

MACHAKOS COUNTY ASSEMBLY

OFFICIAL REPORT

Monday, October 14, 2013

The House met at 12.25 p.m.

[The Speaker (Mr. Mung'ata) in the Chair]

PRA YERS

COMMUNICATION FROM THE CHAIR

PAYMENT OF ALLOWANCES AND CLUSTERS OF MEMBERS

Hon. Speaker: Hon. Members, the communication from the Chair is that we are working on a formula on payment of allowances where all the allowances can be included in the payslip to enable members enhance their borrowing ability.

(Applause)

Hon. Speaker: We are doing this in follow-up of the current trend in the other Assemblies and we feel we should follow so members adjust yourselves accordingly. Thank you very much. There is a communication from the Leader of Majority.

Majority Leader (Hon. Mwonga): Thank you Mr. Speaker and the House at large. Mr. Speaker, my communication is just to read the names of honourable members who as per your directive, I sat with the Minority Leader and we slotted honourable members in three different clusters and with your permission I beg to go through the names of the members in their respective clusters. I beg to proceed Mr. Speaker.

Hon. Speaker: Proceed.

Majority Leader (Hon. Mwonga): We have first cluster of members who will be visiting Mombasa County, Kwale and surrounding Counties. We have Hon. Alphonse Wambua who will be the team leader, Joshua Mwonga, Festus Ndeto, Cecilia Sereka, David Manyolo,

Phoebe Koki, Isaac Muinde, Peter Nzioki, Winston Kanui, Mutuku Mutua, Rachel Nduku, Alice Nzioka, Brigid Mbinya, Bibiana Nduku, Leonard katela and Catherine Mbithe. The other cluster will be going to Kisumu, Bungoma and surrounding Counties.

The team leader will be Timothy Kilonzo assisted by Anne Wairimu. We have Peninah Kaluki, Francis Matheka, Renson Muthiani, Wilson Kasimu, Sammy Nduva, Joseph Kalunde, Edrick Ngunzi, Samson Kimanzi, Margaret Ndalana, Amina Mutio, Bernadette Mueni, Christine Mutune and Jacinta Luka. The last cluster will go to Meru and surrounding Counties. Alex Kamitu will be the team leader assisted by Justus Mutweia. Kyalo Kyuli is a member, Mary Ndinda, Collins Mbithi, Phillip Ndolo, Magdalene Ndawa, Charles Mutisya, Alexander Kathinzi, Peter Nzoka, Dominic Maitha, Cornelius Kitheka, Ruth Ndumi, Nina Mbithe, Justus Kimata and Benson Kasyoka. At this juncture, I wish to call upon the Minority Leader to say whether what I have gone through is what we agreed.

Minority Leader (Hon. Kasoa): Thank you Mr. Speaker. We sat down last week with the Majority Leader to slot members in various clusters and appointed their team leaders. We also agreed that their allowances will be uniform for all the clusters. I confirm this is the true list we agreed.

Hon. Speaker: Thank you very much. Members follow that communication and when you visit those counties, please learn and bring back the knowledge to the Assembly.

NOTICES OF MOTIONS REPORT ON PROCUREMENT

Hon. Maitha: Thank you Mr. Speaker, Sir, and the entire House. I am the chairman of the Public Accounts and Investments committee. I am hereby presenting the report on procurement of goods and services in Machakos County Assembly by a joint committee comprising Public Accounts committee, Labour committee, Transport committee and Planning committee. This report was done on 11th October, 2013.

The members of the sub-committee include Dominic Maitha (PAC chair) who has signed against the report, Cornelius Kitheka (Labour committee chair) who has signed against the report, Felix Ngui (Transport committee chair) who has signed against the report, Sammy Nduva (Planning chair) who has signed against the report and we also have a PAC member Mutuku Mutua who has also signed against the report.

We were also working in conjunction with Hon. Oliver Munyaka whose fate every member of this House understands. It has taken us time and consideration to prepare this report

and I am sorry because of time we took when we were in the Speaker's office deliberating on the issues. We could not give the report to the Speaker on Friday because of some technical hitches because we had to make sure that we got it right in the report.

PREAMBLE

It is government policy that funds budgeted and approved by the County Assembly for procurement are spent on the intended purpose.

