section 52(b) of the interpretation and General provisions Act to appoint a duly qualified person under Article 179 of the Constitution to be a temporary member in the county executive committee in the place of a substantive member who is precluded by any reason from exercising his/her functions.

Mr. Speaker, on the matter of the appointment of the County Executive Committee Member for Finance, the Hon. Attorney General advised as follows: -

LEGAL OPINION ON THE APPOINTMENT OF THE CHIEF EXECUTIVE COMMITTEE MEMBER, FINANCE DEPARTMENT

We refer to your letter dated 27th November, 2017 in which you requested our legal opinion whether a County Executive Committee member for Finance who by dint of law is to head the County Treasury, can perform the functions of the office without his/her appointment having been approved by the County Assembly as stipulated under Article 179(2) (b) of the Constitution and the relevant provision of the County Governments Act, 2012 and Public Appointments (County Assemblies Approval) Act, 2017.

Having considered the request in light of the applicable laws we advise as follows;

That the person qualifies to act as a County Executive Committee member when any of the following criteria is met;

- i. Appointment by the Governor under Article 179(1)(b) of the constitution as exemplified by section 30 (2) (d) of the County Governments Act, subject to approval by County Assembly;
- ii. Acting as such during electoral transition under Article 198 of the constitution and section 42 (1) of County Governments Act albeit on the limited period of 21 days from the date of swearing in of the members of the County Assembly; or
- iii. Assignment of the mandate to the Deputy Governor as a member of County Executive Committee pursuant to section 32(3) of the County Governments Act, 2012.

Appointment by the Governor under Article 179(1)(b) of the constitution as exemplified by section 30(2)(d) of the County Governments Act, subject to approval by the County Assembly.

Article 179 of the constitution provides that the executive Authority of the County is verified and exercised by County Executive Committee which consists of the County Governor and the Deputy Governor and other members appointed by the Governor with the approval of the County Assembly.

It is therefore our considered legal opinion that for a County Executive committee member appointed under Article 179(1)(b) of the constitution to competently to act as such, vetting and approved by the County Assembly is a mandatory procedure requirement.

(Applause)

Acting as such during electoral transition under Article 198 of the Constitution and section 42(1) of the County Governments Act, albeit on a limited period of 21 days from the day of swearing in of the members of the County Assembly.

It is our considered legal opinion that by dint of Article 198 of the Constitution, the executive committee of the County, as last constituted remains competent to perform administrative functions until a new executive committee is constituted after an election. Article 198 provides;

‘While an election is being held to constitute a County Assembly under this chapter, the executive committee of the county as last constituted remains competent to perform administrative functions until a new executive committee is constituted after an election.’

It is our considered legal opinion that pursuant to Article 198 of the constitution, the Executive Committee Members only cease to have competence to continue holding the office after a new executive committee is appointed and approved by the County Assembly and duly sworn into the office.

The tenure of the outgoing county executive in transition is reiterated under section 42(1) of the County Governments Act that when a general election is held, the outgoing county executive committee shall remain in office until new County executive committee is constituted after the election.

However, it is our considered legal opinion that based on the express language of Article 189 of the constitution, the competencies of the outgoing county executive committee member

during transition is limited to administrative functions and further subject to statutory time limitations of 21 days---

(Loud consultations)

This is law Bwana!

(Laughter)

.....is subjected to statutory time limitation of 21 days from the date of swearing in of the County Assembly.

The law by dint of section 42(2) of the County Governments Act, contemplates the finalization of the constitution of the executive committee within 21 days.

Therefore based on the contextual meaning of section 42(2) of the Act, it is our considered legal opinion that in a situation where it is not possible to constitute a county executive committee within 21 days, the same does not invalidate or prevent the appointment and approval of members beyond the 21 days but extinguishes the right of the outgoing executive members from continuing to hold office during transition beyond the 21 days from the date of swearing in of the County Assembly.

(Applause)

Assignment of the mandate to the Deputy Governor as a member of the executive committee pursuant to section 32(3) of the County Governments Act, 2012.

By dint of Article 179(2) of the Constitution a County Executive committee consist of the Governor and the Deputy County Governor; and the members appointed by the county Governor, with the approval of the Assembly.

Accordingly, it is our considered legal opinion that by implication in case of a vacancy in membership appointed under clause (2)(b) of Article 179 of the constitution, the Governor or Deputy Governor or any person dully appointed and approval under clause (2)(b) can competently perform the functions of the county executive portfolio in charge of finance.

Section 32(3) of the County Governments Act, 2012 is very clear that the Governor may assign the Deputy Governor any other responsibility or portfolio as a member of the county executive committee.

The law does not envisage vetting and approval in case of a Deputy Governor performing assigned responsibilities based on the rationale that the Deputy Governor is elected and not appointed by the Governor and his vetting is thus done concurrently with that of the Governor by the public during elections.

Further, it is our considered legal opinion that the Governor has the requisite provision Act to appoint a dully qualified person to be a temporary member in the County Executive Committee in the place of a substantive member who is precluded by any reasons from exercising his/ her functions.

Conclusion

In consideration of the foregoing, we advise as follows;

- i. That for a county executive committee member appointed under Article 179(1)(b) of the constitution to be competent to act as such, vetting and approval by County Assembly is a mandatory procedural requirement;
- ii. That by dint of Article 198 of the constitution the executive committee of the County, as last constituted remains competent to perform administrative functions including those under finance department until a new executive committee is constituted after an election albeit within a 21 day period from the date of swearing in of a new County Assembly pursuant to section 42(2) of the County Governments Act, 2012;
- iii. That by dint of section 32(3) of the County Governments Act, 2012 a Governor may assign the Deputy Governor any other responsibility or portfolio including responsibility over finance department without the requisite of his vetting and approval by the County Assembly.

(Applause)

Committee Observations

Mr. Speaker, after perusing the letters and after deliberating on the matter the Committee made the following observations: -

1. Article 176 of the Constitution establishes the County Government for each County which is comprised of a County Assembly and a County Executive. The County Assembly comprises of the members elected from each ward in the County, the special seat members to ensure that not more than two thirds of the members are of the same gender, members from marginalized groups and the Speaker who is an *ex officio* member. The County Executive consists of the County Governor and the Deputy County Governor and members appointed by the Governor with the approval of the Assembly. For Machakos County, the County Assembly has been fully constituted while the County Executive has not been constituted. At present the only members of the County Executive who are lawfully in office are the Governor and Deputy Governor having been sworn into office on 17th August, 2017. On 8th November, 2017, the Assembly rejected the five nominees of the County Executive Committee that the Governor had submitted for approval as per Section 35 of the County Governments Act.
2. It is a requirement by law that is Section 42(2) of County Governments Act that the County Executive Committee be constituted within 21 days of the swearing in of Members of the County Assembly (MCAs) after a General Election.
3. The County Governments Act, in requiring that a County Executive Committee be constituted within 21 days of the swearing in of new MCAs after a General Election does not seem to fully accommodate the eventuality of rejection of the nomination of County Executive Committee Members by the Assembly as provided for under Section 10 of the Public Appointments (County Assemblies Approval) Act.
4. The law does not provide a clear way forward where there is failure to constitute a County Executive Committee.

(Applause)

It is presumed that the law will be followed in good faith.