This applies to both development and recurrent expenditure. It is the government policy as per the Constitution of Kenya Article 227 on public procurement to allow open competition for procurement without discrimination and in a transparent, fair and accountable manner to ensure achievement of value of the money. Mr. Speaker, Sir, the purpose of the Procurement Act is to establish procedure for procurement and disposal of unserviceable, obsolete or surplus stores and equipment by public entities to achieve the following objectives;

- a) Maximize and efficiency.
- b) Promote competition and ensure competitors are treated fairly.
- c) Promote integrity and fairness of procedures.
- d) Increase transparency and accountability in those procedures.
- e) Increase public confidence in those procedures
- f) Facilitate promotion of local industries and economic development but within the law.

Mr. Speaker sir, Article 30 of the Public Procurement and Disposal Act states that---

(Loud consultations)

Hon. Speaker: Allow him to proceed please.

Hon. Maitha: This stipulates that no procuring entity may structure procurement as two or more procurement for purpose of avoiding using the procurement procedure. Secondly, standard goods, services and works within the market prices shall be procured at the prevailing real market price. Thirdly, public officials involved in the transactions in which standard goods, services and works are procured at unreasonably inflated prices shall in addition to any other sanctions prescribed in this act or regulations, be punished. Article 33 (1) a, b, c (2). Mr. Speaker, according to the Public Procurement and Disposal Act, there is conflict of interest. Mr. Speaker, in the process of procurement, the following ethical breaches were committed and are punishable in court.

1. Lack of professionalism.
 2. Improper enrichment.
 3. Conflict of interest.
 4. Abuse of office as per section 6 of Anti-corruption Act.
 5. Breach of trust as per section 127 of the penal code.
 6. Economic Crimes Act as per section 45 of Ethics and Anti-corruption Act.
 7. Fraudulent or excessive payment as per section 45 (2) a of Ethics and Anti-corruption Act
- Act
8. Flouting procurement and tendering process as per section 45 (2) (6) of Ethics and Anti-Corruption and Economic Crimes Act 2008.
 9. Nepotism against section 17 of Public Officers and Ethics Act (POEA).

All contracts should have been awarded on the basis of qualifications and not who-knows-who. There must be no nepotism to maintain the integrity of the public service. Note that corruption and unethical behavior have economic, social, political and cultural effects that are injurious to the wellbeing of the society. Article 96 of the County Government Act, 2012, states this on Access to Information. Due to lack of adherence to all these regulations in the procurement, the following was evident in our one-month long investigation.

There was restricted tendering which can only be used when;

1. Competition is limited due to complexity or specialization.
2. State security is involved like in procurement of firearms.
3. There are a few known suppliers.
4. Time and cost for tendering is an issue.

On the issue of the County Assembly Service Board (CASB), we found out that

- (a) It is illegally constituted. Every transaction that was carried out by the board is null and void.
- (b) The Clerk of the Assembly should be the secretary of the board as per the Standing Orders and County Government Act hence the requirement was not followed. Thus CASB has been making decisions without approval of the County Assembly contrary to the Constitution, Article 185 (3).
- (c) The Board has overstepped its mandate by acting as the procurement committee, for instance direct procurement of vehicles, trip to South Africa, laptops, construction works, painting and others.

- (d) The CASB is serving its own interests and making haphazard decisions. For example, buying themselves expensive cell phones vide meeting of 17th June 2013, minute No. 19.
- (e) Conflict of interest hence violating the Constitution and Public Officers and Ethics Act. A public officer is expected to carry out his or her duties according to the law. CASB made illegal payment for consultancy for stage-managed interview amounting to Ksh. 411,000 and coming up with the name of Mr. Caleb Mutisya and illegally sneaking it into the House without following the right procedures.
- (f) He was later hurriedly sworn in by an interdicted Clerk, the said Mr. Mbiuki rendering everything null and void as per Article 226 (5) of Constitution of Kenya.
- (g) Encouraging abuse of office and misuse of Assembly facilities for example the use of the official vehicle by Mr. Mbiuki to attend court proceedings in Nyeri and other places. CASB violated Article 75 (1) a, b, c and (2) a, b and (3).

The Majority Leader is illegally in office and serving illegally as well as Minority Leader because they should have been elected or nominated by the majority party or a coalition of parties but they were nominated by a single party thus violating the Constitution and this applies to Standing Orders part 15 (1, 2, 4, 5 and 6) and 16 (1-4).

LAPTOPS

The tendering process was compromised and was not advertised. Protect me Mr. Speaker.

Hon. Speaker: Order, Order.

Hon. Maitha: The tendering process was compromised and was not advertised. The price was above prevailing market value. The quotations were just given to a single company or non-existing companies that gave different prices. Prices were stage-managed- that is the quotation was made of Ksh. 4.5 million, just exactly what proposed in the supplementary budget of 2012/13 which the County Assembly Service Board had commanded for the laptops. After a thorough investigation Mr. Speaker, in Nairobi, the highest value for the outdated of laptops is in the range of Ksh. 38,000 to Ksh. 45,000 while the laptops were bought at Ksh. 75,000 way above the prevailing price of Ksh. 35,000 per machine.

This violated the Constitution Article 227 (1) that stipulate that when a State organ or any other public entity contracts for goods and services, it shall do so in a system that is fair, equitable, competitive, transparent and above all cost-effective. Mr. Speaker sir, Article 227 (2) of the constitution was violated due to tax obligations for companies that was not adhered to.

CONSTRUCTION WORKS

This was done in violation of Article 227 (1) of the constitution on procurement of goods, works or services. What is very clear is when it comes to fairness, equitability, competitiveness, transparency and cost-effectiveness. Mr. Speaker, the tendering method was;

- (a) Was not competitive and there was no urgency to warrant direct procurement.
- (b) The company awarded the works did not even fill a quotation to show specifications.
- (c) No bill of quantities was issued.
- (d) VAT query on the entire works and we call upon Kenya Revenue Authority to come and sort out the issue in regard to Article 227 (2) (d) of the constitution.
- (e) No approval plans for the works was done.
- (f) National Construction Authority's letters not available.
- (g) Conflict of interest and nepotism for instance one of the directors of the firm Mr. Stephen Katua is a close relative of a senior staff member of the Assembly and contravenes Article 275 (1) (a) and (b). The procurement process of the works was tailored to suit interests of individuals. The amount quoted is exorbitant.

CABROWORKS

In the works they flouted procurement procedure and processes and also willfully failed to comply with the law of applicable procedure and guidelines relating to procurement and management of public funds. The company picked to undertake the works was Vicones Engineering Limited and it is not known to directors or any other details, creating suspicion on ownership tax compliance. The cost was exorbitant and no Bills of Quantities of the works were availed from the Public Works.

HANSARD EQUIPMENT

Mr. Speaker, Sir, the initial proposal as per the 2012/13 supplementary budget was Ksh. 8.3 million and the final award given to Notton limited was Ksh. 9.9 million which was Ksh. 1.6 million above the initial decision.

- (a) All these changes were made without approval of the Assembly.
- (b) The procurement process was not competitive.
- (c) Fraudulent and inflated prices were also given to the same.
- (d) Lack of professionalism and abuse of office by the service board.

SOUTH AFRICA TRIP

With the full knowledge by the County Assembly Service Board that Mr. Felix Mbiuki had been interdicted and by law was not authorized to transact business for the Assembly or receive any privileges whatsoever and with full knowledge that of all these, they bestowed him the responsibility of procuring the South Africa trip and even including him to the trip at a cost of Ksh. 190,500 of which he went to South Africa for just two days and had been paid for six days. They breached the Public Officers Ethics Act by deceiving the Article 44 (1) of Anti-Corruption Act, conflict of interest and abuse of office.

1. Improper enrichment against section 11 of Public Officers Act that states that a public officer should not use his office to improperly enrich himself or others.
2. Fraudulent and inflated prices without proper accounting of what happened.

CHAMBER RENOVATION

Mr. Speaker, Sir, as evident on the situation of the chamber, work done did not measure to Ksh. 2 million allocated. There was lack of professionalism and integrity contrary to Section 9 of Public Officers Ethics Act.

(a). The work was done through single sourcing, was not competitive and no expertise was involved leading to wastage of public funds as laid out in section 9 of POEA that provides that a public officer will carry out his duties in a way that maintains public confidence and integrity of his office.

RECOMMENDATIONS

1. The County Assembly Service Board should be prosecuted for transacting illegal business using public money.
2. Mr. Mbiuki should be taken to court for interfering with office matters while on interdiction.
3. The Majority Leader should surrender his position for being in office because he should have been elected by the Cord Coalition but he was endorsed by one party and the same also applies to the Minority Leader.
4. Public Procurement Authority should be engaged to tackle the issue.
5. KRA should look into the issue of adherence to tax obligation of these companies.
6. EACC should come in and investigate the matter.
7. Kenya national Audit Office (KNAO) should be engaged.
8. The Kenya Police anti-fraud unit should also be engaged.