5. The Constitution, in Article 198 allows County Executive Committee Members to remain in office until the next County Executive Committee is constituted after a general election. This, however, does not mean that the County Executive Committee member can act as such for a whole term or even for an inordinately long term. Further, it is to be noted that the County Executive Committee in transition is only competent to perform administrative functions.
6. Members interrogated the meaning of “administrative functions” and from the research done the word administration, in reference to a government means the management or performance of the executive duties of a government institution. It includes acts performed in management capacity. Members noted that the performance of “administrative functions” refers to actions that are meant to keep an organization “alive” as it awaits the appointment of a substantive occupier of the office. It includes basic functions that entail organizing for the performance of business operations of the organization. It is the process of organizing people and resources efficiently so as to direct activities towards a common objective. It includes activities such as the payment of salaries, transport to and from office, writing of reports, maintenance of human resource and provision of office space. It however does not include the initiation of new projects, implementation of the core functions of the institution or the execution of major tasks towards the achievement of the essential goals of the organization.

(Applause)

7. While there is no express provision of the law that says that County Executive Committee Members are to leave office after the 21 days of the swearing in of new MCAs after a General Election, the advice of the Attorney General is that they should. They should, note that. They should.

(Loud consultations)

Hon. Deputy Speaker: Could we have order in the House please. The Hon. Member has given a clarification. He is saying 'they should.' Continue.

Hon. Muthoka: Where the nominees to the County Executive Committee are not approved by the Assembly, the County Executive Committee Members who were serving in the previous term remain in office until the 21 days after the swearing in of the new MCAs after a General Election.

9. It has taken an inordinately long time for the Governor to forward to the Assembly other names for consideration for the County Executive Committee. This is confounding as there are many residents of Machakos who have proper first degrees in different fields and who have the requisite experience required by the law for appointment as County Executive Committee members. The delay is neither reasonable nor justified. Members could only read lack of good faith in the failure by the nominating authority to forward to the Assembly other County Executive Committee Members nominees.

10. Due to the lack of a substantive County Executive Committee, the residents of the county continue to suffer because of lack of essential county government services. Due to the absence of substantive office holders, the County Integrated Development Plan has not been developed, a Supplementary Budget is yet to be done, the Finance Act is yet to be considered by the House, among other in-capacities.
11. A majority of the counties all over the country have constituted their County Executive Committees including the appointment of Chief Officers. Some have hit the ground running many of them having a raft of projects to show in the first 100 days of the new government.
12. To ensure that the county government is up and running, there is need for the immediate constitution of the County Executive Committee.
13. The scenario in this matter discloses possible disregard of the law, abuse of office and misuse of public funds which might require further investigation by national auditing and law enforcement authorities.
14. There is need for law reform by parliament to remove the legal ambiguities identified in the matter under investigation.
15. Per the second advisory of the Attorney General, the Deputy Governor of Machakos is legally acting as the CECM Finance having been legally designated as such by the Governor. No vetting or approval by the County Assembly is envisaged by the law in assigning the Deputy Governor a portfolio as a member of the County Executive Committee.

Committee Recommendations

Mr. Speaker, after analysing the law regarding the matter at hand and the legal opinions and the legal advice from the Attorney General, the committee recommends that this Hon. House makes the following declarations and resolutions that:-

1. The term of the County Executive Committee Members who were appointed in the previous term of government expired on 28th September, 2017 which is 21 days after the swearing in of the MCAs in accordance with Article 198 of the Constitution as read with Section 42(2) of the County Governments Act.

(Applause)

2. Based on Article 198 of the Constitution as read with Section 42(2) of the County Governments Act, the continuation in office of County Executive Committee Member in the previous term of government is unlawful.

(Applause)

3. This Hon. House resolves that the County Executive Committee Members in the previous term of government are not recognized as such and that they are not authorized to transact any business on behalf of the County Government of Machakos.

(Applause)

4. Any transactions or action taken by the County Executive Committee Members in the previous term of government on behalf of the County Government are invalid, null and void.
5. County Government officers working in the respective county departments be notified not to take any instructions from the said former County Executive Committee Members and that any officer who takes such instructions will be held personally liable.

(Applause)

6. The County Executive Committee Members from the last term of government shall be personally surcharged for any expenditure incurred by them or on their behalf by the county government of Machakos.
7. This Hon. House does require the Governor to forward the full list of nominees to the County Executive Committee within fourteen days of the adoption of this report by this Hon. House.

(Applause)

8. The matter of County Executive Committee Members remaining in office after the expiry of their term be referred to the Office of Auditor General and the Ethics and Anti-Corruption Commission for further investigation and appropriate action.

9. In the event that no nominees for members of County Executive Committee are forwarded to this Hon. House within fourteen days of the adoption of this report by this Hon. House, the Assembly be at liberty to refer this matter to the Senate for immediate action including law reform.

Conclusion and Acknowledgement

Mr. Speaker, it is therefore my privilege, on behalf of the Justice and Legal Affairs Committee to table the Report on the advisory of the Attorney General on the formation of a County Executive Committee after a general election and on the appointment of a county executive committee member for Finance in this Hon. House for consideration and adoption. Thank you Mr. Speaker.

(Applause)

Hon. Deputy Speaker: Thank you Hon Fredrick, I would like to get somebody to second you on the presentation of this report then we---

Hon. Muthoka: I thought already Hon. Mitaa had seconded. Okay, Hon. Mitaa can you second again.

Hon. Mitaa: Thank you Mr. Speaker. I support the report as it is. Thank you. I second the report as it is. Thank you.

Hon. Deputy Speaker: Thank you Hon. Muthoka and Hon Mitaa for the detailed report which you have read.

(Question proposed)

We may debate on this now. Hon. Mueni.

Hon. (Ms.) Mueni. Thank you, Mr. Speaker. Mine is to ask the members to stand for the truth because everybody knows what has happened and is what is read. So, Mr. Speaker, I don't know whether there is any need of discussing this report; I think, members, even those who are saying that they are not having the report, they are having the report and is the truth, and the truth will remain and because we are going for Christmas, I think we better pass this thing and go to the Christmas and wish everybody Christmas and a happy new year. Thank you.

(Laughter)

Hon. Deputy Speaker: Thank you, Hon. Mueni. Hon. Francis Ngunga.

Hon. Ngunga: Thank you, Mr. Speaker and the Hon. Members for giving this opportunity to air my views on the report that has been tabled to us by the straight-shooting and hard-hitting chairman of the justice and legal affairs committee. Let me start by saying when we were forming committees, members we were of the opinion that some committees were going to be redundant, some committees were not going to be competent but I want members of the other committees to take up the challenge that has been given by the legal affairs and the justice committee that seems to be doing a very nice job.

Members you realize that, that is a very key committee in terms of operations and committees that is going to assist bring things where they are supposed to be. Mr. Speaker, as I make my contribution, I realize that some of the things that came to our attention so that we ask this question that we were asked here was about the formation of our government after general election. I think the recommendations of this committee are nothing but the truth.

When you look at what the committee has said, there are three areas that they needed to address. If you look at page 4, number 4, they were looking into the idea of how long a member can stay in an acting capacity and in this particular case you realize that Machakos County Secretary has been an acting capacity for a long time. So, the reason as to why No. 4 was addressed but I think that is already had been bridge but if you go to No. 5, where we were also seeking about how long the County Public Service Board can be in acting capacity.

You realize that, Mr. Speaker, I have come late to the House this afternoon; I was talking to the County Public Service Board secretary. The County Secretary has been chased from office for the last two years and it is the opinion of this committee that a committee or an institution of government cannot stay in acting capacity forever.

So, now looking at No. 6 again, it has been stated clearly that time is of essence and when you talk of is of essence is after the election and swearing in of members of county assembly this report says that therefore there shall be a county executive committee and that committee comprises of the Governor, the Deputy Governor, and CEC members who is procedural for them to be vetted and as you are aware the situation as it is therefore it means by adopting this report, we are acknowledging that we do not have a government in Machakos.