9. All contracts awarded should be investigated.

Mr. Speaker, further ruling should be made from your desk. I beg to call Hon. Kitheka to second the report. I want to say Mr. Speaker that we compiled this report on the basis of this report on the basis of material supplied to us by the Chief Finance Officer of this Assembly. When members of the Assembly are complaining yet they were not part of the committee, I wonder. They should sit and wait the decisions that we have come up with and the process under which arrived at the recommendations. I call upon Hon. Kitheka to second this report before I give it to you. Thank you, Mr. Speaker.

Hon. Kitheka: Thank you Mr. Speaker and the entire House at large. I wish to second the report. Mr. Speaker, this document has a magnitude which should not be viewed as witch-hunt because we are on the basis of the law---

Hon. Speaker: Order, Order!

Hon. Kitheka: Mr. Speaker I seek your protection.

Hon. Speaker: Order.

Hon. Kitheka: Mr. Speaker, the contents of this document comes from the offices of this Assembly and the other information squarely comes to where the procured issues came in. I wish to inform you that because of the weight of this report, my life is in danger.

Hon. Speaker: Order, Order.

(Loud consultations)

Hon. Kitheka: My life is in danger because last Friday I was attacked in my house where there was a kind of burglary where the attackers carried away my electronic goods and even got away with my laptop. Mr. Speaker, it is not a fabrication, this is a valid document which shows what happened on that fateful night and it has....*(Hon. Kitheka waved a document)*

Hon. Speaker: Honourable member just tell us the relationship between the burglary and the report

Hon. Kitheka: I thought so and it is my feeling because those people who came demanding for my laptop and I have been moving around with the laptop which had the report document we are debating. Mr. Speaker, with all that is transpiring in this House, I wish to call upon these members to live above the guidelines being partisan and address the issues without

malice whatsoever so that at the end of the day we can come up with solid solutions that we bring to the Assembly.

Mr. Speaker, I know when we solve the problems in this document we will move further and advance the issues of this House to a better tomorrow for the Assembly and the entire government of Machakos. So Mr. Speaker, I request that we continue with the business of this report and you make a wise ruling on the debate. We should adhere to the biological system which says we should live in a symbiotic system where we should rely on each other, live for each other and not harm each other. We are not here to harm anybody but to solve the issues of this Assembly. Mr. Speaker, I beg to sit down.

Hon. Speaker: Maybe now I can have a copy of the report. Did you seek leave before tabling this document?

Hon. Maitha: Yes before I started, Mr. Speaker, I said that there was a delay because we had to sort out some technical hitches and I sought leave from you. Thank you, Mr. Speaker.

Hon. Speaker: Leave granted and the document is received. We shall come to it, let us proceed.

STALLED COUNTY ASSEMBLY PROJECTS

Hon. (Ms.) Ndinda: Mr. Speaker, Sir, I beg to give notice of the following notice of motion. That this honourable House discusses the issue of stalled projects of the County Assembly.

Hon. Speaker: Thank you. Proceed.

Hon. Kalunde: Mr. Speaker, Sir, thank you very much. I stand to second the motion that has just been moved by that member for continuation of the building works.

Hon. Speaker: Ok. Let us proceed. We will come to it later. It is not good discipline to interrupt.

REINSTATEMENT OF COUNTY ASSEMBLY CLERK

Hon. (Ms.) Musyoki: Thank you Mr. Speaker. I beg to give notice of the motion that this honourable House reinstates the County Assembly Clerk Mr. Felix Mbiuki.

(Consultations)

Hon. Speaker: Is there any member seconding your position?

Hon. Nzoka: Thank you Mr. Speaker, Sir. Yes, in fact it has been a time that when Mr. Mbiuki was not in and since he has been cleared I stand to support the motion that Mr. Mbiuki be back in office.

MOTIONS REPORT ON PROCUREMENT

Hon. Maitha: Thank you Mr. Speaker, Sir. I have just tabled the report that has been long awaited in the House and it has been supported by Hon. Kitheka it is now the prerogative of the House to decide the validity and way forward for the document of the House. Thank you Mr. Speaker sir.

Hon. Speaker: I can begin by hearing points in support of the report and then points against the report. Any member supporting the report?

Hon. Ngunzi: Thank you Mr. Speaker, Sir. I am only afraid that members may not be able to go through the report. Simply because so much was read and we could not have kept that in our mind. Can the report be availed so that we can go through it page by page because we just cannot do anything today Mr. Speaker. Thank you.

Hon. Speaker: That is basically a motion of adjournment. Proceed.

Hon. Ndeto: I carefully listened to the report tabled by the PAIC chairman and supported by labour chairman. It is a surprise to me especially going item by item. The issue of Mr. Mbiuki starts by the time when we came to this Assembly and found him as the Clerk. It came a time when he was confirmed as an employee of the County Assembly in which we unanimously agreed upon. The duties and responsibilities that the PAIC committee asserts were illegally performed by Mbiuki, it was not illegal simply because he had been confirmed and this House had not revoked the same case.

Hon. Speaker: So basically you are saying you are ready to deal with the motion now?

Hon. Ndeto: I stand to say that this is a report that the House should not even discuss.

(Applause)

Hon. Kathinzi: Thank you, Mr. Speaker, Sir. I am rising with a big concern on the document. There was the stoppage of the construction of the perimeter wall of the County Assembly and as I listened to it, the implication was that my company was involved in the

contract and that why the work was stopped. Every member is aware. I did not come with the appropriate attire but I asked to be allowed in to know what was happening because I knew it was malicious. Now, I have listened to that document but I have never heard from them. I have never been questioned about how my company got to be implicated in the tender. Four of my engineers and supervisors were never called.

Do they know the name of my company, no one knows the name of my company. If we stole at any time, we are not going anywhere. My concern is very simple, we are here because of those who elected us with the respect of our parties. It is so pathetic to realize that in that report my company was never even mentioned as to have been summoned by the PAIC committee. We might stay at one point for quite a long time and might get stalled at one particular point maybe we have a small problem, I don't want to say we don't have issues but why don't we say 'let's go ahead' and try to address the problem.

We learn through mistakes but don't be particular on one member. It is not fair. This particular document should not be adopted by the House because it is malicious. Thank you, Mr. Speaker.

Hon. Speaker: Honourable members, I think you all agree that this is a very emotive issue and we need to act with adequate restraint. Let me hear the point of order that was being raised.

Hon. Maitha: Thank you Mr. Speaker. I would like to respond to the allegation by Hon. Kathinzi

Hon. Speaker: No, you cannot respond.

Hon. Maitha: I don't want to counter attack. I want to give information.

Hon. Speaker: Order, order. It can only be a point of information.

Hon. Maitha: In our investigations we never at all and even at the Speakers Kamukunji before we started this committee Mr. Speaker and Hon. Kathinzi was told that no one mentioned him and it was hearsay.

Hon. Speaker: Thank you.

Hon. Mbithi: Thank you Mr. Speaker, Sir. This document is not meant for Lower Kaewa or Kivaa but for the interest of Machakos County and the people of Machakos County. So that we discuss it with sober minds and with proper information, I would propose an adjournment of the motion until we go through the copies and have proper information from PAIC.

Hon. Speaker: Indeed we are discussing adjournment now.

Hon. T. Kilonzo: Mr. Speaker, I think this document should not be adopted with reasons. One, it has talked about elections of Majority and Minority Leaders and yet we have not mandated the committee to discuss the elections of the seats. Who gave them the mandate?

(Applause)

Hon. Speaker: I agree with you. He is basically stressing the importance of the motion so there is no problem. Yes, let us hear you. Today I have seen you and I will keep seeing you.

Hon. Muthuka: Thank you Mr. Speaker. I think we should follow the procedures of the Assembly in discussion of motion. A report has just been tabled and majority of members who are booing and shouting have not studied the report and I think it is important to study it and if we have issues, we bring a healthy debate that will not be malicious or partisan and we will be moving forward. If we continue with this, I fear we shall get no solution. With your indulgence Mr. Speaker sir, I wish to support that we adjourn this motion so that we can get the copies and later convene a special sitting so that we can have a healthy debate and chart the way forward.

Hon. Speaker: Let us hear members who have not spoken.

Hon. (Ms.) Mueni: Thank you Mr. Speaker sir. This document does not have anything for development of our County so it must not be discussed anymore.

(Applause)

Hon. Speaker: Thank you very much.

Hon. Kasimu: Thank you Mr. Speaker, Sir. We have heard the report page after page and it has taken time of the Assembly and I don't think we need a copy now. What we need is this. We have heard the report attack the County Assembly Service Board chaired by the Speaker. We don't need anything from this report because it is malicious and witch-hunting because we elected Majority Leader and Cord coalition knows that the seat is held by Hon. Joshua Mwonga.