That is the bare truth that is the situation as it is because the advisory we are talking about here is sought and has been sought from the Attorney General of this country and it was signed by none other than Githu Muigai, the Professor himself. So, now members of this County

Assembly, it is upon you now to discuss adopt this report and I am happy that the chairman has given a time frame within which action should be taken which is given to be 14 days. So, within the next 14 days, we expect upon adoption of this report, those CEC members that have not been forthcoming they should be brought to this House.

The House can always revert back to sitting in a special sitting to look into those members and pass them for the sake of the residents who elected us to serve here so that they can also get service. You realize that members of this Hon house that the rest of the 46 counties have been able to form their government say for Machakos County only. Why is it that it has been difficult for us to form a government?

Members, again the report that we tabled here in this House here, the appointments committee was non-political. It was a committee that was based and was informed on wide research, consultation and it is there in the public domain. It is a challenge upon the executive this time round to take up the mantle, to take up the challenge and forward to this House reasonable, competent members for CEC so that, at least, Machakos County can move forward. Members of this House, I implore upon you not to read malice in this report.

We intend to put things where they are; we intend to work through observance of law, and unless you observe law, members, it is not going to be possible for us to discharge our duties. Remember one of our core responsibilities is that of oversight. Unless we are able to have institutions that are properly constituted, we cannot be able to exercise our role of oversight.

Remember just a few weeks ago we discussed about a bloated work force. If we are complaining about a bloated work force, how can you manage that if you do not have a County Public Service Board which is properly and constituted in place. You realize that the County Public Service Board that we have in Machakos County is none existent.

In fact, it is my opinion that employment that is taking place in this county here is unlawful, un-procedural; even actions that are being taken by the executive are actually un-procedural and these boarders on impunity.

Hon. Members, please take up the challenge; let us debate this, let us pass it, let us adopt it, and let it be effective. I am not seeing ourselves going to court to enforce this, there are many ways of killing a cat as Hon. Raila puts it. We are not going that way but I want to implore members first of all, see sense in this report this is a report that has been brought out of wide consultations authorities have been quoted here and so members it is upon you now. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Hon. Cosmus.

Hon. Masesi: Thank you, Mr. Speaker. First and foremost, I would like to congratulate the committee which has done quite commendable job. I want to believe us as Hon. Members all wish this county well; we all dream for big things to happen within our county. It is not a matter of party affiliation that that we want the executive or the CEC members in place but it is for the goodwill of the common mwananchi at the ground level.

Mr. Speaker, we have realized that upon the nominees who had been brought to this House by the Hon. Governor are the ones which have been on the acting capacity and only do the administrative work. Mr. Speaker, we all believe and we all know that these members on acting capacity do all work in those departments. It is upon us, is upon this House to encourage the executive to forward those nominees those names of the CEC members the soonest time possible.

Mr. Speaker, I support this report fully and may this House also follows the matter after the 14 days lapse. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Any other contributions in the House before I call the..... Hon. Ndawa.

Hon. Ndawa: Thank you Mr. Speaker. I stand here to oppose the motion or the report which has been tabled here by Hon. Muthoka on the following grounds. The report is not owned by the members of that committee because is only signed by only one member of the committee. The other reports are usually signed by every member. So, we are not aware whether the other members are in agreement with the report because you have not signed. That is point no. 1.

Hon. Deputy Speaker: There is a point of information on that.

Hon. (Ms.) Mueni: Thank you, Mr. Speaker, Sir. I think members who are paid from the other side we have to ignore them and pass the motion. Thank you.

Hon. Deputy Speaker: Hon. Mueni, I think we did not have.....what do you mean by members paid from the other side?

Hon. (Ms.) Mueni: Mr. Speaker, I don't think whether it is necessary for me to explain better; I think you understand me more,

Hon. Deputy Speaker: Hon. Mueni, I think the language you are using is not proper for the House. This is a House, the County Assembly Machakos which is one House. There is no person paid from the other side and the other side when we are in this House and I would request you to kindly withdraw that statement of being paid from the other side.

Hon. (Ms.) Mueni: I apologize.

Hon. Deputy Speaker: Hon. Fred, you are on a point of order or information.

Hon. Muthoka: Point of information.

Hon. Deputy Speaker: Okay. Hon. Ndawa, let him give you the point of information.

Hon. Muthoka: This report was discussed by the whole committee and during report writing in Naivasha you can check with our Clerk Assitant; all the members signed.

Hon. Ndawa: Can I continue, Mr. Speaker?

Hon. Deputy Speaker: You can continue Hon. Ndawa, and I will give guidance on your first point you have mentioned.

Hon. Ndawa: Okay. Thank you very much, Mr. Speaker, the other issue that I would like to request you, Mr. Speaker.

Hon. Masesi: Point of information. Kindly can the Hon. Member quote or single out the clause.

Hon. Deputy Speaker: Hon. Cosmos, you need to wait for the Chair to give you permission to stand. Let the member finish what he is saying first now and then you can be able to comment. Give him time please. Hon. Ndawa.

Hon. Ndawa: Thank you, Mr. Speaker. What I would request is that members need protection from the Chair and as a House of law, we need to respect each other. As I stand here, Mr. Speaker, I stand here on behalf of the Hon. Members and the electorates of Matuu ward who are more than 15,000 members. I don't know the member, who is saying some members are paid.

Hon. Deputy Speaker: Just a guidance, Hon. Ndawa. I think that has been withdrawn, so continue with your point please.

Hon. Ndawa: Thank you, Sir. The other issue that I would like to use to oppose the motion is that the advice was given from the office of Attorney General, but we don't have anything attached to prove that whatever is written here can be supported that it emanated from that particular office.

(Applause)

The other point, Mr. Speaker, is that in Government---

Hon. Deputy Speaker: Point of order, Hon. Francis.

Hon. Ngunga: Thank you, Mr. Speaker. I think we have to change the trend in this House. When a report is tabled here is a report to be taken with a lot of seriousness. The Hon. Member who on the floor, I did not know whether he is questioning the source of the supporting documents that were quoted by that report and the committee or whether he is suspecting that the document that were quoted do not come from the Attorney General, because if we were to go that way, I think we will not make headway. It is a fact that this is a Hon. Committee, and it is known that when a committee---

(Applause)

When a committee retreats to write a report, that committee is writing that report on behalf of this House. That committee, wherever they were sitting, they were retreating, it was actually a parliament in session when they were retreating. The documentary evidence that must have forwarded or used in that committee must be fully evident.

Ours is not to start questioning again, because those documents that the Hon. Member is talking about must have been questioned at the level of the committee. Here ours is to look at the report as it is, adopt it or reject it. Thank you, Mr. Speaker.

(Applause)

Hon. Ndawa: Thank you Mr. Speaker, I wish to continue. The other issue that I want to raise is that, in the eyes of law we have different types of persons. We have artificial people, we have natural people and there are differences, there is a distinct between the two. The natural person and an artificial person. When we talk of a natural person we talk of somebody a man like me. When we talk of an artificial person, we talk of an institution and there is no way there will be a lacuna in an institution.

Officers ceased to operate in office when others come in and there is no way we can say there is going to be a vacuum in the Assembly or in the office of the CECMs. The advice that we got from the Attorney General is very clear that we are supposed to appoint and approve these members within 21 days. I need protection, Mr. Chair.

Hon. Deputy Speaker: I believe there is a point of order from Hon. Ngunga but what I want to say is that is the last point of order I am going to allow. I would like the member to finalize on his submission then we continue.