We consulted the member who is PAIC chair who is from ODM that is part of Cord coalition but he was not there because he joined the opposition. The opposition gave us the Minority Leader who is Hon. Thomas Kasoa and they are in office legally and in the service board legally so if they have attacked us and attacked the service board it shows they have no faith in us and this report should be thrown out through the window.

Hon. Speaker: Maybe to give us direction, the chair of justice and legal affairs, you can read this. Clerk can you read Standing Order 150 subsection 2.

Standing Order 150 (2) read

Hon. Speaker: Hon. Members, this report has been received without question and it has been received and accepted by the House. The next point is by motion, the report can be agreed upon or negated or recommitted or postponed for further consideration. I will start by getting your approval that this report be committed for debate as it is? For those in support of committing the report in whole as is.

DIVISION

(Question put and the House divided)

Hon. Speaker: Honourable members, I would call for a division. We need to take the register and make a roll call. I will urge members that we keep order.

Hon. Manyolo: Mr. Speaker, Sir, on Friday we saw adverts of government job---

Hon. Speaker: We will come to it later. I am aware of it.

Hon. Manyolo: But also to the issue. Mr. Speaker, Sir, I guess I am not out of order because within the same issue... ..*(inaudible)*. Protect me Mr. Speaker, Sir.

Hon. Speaker: I am not offering protection. Kindly sit down.

(Loud consultations)

Hon. Speaker: Order, order, order. Let me hear you.

Hon. Kitheka: Mr. Speaker, I think we are doing disservice to the people of Machakos because these honourable members have requested a copy of the document so that they can study it and they have even pushed for an adjournment for this motion so that they can have adequate questions to pinpoint on this document so Mr. Speaker, I don't see the essence of voting while majority of the members do not know the contents of this document. So Mr. Speaker, as the seconder of the motion, I truly know that voting is not the death of this report. It can also be tabled elsewhere. I kindly request you to give---

Hon. Speaker: Order, order. The kind of voting we are to do isJust have a seat. We have read the Standing Order. Just listen to this. The first vote is this. Standing Order No. 150

(2), which talks about reports from committees. Except as otherwise provided by Standing Order, every report under paragraph 1 shall be made without question and I said that had been done without any question put and may by motion be agreed for debate as it is or negated by the County Assembly. So if we vote and agree to have it debated then it will be reserved for debate. It can be negated by the County Assembly through a vote that is to disagree and have it rejected. Thirdly it can be recommitted to the committee. Fourthly it can be postponed for further consideration. That is the procedure. We have those four options.

Hon. Alex Kamitu: Mr. Speaker as per the Standing Orders as you have said and normally in regard to procedure. A motion has been brought here and we are supposed to be given copies so that members can study the report and then during the debate, they will have material to discuss the report exhaustively.

Hon. Speaker: Indeed, that is where we began. Let us deal then with the motion on adjournment. Let us agree on this.

Hon. Kamitu: Mr. Speaker, Sir, I would kindly say that the procedure is that the report has been brought for the first time and for the House to adopt it, members should be given copies to read and exhaustively debate the report. That is the procedure.

Hon. Speaker: Let us have somebody else speak.

Hon. Kyuli: Thank you Mr. Speaker and the House at large. One, Mr. Speaker, the committee that sat and prepared this report was ready and that is why the report has been tabled. Members, one reason that it should be thrown out is because the committee never gave us copies yet they were ready. If not so they withdraw the report and bring it when they are ready. Secondly, you have read a Standing Order that we should follow and I wonder why there is an issue when we start following the correct procedure.

You posed a question Mr. Speaker sir and there was a divide so I beg we follow the Standing Orders as they are that we vote to either throw it or accept it. If it is accepted in the House, a member can come with an adjournment motion so that the committee can bring copies. If it is rejected, the committee can wait for six months.

Hon. (Ms.) R. Nduku: Thank you Mr. Speaker, Sir. Mine is a point of information to the member of Machakos Central. I want to request him to substantiate what he has said that if the report is not adopted in this House, he can table it elsewhere. I want him to explain, does he have another Assembly apart from Machakos County Assembly.

Hon. Speaker: Order, Order, Order. I have not given the permission yet.

Hon Ngui: Thank you Mr. Speaker, Sir. I think Mr. Speaker, before you posed a question, an adjournment for discussion on this motion was proposed and seconded. Is it in order?