Hon. Ngunga: No. Thank you Mr. Speaker., I think we need to be serious here; we need to be serious here, Mr. Speaker., and this Hon. House does not have the luxury of time. Mr. Speaker, when law is quoted, for example, I have just indicated here, that this committee has quoted the various laws and the law is talking about 21 days. What are you talking about; is it for us to question the law here, or is it for us to abide by the law. The question that is abiding here and the reason as to why we have this committee here is because of impunity. Hon. Ndawa, wake up.

Hon. Deputy Speaker: Hon. Ndawa, I would request you to kindly summarize your submission so that we can be able to move.

Hon. Ndawa: According to the documents we have in our hand and before the House, from the advice we got from the Attorney General, it is very clear that the CECMs will cease to discharge their duties when others come. It is in the paper.

Hon. Deputy Speaker: Point of information, Hon. Mitaa.

Hon. Mitaa: Thank you, Mr. Speaker. I think as I requested earlier in another sitting, lets save our time and in fact when an Hon. Member rises up, let him be reasonable because we have talked of Section 42(2) of County Governments Act and it clearly says that thing is they are already in office illegally, unlawfully; its unlawful. I think we don't need to expound on that. The other thing is... I am on a point of information to Hon. Ndawa not Hon. Kamitu. The other thing is when he talks of lacuna, I don't know whether it is a Laguna or lacuna, it is very clear that it gives time frame of 21 days; it is as short as that and its law. We are not creating our own things as a committee. That the recommendations we got from the Speaker. Thank you.

Hon. Deputy Speaker: Thank you, Hon. Mitaa for the guidelines. Do you still have something to say Hon. Ndawa? Okay, your time is running up so please conclude.

Hon. Ndawa. Yes, I was saying, as Hon. Members, we need to differentiate between facts of matter and facts of law. These are two distinct issues that we need to understand. According to what has been brought here, with the report is saying that the CECs of the officers who are in those offices are not supposed to discharge or they are only limited to administrative functions only, but we need to consider our Google to understand what exactly that word mean.

When we talk of administrative, it is just the same as saying management and it has various issues. It is about planning, organizing, staffing, directing and controlling. Those are issues which are undertaken by either an administrator or manager. If you are to administer that is exactly what you are supposed to do. So, Mr. Speaker I beg to say this report should not be accepted, and should be rejected completely. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Hon. Kalumu.

Hon. Kalumu: Thank you, Mr. Speaker. I would like to thank my dear neighbor here Hon. Ndawa for what he has done; actually he is misleading this House.

(Applause)

On a fact that a whole committee cannot move from here Machakos County up to Naivasha and write its own notes. We were as a committee we were not writing our own notes; actually this House wrote on the legal opinion of the Attorney General of this country, not the Attorney General of Machakos. We are trying to get opinions of somebody who is more senior in this country. Now here we are trying to get a level ground and the level ground is being brought very clearly and precisely by the law.

The opinion my friend is giving is of his own, because the law is very clear that the members acting beyond 21 days is unlawful according to the opinion of the Attorney General. In fact, I am wondering; where is the attachment? I think it should be with this report because it was there and it showed vividly and very clear that it is extinguishes the powers of the executive member to be in office beyond 21 days.

Another thing I wanted to quote, it is surely, I am ashamed if one can quote and the law even the constitution says no one can challenge the constitution and we borrowed everything from the constitution. Who can challenge this constitution? My Hon. Member here is trying to challenge the constitution of this country.

Mr. Speaker whatever is written here, it is not our opinion. We sought opinions of the highest office of the law of this country. May I say that considering what the report is saying, our input is just recommendations? Everything else is from the letter which this Hon. House wrote to the Attorney General. So, I fully support this report because I as a member I cannot be paid for something which I did not do.

I think I want to give a clear advice, just an advice to my fellow members of this House that we need to behave above board. When something is clear make it clear, say it, say the truth, and don't just beat around showing that you want to show that this report is someone's opinion. No way it is the law's opinion; not us. So, Mr. Speaker, I stand to support this report.

Hon. Deputy Speaker: I think before I let this debate continue, I would like to put a few clarifications or guidelines. In as far as the first item which was raised by Hon. Ndawa on the signing or the report, I will refer you to our Standing Order 179(2) which reads that 'the report of

a select committee having been adopted by majority of the members shall be signed by the chairperson on behalf of the committee.'

(Applause)

So, I believe this report has already been signed by the chairperson and therefore the chairperson was signing on behalf of the committee. The other item which the Hon. Member raised is on the item of the supporting documents, which I agree with the member should be provided and request the office of the Clerk to ensure that the supporting documentation for this, the letters which were written from the Attorney General's office need to be distributed in the pigeonholes so that each member, when they are looking at this report later on, can have the hard facts for reference purposes. That is important.

In as far as the other item which he has mentioned concerning Section 42(2) of County Governments Act, I think we look at item number 15 of that report is giving some guidelines there on that. Having considered the contextual meaning section 42(2) of the Act, it is our considered opinion that in situations where it is not possible to constitute a county executive committee within 21 days, the same does not invalidate or prevent the appointment and approval of the members beyond the 21 days but only extinguishes the right of the ongoing executive member from continuing to hold office during transition beyond the 21 days from the date of swearing in of the County Assembly.

So, be guided on that. Thank you. Hon. Helen.

Hon. (Ms.) Ndeti: Thank you, Mr. Speaker, Sir. I stand to support this motion and without much ado, I would like to say that Hon. Ndawa has just graduated from the university but I doubt whether you are doing law. Let us not pretend to challenge law when we are not lawyers. This report according to the committee, they seek the opinion of the Attorney General's office which represents or interprets the law.

Hon. Deputy Speaker: Point of order from, Hon. Kamitu.

Hon. Kamitu: Hon. Speaker, with a lot of respect, I think the Hon. Member who was seated should have a lot of respect to Hon. Ndawa in regard to his achievement that he got and it has no legality neither relevance in regard to what we are debating because for one Hon. Ndawa never stood and said that because he has passed through university, I don't know whether he is an advocate or whether he is a lawyer, it is not relevant and so let us dwell on what is basically on the debate. Thank you, Hon Speaker.

Hon. Deputy Speaker: Thank you, Hon. Kamitu. Hon. Helen, you stand guided on that.

Hon. (Ms.) Ndeti: I stand guided but what I am trying to say is that if you are not a lawyer please it becomes very difficult to start interpreting law. If for sure the Attorney Generals chamber has advised otherwise, who are we to be able to go against that advice? I think the committee that was entrusted with this responsibility has done their best by even seeking external assistance.

So, if for sure the law is clear, those officers, CECMs who are already in office after the 21 days, are there unlawfully. Let us agree members and let us not challenge for the sake.

Hon. Deputy Speaker: Hon. Moffat, the member has already finished. Maybe you can contribute to the motion.

Hon. Maitha: Mr. Speaker, when you were giving direction on Section 42(2) of County Governments Act, I also want you to look at Article 198 of the Constitution of Kenya, and it did not envisage that CECs will be rejected by an assembly like what we did the other time. So, here it means if you look at it clearly, that this law, there is an ambiguity in it which means it needs being done afresh. I have not finished I am on a point of order. I am taking---

Hon. Deputy Speaker: Hon. Moffat, there is a point of order, please.

Hon. Ngunga: Thank you, Mr. Speaker. Mr. Speaker, again procedurally in this House a member shall only stand on a point of order when another members is on the floor and that member shall take his seat. Unfortunately, the member who has been on the floor, stood on a point of order and started contributing on this motion. Incidentally, while he was even doing so, he took a swipe at this House and he is misleading the House. Hon. Moffat Maitha, my friend, my colleague, and my senior in teaching.

If you go to the page that you are talking about, it is true it does not envisage a situation where CECMs are rejected, but it is clear about those who are holding offices and were rejected. Are they supposed to be rejected and go back to their offices; that are the question we are asking here and the answer is very clear. It says that within 21 days upon the swearing in of new MCAs and these CECMs are not brought to the House, and then they shall vacate their offices.

(Loud consultations)

Hon. Deputy Speaker: Order please. Hon. Maitha and I would like you to stand guided when another member is speaking you shall remain seated until that Hon. Member.

Hon. Maitha: I was seated, Mr. Speaker. I only stood up to continue contributing.

Hon. Deputy Speaker: Which has to be given permission from the Chair to proceed, Proceed, Hon. Maitha.

Hon. Maitha: Thank you, Mr. Speaker. If you read number 9 'it is our considered opinion that pursuant to Article 198 of the Constitution, the executive committee members only cease to have competence to continue holding the office after a new executive committee is appointed, approved by the County Assembly and duly sworn into office.' And then it goes on, 'it does not contemplate rejection by the County Assembly.'

So, when it was rejected, there is something missing there because they can continue holding office because this one was not envisaged. Mr. Speaker, thank you.

Hon. Deputy Speaker: Thank you, Hon. Maitha. I think when I was giving my guideline, law is not read in part. In that area where the article which you have quoted, the Hon. Office of the Attorney General did not give guideline that Article 198 does not contemplate, rejection by the county assembly of the CEC members but Article 198 does not negate section

42(2) of County Governments Act. When you are looking at the law, you must look at it in totality.

Section 42(2) of County Governments Act gives timelines and guidelines on how county government should be formed. Article 198 does not envisage the County Assembly rejecting but that does not negate the effects of Section 42(2) of County Governments Act. So, I still rule that this House stands guided by the Section 42(2) of County Governments Act which gives clear guidelines on how we should be able to look at the issue of the formation of government. Hon. Mwikali.

Hon. (Ms.) Mwikali: Thank you, Mr. Speaker. Mr. Speaker, I wish to take this opportunity to congratulate the legal affairs committee for a very well researched, wonderful document that they have managed to bring to this House. Mr. Speaker, Sir, it goes without saying that every member in this Hon. House really wishes good service, good work for the community of Machakos County.

This committee has done great, a lot of work, a lot of research and a dedicated report to us. It looks like they were really for the good of this great county of Machakos. It goes without saying, Mr. Speaker, that when we are here there should never be any personal vendetta; it is not a matter of having vendetta, it is not a matter of having to support just because or for the sake of it, Mr. Speaker. When we are talking about service to our community and vetting of CECMs, we are just talking about great work that these Hon. Members came here to do.

They came here that they may be able to give great, wonderful, excellent workers to the people of Machakos County. It is very discouraging, Mr. Speaker, when we see somebody trying to stand up and say that these people need to still continue being in the office after 21 days after their own swearing in into this House. Mr. Speaker, I am pleading and asking that we should not waste more time; we should have those people who think these people are still supposed to be in these office ask His Excellency the Governor of Machakos county to do his duty, to do his work and bring right, reasonable and quite qualified members who are supposed to be CECMs to be vetted in this House and when they are vetted they will go there and work for Machakos county.

Mr. Speaker, I beg this House to see to it that the CEC who are in office are there illegally, they should not transact or do any business for and on behalf of Machakos County.

As long as this Hon. House is here Bw. Speaker, let them go home, pack and go home because there is where they belong and let us have people who are qualified to stay in those offices immediately after 14 working days. Bw. Speaker, we don't need to waste more time on this. I beg this house to adopt this report so that we give way for proper qualified CECMs for Machakos County. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Hon. Nyanzi.

Hon. Nyanzi: Ahsante Bw. Spika. Mimi nasimama hapa kuakataa hii motion kabisa, kwasababu CEC wote tano hawezi kuwa na makosa. Kuna moja ambaye alikuwa waziri, anatoka sehemu yangu amechukua hii idara ya---

Hon. Deputy Speaker: Hon. Nyanzi, I would like you to please confine your argument on the current report on the motion which is being debated which, is this report. In this report, we are not vetting or discussing the report on who was approved or who was not approved. Please confine yourselves to the report which is at hand.

Hon. Nyanzi: Kile nasema ni kwamba huyo CEC ana digirii na amenionyesha mimi mwenyewe; alikuwa wa health na alikaaa hapo miaka tano na alichukua hiyo idara ya afya ikiwa imekufa kabisa na sasa imengara kila pahali. Kwanini alikataliwa? Nasimama kusema nimekataa hiyo motion kabisa.

Hon. Deputy Speaker: Thank you, Hon. Nyanzi for your opinion, I will come on this side shortly. Hon. Rozina

Hon. (Ms.) Kanini: Thank you, Mr. Speaker. Firstly, I want to applaud that committee for work excellently done. Nobody could have done it better than you. First, a friend of mine once told me that time wasted is a dollar gone and the Hon. Members will agree with me that Machakos County has already wasted more than three or so months without any services to our electorates. Let the Governor rise on his toes and constitute his office for efficiency of services. I fully support the motion.

(Applause)

Hon. Deputy Speaker: Okay. Let me finish this side now; the last member. Hon. Kisini.

Hon. Kisini: Thank you, Mr. Speaker for giving me the chance. I support the motion and work well done by the committee and I just want to name around four things they have highlighted. One of the things is that they have tried to show this House that time is of essence for not bringing the other names for consideration. They have also talked about the 21 days after the swearing in of the MCAs which is a fact.

They have talked or they have given time for failure to comply with that which is 14 days and they have talked of the consequences if those people continue to hold offices which is also good to be advised. It is not also good to put people in problems when they are our friends. So, in this regard, I support the motion and say that committee did a commendable job. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Hon. Johana.

Hon. Munyao: Thank you, Mr. Speaker. I wish to oppose this report based on some areas which are either contradicting or not very clear to me. Mr. Speaker, we are saying this is an opinion from the Attorney General's office and I was looking at page 7; still on Article 198 where some background was considered from the constitution and then just to repeat what Hon. Moffat took us through, item 9 on that page, they are talking of, in their considered opinion because that is what we went to seek for.

We knew there were provisions of 21 days and then when it says the constitution did not contemplate rejection by the County Assembly, if today we were discussing---

Hon. Deputy Speaker: Hon. Kalumu.

Hon. Kalumu: Mr. Speaker, the clause my friend Hon. Munyao has quoted is indicating 'while on election.' We are not in electioneering period now; we are not in transition. The

elections are over, the Assembly has already been sworn in and now the 21 days have lapsed. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Proceed, Hon. Johana.

Hon. Munyao: Thank you, Mr. Speaker. I was on the point that if today we are discussing having not seen an attempt to form a government, then we would have contravened that period of 21 days. CECs were presented to us and then we went through the process. So, that is why I was saying that statement that it did not contemplate rejection, to me it is taken care of by the fact that the CECs were brought to the House and rejected.

Mr. Speaker, on the issue of whether time is of essence in the appointment of a county executive committee after a general election, I am on page 6, again item 5 says that 'it is our considered legal opinion that while the constitution in Article 179 defines the composition of county executive committee and the manner of appointment of the members of the executive committee.' The constitution does not expressly stipulate the time within which the appointment and subsequent approval by the County Assembly must be met.' Mr. Speaker---

Hon. Deputy Speaker: Point of.....Hon. Francis.