Hon. Speaker: This report has not yet been debated.

Hon. Ngui: But an adjournment was raised and supported.

Hon. Speaker: We are getting there.

Hon. Ngui: We were supposed to do that before we go to vote to discuss about the document. Then again the Standing Order you are reading is very clear. It can only be done through a motion. Who has brought the motion for us to vote? Where is the motion, now that we are voting?

Hon. Speaker: I am saying we go back to the application for adjournment.

Hon. Ngui: Members, let us follow the procedures.

Hon. Speaker: The report was brought through a motion to the House by the committee. Just a minute.

Hon. Speaker: Thank you very much members for a healthy discussion. That is how parliament is. Mr. Speaker, there is that member who questioned where the document can land when it fails in this House. I want to point out that there are issues that are constitutional in this report and if they fail in this House, the Assembly is not the only oversight of Laws of Kenya. The document can be taken to the courts where it can be argued and the court will make a verdict.

So Mr. Speaker, I don't see how a member can say the only we can solve issues is only on this Assembly. Mr. Speaker I can cite precedence to this question. The issue of irregular employment under the Labour committee whose report was tabled here has not been reacted to. Mr. Speaker, let me announce that we are now getting a court injunction for the entire employment process in the County. So, Mr. Speaker, this is not the only place where the document can be taken because we do not need approval of the House to go to court.

Hon. Speaker: Order, Order, Order. Honourable member, I don't think it is in order to discuss a matter that is before the court in the Assembly.

Hon. Kitheka: Mr. Speaker, I have told you, our intention as per what was questioned. We may get a court injunction. Not that the issue is in court.

Hon. Speaker: Thank you. Let us hear a member who has not contributed.

Hon. Itumo: Mr. Speaker sir, first of all I wonder how come some members here have spoken so many times when others have not spoken. Mr. Speaker, protect me out of your courtesy.

Hon. Speaker: Let him proceed.

Hon. Itumo: Thank you Mr. Speaker, I know you are a good protector.....(*Inaudible*)

Hon. Speaker: No she has not spoken. She has a right to speak. Proceed.

Hon. (Ms.) Ndawa: Thank you Mr. Speaker and the House at large. Honourable members, I think this report is very sensitive. We have not gone through it and we should take a chance to look at it keenly. It is talking about interest of people of Machakos. Let us not bring moods in this House and shout at each other. This is not the manner we should be discussing things. Mr. Speaker, protect me.

Hon. Speaker: Please members, just speak through the Chair only.

Hon. (Ms.) Ndawa: Let us discuss these things amicably, go through the report and if you feel it touching you personally, find a way of getting out of it but right now the best way is to sit down and read the report and then this House can come back and discuss the report. It is about Machakos County and not about specific members. It is not about a wall that was to be built here but the interest of Machakos people and the money that was to be spent. So let us come together and agree how to work together. Mr. Speaker before I sit down, I want to give a point of information for a motion that has been tabled today concerning the comeback of our Clerk Mr. Mbiuki. It is a point of information.

Hon. Speaker: Honourable member you are out of order now. Have a seat please. We cannot take that now. We are dealing with the matter for adjournment. Just have a seat.

Hon. (Ms.) Ndawa: Thank you Mr. Speaker. I will continue to tell these honourable members to learn how to behave when they are in this House.

(Loud consultations)

Hon. Speaker: Have a seat honourable member. You will all realize that however sensitive matters are, we must live as a House. I again repeat, let us exercise restraint. We are many and cannot all agree in thought and opinion. We should respect the opinion of others. We are dealing with the matter for adjournment.

Hon. (Ms.) V. Mbithe: Thank you Mr. Speaker. What I would like to say is the comment on what going on this motion. If there are procedures that have been cited in the Standing Orders, let us follow what is supposed to be followed otherwise we will waste a lot of time and if the report cannot be adopted, let the committee go back and do the necessary. Mr. Speaker, I beg to say that in this House we need to work as a team and what is not right is not right. It is like food that is half-cooked and one cannot consume it.

Mr. Speaker, we beg for your guidance in this House because that is why you are the Chair. We beg for your guidance so that we can move fast other than dwelling on one point where it seems there is a drift all the time. In this House, members are drifting from each other for no reason at all. Let us work as a team. Thank you.