Hon. Ngunga: Thank you, Mr. Speaker. Mr. Speaker, I stand to inform the member Hon. Johana Munyao again who is qualified, competent high school teacher. Mr. Munyao, go to page 17, if you can please kindly. There you are going to get the committee recommendations. It is upon these recommendations Hon. Munyao you should base your arguments and one of them is that the committee has been very clear. Look at number one, 'the term of a county executive committee member who were appointed in the previous term of government expired on 28th day of September, which is 21 days after the swearing in of the new MCAs in accordance with the law.

There is no law which has been quoted there.....in accordance with Article 198 of the constitution as read with section 42(2) of County Governments Act which the Speaker, has quoted extensively on.

Therefore, Mr. Speaker, I stand to inform the member that without having to waste a lot of time, please look at that, ventilate on that and assimilate it. Thank you, Mr. Speaker.

Hon. Munyao: Thank you, Mr. Speaker---

Hon. Deputy Speaker: Just has you continue on your debate Hon. Member. When you are reading on items concerning legal opinions, please read all of them. Do not read one, read all of them. Read number five and read number six because number five which you have read, there is a number six. Just read all of them so that we can be picking things within the context. Continue please.

Hon. Munyao: Mr. Speaker, on who, I think Mr. Speaker, you were the last one to speak. I do not know whether---

Hon. Deputy Speaker: Hon. Cosmos, please just give me time. Let the member continue; I will give you time. Let him continue speaking.

Hon. Masesi: It was a point of information to the Hon. Member.

Hon. Deputy Speaker: Because we cannot have a point of information on another point of information. So, let the member continue. Continue, proceed Hon. Johana.

Hon. Munyao: Yes, I agree with your guidance, Mr. Speaker, but I would also wish to maybe ask whether reading a statement here and trying to interpret the statement, if it was not supposed to be used I guess it should not have been included as part of this report.

Hon. Deputy Speaker: Point of information, Hon. Cosmos.

Hon. Masesi: Mr. Speaker, I would like the Hon. Member, he has taken us through to page 6 on essence of time and he has read number 5. Kindly, I would like to read number 6 for him, Mr. Speaker, Sir. Number 6 says 'however, by dint of section 42 (2) of the County Governments Act, the constitution of a new executive committee after an election should be finalized within 21 days of the swearing in of the members of the County Assembly.

It states the constitution of a new executive committee after an election under section one shall be finalized within 21 days of the swearing in of the members of the County Assembly. It is very clear.

Hon. Munayo: Thank you, Mr. Speaker. I will continue to say each statement here is equally important. I want to understand that the assumption here was that after the swearing in within the first 21 days we are able to conclude everything and the efforts were seen. Where is it quoted that after the rejection, what timeframe must be given? That is why we are.....it is very clear that the constitution did not contemplate rejection and therefore the time frame of 21 days is assumed that there were no rejections.

Hon. Deputy Speaker: Point of information. I think I want the Hon. Member, he is raising on a point of order. Hon. Fred.

Hon. Muthoka: Thank you, Mr. Speaker. Let us all of us go to page eight. Mheshimiwa Johana and Hon. Ndawa, go to page eight. Are you there? Number 17, 'accordingly it is our legal opinion on the specific question whether it is lawful for a county executive committee member to remain in service as such after their nomination is rejected by the County Assembly to be dependent.....whether the rejection has exhausted the 21 days period of section 42(2) of the Act.

If yes, that is Githu Mungai now talking, if yes, then it would be unlawful for the outgoing County Executive committee member to remain in office without undergoing the formal re-appointment process and vetting mechanism under the Public Appointments (County Assemblies) Approval Act. Thank you.

(Applause)

Hon. Munyao: Thank you, Mr. Speaker. I want to conclude and I wish the statement continued to also address the issue of if 'no.' It only says if yes and it gives what would happen supposing the issue was if no---

Hon. Deputy Speaker: Point of information.

Hon. Ngunga: Thank you. I think Mr. Speaker, those of us who are of a contrary opinion, it looks they have no matter and let us own up to the fact because Hon. Johana Munyao, the chairman of the committee that gave us this report was on his feet just a few seconds ago and he has indicated that if, for example and we are dealing with a situation we have here for example, remember within 21 days you are given a time to form a government.

If within 21 days you forward your appointees and they are rejected, you can reappoint them within those 21 days and they still can remain in office within those 21 days. Upon expiry of the 21 days, then it is envisaged, in this same constitution we are talking about, they will be in office unlawfully. Look at the situation we are having now for example; we were sworn in office I do not know how many months ago.

We have already, look at the recommendations that Hon. Munyao look at the recommendations the committee has been able to give and I want to refer you to number one again. The Hon. Chairman has said that they were able to contemplate a situation where rejection was going to come. They are saying the Attorney General has said, if for example, members are rejected, they can be reappointed but within the 21 day timeframe.

If it is out of the 21 day timeframe, it becomes unlawful. So, what are we saying here, Mr. Speaker; we are saying as it is now the MCAs were sworn in out of the bracket of the 21 days, the Governor was able to bring in the nominees, five the last day. We were able to work on that and they were rejected. What is the right thing to do? Those who were rejected vacate office and he brings in new nominees.

That is where we are. This report is talking about those who are in office should not be there. It is unlawful for them to remain in office. In fact, let me tell you, Mr. Speaker, read not the CEC alone even the COs who are supposed to have been vetted by the various committees are in office illegally right now, as we are talking.

In fact, I want to broaden even the only person who is in office here legally is the Governor and the Deputy Governor; the rest of the officers who are supposed to be vetted and this must be said clearly in broad daylight, the rest who are supposed to have come to this Assembly for vetting and have not found their way here, are in office illegally.

Recommendations have been given, Hon. Members, here. We are not joking about this, let me tell you members. If a committees recommendations are given here they must be taken upon, the relevant organs of the government must take action and this, we cannot continue with the impunity, Hon. Members.

(Applause)

We cannot. What, therefore, would be our role here? To make recommendations, laugh about them, go about in the market as if everything is normal. No, it is even said here those that are in office are only supposed to do administrative duties. Hon. Ndawa when you talk about administrative duties is that which is going to retain the organization but they cannot be able to undertake new projects right? Are you aware that in Machakos County there are projects that are going?

There are projects that are going on now, is it not so? We have a road that is being built; who is undertaking that road and we do not have a CEC member for roads in place? These are

the questions that we need to ask. The committee says here again, it is suspicious that monies are being misused; are you not seeing that? Open your eyes Hon. Members, even those who come from the other side, white is white black is black, Hon. Munyao. Thank you, Mr. Speaker.

(Applause)

Hon. Munyao: Thank you, Mr. Speaker. My last submission. I am now on the committee recommendations page 15, number 7; we are relying on our committee recommendations. Committee here says 'while there is no express provision of the law that says that CECs are to leave office after the 21 days of the swearing in of the new MCAs after a general election, the advice of the Attorney general is that they should.'

We are saying that there is no provision yet we are saying the advice of the Attorney General says they should. Should they because when there is no provision should they when there is no provision that they leave. I am quoting what the committee has also cited here. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Hon. Members, I think the debate has been exhausted I am now going to allow only Hon. Kamitu on this. On that we are going to have Hon. Kamitu. Hon. Kamitu, you may continue.

Hon. Kamitu: Thank you, Hon. Speaker, Sir. Mr. Speaker, I stand here to give some guidelines and taking consideration on what in fact this Hon. House really needs CECs to be in office. However, the question here, Mr. Speaker, Sir, the Hon. House should also understand that in case like a position like we do not have the CECs now that is the big question and that is why we are debating.

We are debating that this Hon. House or the county executive or the Machakos County has to have the CECs in office. But now the question is; at present, there were those who were brought into this House and they were rejected but it does not constitute an offense whether those in office are illegally in the office. The law is very clear.

Mr. Speaker, I am guided; for example, let us go to page 9, paragraph 20, Mr. Speaker, Sir, as I said it is not illegal for those CECs who are in office, they are not illegally there. Simply, in paragraph 20 what does it say?

'It is our considered legal opinion that the Governor has the requisite legal authority by distinct of section 52(b) of the Interpretation and General Provisions Act to appoint a dully qualified person to be a temporary member in the county executive committee in place of a substantive member who is precluded by any reason from exercising his or her function.'

For example, at the present time---

Hon. Deputy Speaker: Point of information, Hon. Francis.

Hon. Ngunga: Thank you, Mr. Speaker. Hon. Kamitu, let us be sincere this time round. Hon. Kamitu, in the committee, when they were making a reply when they were asked about the Deputy Governor acting as CEC and the response was that the Governor has the express authority to do what? To appoint the Deputy Governor to act the CEC finance in the absence of one; that was the reply. It was not about a reply about the other CECs. Thank you, Mr. Speaker.

Hon. Kamitu: Mr. Speaker, Sir, my good friend my younger brother Majority Leader is trying to mislead this House because if you look at the question above before you come to...on the same page 18; does the law contemplate an acting county executive committee member? It is under that that I am really talking about it. Look at it my Hon. Majority Leader. Does the law contemplate an acting executive committee member and who qualifies to be appointed in an acting capacity if a situation arises and exactly that is what---

Hon. Deputy Speaker: Hon. Kamitu, let me just give some guidance on that. Does the law contemplate an acting county executive committee member and who qualifies? Who qualifies; that is the key word there. The Hon. Deputy Governor qualifies.

(Applause)

So, you need to look at these things in the context which they have been put; that is talking specifically about and who qualifies and I believe if I have read this report, they have recommended that the Deputy Governor is lawfully acting as a CEC. You may continue.

Hon. Kamitu: Hon. Speaker, that one has been put down and it is well documented but what does Article 20 say. What does 20 say? It gives the Governor discretion; it is not even a legal opinion. The President today or the Governor of any county has a discretion according to the law. Mr. Speaker, unless I stand to be guided, the Governor has the requisite legal authority (??)

Hon. Deputy Speaker: Hon. Kamitu you stand to be guided. Bullet number 18, 19 and 20 are in reference to and who qualifies to be appointed. Those three points are not quoting on generalities. The legal advice provided here by the Attorney General is in request to a question. Does the law contemplate an acting county executive committee member and who qualifies to be appointed in an acting capacity if a situation arises? Those are the things those three points are addressing and I believe it is very clear, Hon. Kamitu, you may proceed.

Hon. Kamitu: If I proceed, Hon. Speaker, on page 9. Remembering, Mr. Speaker, Sir, I said in absence of a CEC, if you go to page 10(3) that the tenure of outgoing county executive is preserved under Article 198 of the constitution and section 42, the one you have been quoting of the County Governments Act, 'during electoral transition authorizing the outgoing county executive committee to remain in office until a new county executive committee is constituted after the election.'

Hon. Ngunga: Point of information.

Hon. Kamitu: Let me continue.

Hon. Deputy Speaker: Let the member make his point and then you can---

Hon. Kamitu: I need your protection, Mr. Speaker, Sir. Four, by the ...of section 53 of the Interpretation and General Provisions Act, the powers of the county executive committee is not curtailed or affected by a vacancy in the membership thereof and that the Governor has the

requisite legal authority by dint of section 52(d) of the Interpretation and General Provisions Act to appoint a duly qualified person under Article 179 of the constitution to be a temporary member in the county executive in place of---

So, what does it mean? It really the interpretation of law, Mr. Speaker. In this aspect is that the Governor can appoint.

(Loud consultations)

Let me finish. I need your protection, Hon. Speaker.

Hon. Deputy Speaker: Hon. Francis, I think you will give him the point of information. Let him finish his argument then we can close this matter.

Hon. Kamitu: I need your protection, Mr. Speaker, Sir. In this sense, Mr. Speaker, when I stood and it is in fact common knowledge that the President has got his own discretion. The Governor, likewise, has his own discretion because a government cannot stay we cannot have a government of vacuum. I said, it is my humble request that we have CECs in office so that the functions of the government can go on but in case, like the present situation we have, the Governor has all the legal requisite to appoint CECs.

Hon. Deputy Speaker: Point of order, Hon. Kitengu.

Hon. Kitengu: Thank you, Mr. Speaker. Hon. Kamitu, I have a point of order. Mr. Speaker, I would like to issue a point of order to the Hon. Member. If you go to the reply letter from Githu Muigai, the Attorney General, first page, 'that a person qualifies to act as an executive committee member when any of the following criteria is met.'

We are beating around the bush and we are well guided by the Attorney General of Kenya.

Number one, appointed by the Governor under Article 179(1)(b) of the constitution as exemplified by section 30(2)(d) of the County Governments Act subject to approval by the County Assembly.

Subject to (ii) acting as such during electoral transition under Article 198 of the constitution and Section 42(1) of the County Governments Act albeit on the limited period of 21 days from the date of swearing in of the members of the County Assembly. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Okay, point of information, Hon. Francis.

Hon. Ngunga: Thank you. I also want to add on to what my Deputy has said Hon. Kitengu that Hon. Kamitu it is also important for us to note the only person here who is exempted from vetting is the Deputy Governor by the County Assembly because it has been said in the report and the Attorney General has said here that the Deputy Governor will already have been vetted by the public during the electioneering period.

So, the Governor can appoint, and that is here, the Deputy Governor and the Deputy Governor will not need to come to the House for vetting. For only temporary measure, any other person who is appointed to fill in a vacancy must be vetted by the Assembly; that is a must and

number two, Hon. Kamitu, you have read it right. Underline the word qualified the word is qualified.

You know that a member for a Governor to appoint somebody, that person must qualify and that person's name again must be forwarded to the House for vetting and then the person will act. So, Hon. Speaker, this House I think is extending time because now we are beating around the bush. We are playing a game we used to call ping-pong game.

(Laughter)

Hon. Deputy Speaker: Hon. Francis, you have made your point. You stood on a point of information. Hon. Kamitu, you may close your arguments and that will be the last contribution. Please finalize, Hon. Kamitu.

Hon. Kamitu: Hon. Speaker, as I said there cannot be a vacuum in any government and in total that is exactly the position where there is a vacancy there cannot be a vacuum. The Governor has got all the legal requisite authority to appoint acting CECs in any capacity until a substantive CEC.

(Loud consultations)

(Laughter)

Hon. Deputy Speaker: I think it is okay. I think the Hon. Member has finalized. Members, I think we have exhaustively---

(Loud consultations)

Order, please members. I think, members, we have exhaustively debated and deliberated on this motion and heard the views from all members in the House and it is at this point that I now put the question.

(Question put and the House divided)

(Applause)

(Several members stood in their places)

Hon. Members, before you stand.....I have not finished. Hon. Members, to deliberate.....please, I have not adjourned the House yet. I am going to give---

DIVISION

Hon. Deputy Speaker: The House on division? You want us to go on division? No problem let us vote. Clerk please organize for this.

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

Hon. Deputy Speaker: Can I finish this please? Members have stood up for a division and I think it will be in order we do the division, if members do wish. Those who are opposed to that motion stand up and be counted. You may be seated.

(Question carried by 23 votes to 11)

(Applause)

Before we move. Okay. I would like the next motion which is going to be deliberated upon by the Hon. Francis Ngunga to continue.

Hon. Ngunga: Thank you, Mr. Speaker, thank you Hon. House and thank you for---

Hon. Deputy Speaker: Hon...What did you? Can you be seated first we continue on this I think I put the question already we have already finalized on him. He did not respond to the motion. After the debate should have responded but that motion has been passed. I think we are now going ahead to the next phase whereby already we have adopted the report.

The report has been adopted by the House. As I said, for those who maybe did not understand, I said the report has won the day 23 against 11. So, this House has adopted that report and it needs to be....its implementation needs to be worked on and final deliberations on this report before the House will be done on or before the next session which begins on 13th of February, 2018. We are moving on to the next motion which is by the Hon. Francis Ngunga.

ADJOURNMENT FOR LONG RECESS FROM 21ST DECEMBER, 2017 TO 12TH
FEBRUARY, 2018

Hon. Ngunga: Thank you, Mr. Speaker. Thank you again members and I think as a matter of caution, I think it is also important, Mr. Speaker, we members be alert so that by the time the question be put, those who have issues already will have raised it. So, Hon. PJ Mutiso, Deputy Whip, you need to be alert otherwise you are taking the members back.

Hon. Deputy Speaker: Hon. Francis, please you do not move a motion from that point.

Hon. Ngunga: I stand corrected, Mr. Speaker, thank you.

That aware that the session began on September 7th 2017. Aware that the house approved the calendar pursuant to Standing Order 25 (1).

Further aware that the calendar guides the House on when to have a break and when to resume seating;

Aware that the approved assembly calendar shows that the Assembly should adjourn for long recess on 8th December, 2017 and resume on 12th February, 2017.

Noting that the Hon. House extended its sittings from 6th December, 2017 to 20th December, 2017, that is today;

Acknowledging that members need a break to celebrate Christmas and the new year holidays and also have time to interact with the electorate, Mr. Speaker, I wish to move the

motion that this Hon. House adjourns for the long recess from Thursday, 21st December, 2017 and resume on Monday, 12th February, 2018.

Thank you, Mr. Speaker. Mr. Speaker, in this connection, I would want to ask the Chief Whip to second this motion. Thank you, Mr. Speaker.

Hon. Mulatya: Thank you, Mr. Speaker. I second this motion.

Hon. Deputy Speaker: Thank you, Hon. Francis Ngunga and Hon. Tariq for moving that motion.

(Question proposed)

You may have comments on this, members. Hon. Kalumu.

Hon. Kalumu: Thank you, Mr. Speaker. I stand to oppose this motion simply because we were first to adjourn on 7th of this month then it was adjourned again up to today; actually to the best of my knowledge, we were to adjourn today. So, I do not know where this other adjournment until tomorrow is coming from. I stand to oppose the motion Mr. Speaker. Thank you, Sir.

(Laughter)

Hon. Deputy Speaker: Point of order. Hon. Francis, go ahead.

Hon. Ngunga: Thank you, Mr. Speaker.

(Laughter)

Hon. Deputy Speaker: Order in the House! May we have order in the House? Hon. Francis, you are on a point of order.

Hon. Ngunga: Thank you, Mr. Speaker. I did not indicate some members are taking what we call academic tour and I am hoping Hon. Kalumu was on such a tour. Hon. Kalumu, I correct that we are adjourning today but you know we start from tomorrow because today we were seating. So, when I talked about tomorrow the 21st December, 2017, I was saying that our sessions end today and the adjournment, rather the recess, starts from tomorrow. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Hon. Jeremiah.

Hon. Munguti: Thank you, Mr. Speaker. I stand to support this motion since it is the time for Christmas to be celebrated. This is the time when our Christ was born to deliver the people of this great nation called Kenya and the entire world and therefore I stand to support this motion and wish all the Hon. Members merry Christmas and prosperous happy New Year. Thank you.

Hon. Deputy Speaker: Hon. Kisila.

Hon. Kisila: Thank you, Mr. Speaker. I am a very happy person the mood of the House is and I would like us to continue doing what is right and what is within the constitution of this country and I stand here to support this motion with amendments; that we as the finance committee have not completed the Finance Bill and I think this guy has learned to.....Mheshimiwa amekua---

Hon. Deputy Speaker: What is your point of order Hon. Ndawa.

(Laughter)

Hon. Ndawa: Thank you, Mr. Speaker. I am standing on a point of order citing Standing Order 52 which says; if any member wants to amend a motion, he has to notify the Speaker, through the Clerk two hours before the motion lands in the House. So I want to warn my dear brother.

Hon. Kisila: I continue. I think---

Hon. Deputy Speaker: Hon. Kisila, you will stand guided by that?

Hon. Kisila: It is very dangerous when people graduate.

(Laughter)

They become very active in the House. Mr. Speaker, I would like us to adopt this motion fully and I do not want to amend. I just want to put to the House that we have a budget to pass in the House. We have a Finance Bill which we have not passed as a House and development projects might be stalled if we do not pass it.

I am just cautioning members, as much as we are adjourning the House, we should leave it open to any committee which wants to meet and deliberate on key critical issues and if the House, if you are required to come to the House, I think we should be able to come for the betterment of the people of Machakos.

I just want to say one thing; if you look at the previous motion which I honestly wanted to contribute it is always good that we do what is right to our people. I want to caution members; before you go on recess, whatever you argue in this House, please say whatever is good for our people and what is good for this county.

(Applause)

I would like to continue talking what is right. I would like to talk to ensure we pass the Finance Bill. I talked to the Deputy Governor today and he has assured me that he has given us enough time to print the Finance Bill.

Hon. Ngunga: Point of order.

Hon. Kisila: Majority Leader, just give me one time please. It is important that we take business of our county seriously in a positive way to ensure our people get the right services. Thank you.

Hon. Deputy Speaker: Hon. Mueni.

Hon. (Ms.) Mueni: Thank you. Mine is to ask the leadership if we can start our committees from 15 January, 2018. That time is very long to be at home; we will be missing the committees and the allowances and you know the way some payslips are coming--

(Loud consultations)

Hon. Deputy Speaker: Hon. Members, please let us have order in the House.

Hon. (Ms.) Mueni: I think members, you might think that I am not saying something but when you will get the payslip for January, 2018, you will know what I was saying. So, I beg the leadership we come back by 15th January, 2018 for committee duties. Thank you.

Hon. Deputy Speaker: Hon. Members, before I know put the question for the adjournment of this, there was the little matter that we had during the day as concerns the ADP which was presented by the trade committee and there were several issues which arose from it. The guidelines which we have provided to that committee is that they need to get details.

They need to engage the CECs or the CO who prepared the ADP and be provided with details supporting those documents and engage members through their various committees so that members can be able to acclimatize themselves with what is provided in that ADP report because what was presented in this House was lump sum and members could not follow clearly what the report was about.

So, if the members could be able to engage, get the details and get the various committees, even during this recess where you need to be able to engage members, you should be able to engage members because this report will be critical when we resume again on the 13th February, 2017 as we shall be having the County Fiscal Strategy Paper which will also be having input from that report being tabled in this House.

So, it will be important for that committee to ensure that they get those details and keep the members informed on the same.

(Question put and agreed to)

ADJOURNMENT

Hon. Deputy Speaker: So, I am wishing all members of this Hon. House, I am wishing you all with your families, a very happy festive season, a merry Christmas and a prosperous and blessed new year, 2018. May you have all the best in the Christmas season; it is a time for good cheer and I can see this House has already started on a good cheer, so I am wishing you all the best. This House stands adjourned to Tuesday, 13th of February, 2018.

The House rose at 5.09 p.m.