Hon. Speaker: Ok, honourable members, I agree this is a matter that is emotive. There are names that have adversely been mentioned in this report and we need to tread a little bit more careful. Ordinarily and as the law will tell you, when a party is adversely mentioned, that party should be invited to defend themselves either in person or through counsel. Perhaps Hon. Kitheka is here, can I quickly hear whether the parties that were adversely mentioned if they were summoned or interviewed by the committee. I am just interrogating the report to reach the way forward.

Hon. Kitheka: Thank you Mr. Speaker. I think the weight of the matter at hand is so sensitive to an extent that we have to bear it as hot as it is. Mr. Speaker, we interrogated some of the people who are concerned. We were in your office and we told you what is there. We went to contact Mr. Meria, the Acting County Assembly Clerk and also Mr. Mbatha, the Chief Finance Officer. We also went to the companies where the goods had been procured but we did not go to any company as Hon. Kathinzi was trying to say. Any company that has not been mentioned in this report, we did not bother to contact them because we did not operate on hearsay.

That is why members who rioted and came saying it is an issue concerning Hon. Kathinzi, we could not stomach that because we did not have vivid evidence on the same and we did not have to interview him because it did not reflect anywhere in the report. So when we came to your office, we discussed the report. Otherwise, for the betterment of this House and this report is bringing a lift to this House with some pointing fingers and accusing each other, Mr. Speaker, I request you bring sanity to this House by ensuring we adhere strictly to the procedures so that no member will feel to have been pinned down. Majority of members who had spoken had asked for adjournment of the motion because of reasons. Protect me Mr. Speaker.

Hon. Speaker: Order, Order.

Hon. Kitheka: We had asked for adjournment for vivid reasons Mr. Speaker and it was seconded. I did not see the sense of proceeding with division of the House so that we can create another verdict. We had made a verdict of adjournment and I think we cannot discuss this report exhaustively members going through the copies for two to three days to be able to raise issues. That should be the procedure but Mr. Speaker I know that majority of members are travelling and have issues in their minds.

Some are travelling to Kisumu, Meru and Mombasa. I think there is inadequate to read the report instead of browsing through the report to go to for Cluster visits. Mr. Speaker, I am calling on you to re-decide on the adjournment because this motion squarely touches on the other two motions that have been laid here. I am in a quagmire because I don't see how a report carrying issues of members and event and another member can slot in another motion touching on the same. Mr. Speaker, I respect you and I kindly ask you to adjourn this motion which I seconded. Mr. Speaker, I seek your indulgence. Thank you.

Hon. Speaker: Now. I can only take two points in support and two points in opposition and only on adjournment.

Hon. Muinde: Mr. Speaker, since the committee was formed to look into the procurement procedures and in particular to the contracts awarded, time has gone. This committee cannot continue working in eternity. We need to bring the whole thing to a conclusive end by either adopting the report discussing it and dispense with it or throw it altogether. The committee sat many times in Kitengela, in the House and in Mombasa and finally on Friday last week, the PAIC chair came here and said the report is ready.

He was holding the report and since then and today he should have given the report to you and necessary copies given to members. I fail to understand again why we have to find another day to discuss the same report. We need to dispense with the report now. Mr. Speaker, the committee took time to travel to Mombasa to write the report a month ago and they were paid for it. The following Friday when they were supposed to have travelled we had Senators visiting here and they were paid for that meeting. The following Monday we had other Senators visiting and the committee members were here and were again paid yet they were supposed to be in Mombasa writing the report.

Why are we having an opportunity which is like a lifeline where some members are busy working endlessly to write a report that is never concluded? Mr. Speaker, I want to propose that this business must be dealt with today and not any other day. We vote and accept the document, debate it and a conclusion be made or we vote to reject it. Mr. Speaker, time is of essence and we can stop any other business. The acting Clerk did mention last Friday that there are legal consequences and that he feels cornered because if the so-called contractors go to court, it is the Clerk who will be attending the court cases. It is open and it is a process in this country. This House failed to allocate enough funds for legal issues to be handled by this House.

I believe this House did not at any time stop contractors from doing their work. This House should decide to either formally end the contracts and face legal consequences or direct that members who stopped the works face the contractors in court instead of a few people lordling

it on the House to their own legal tussles that this House is not party to so that we can have harmony and work together for the progress of this House.

Mr. Speaker I think it was in order that we debate this report by first voting whether it should be accepted. It was read to us and we have gone to school and we don't need to read it again. It was read very clearly word for word and there is nothing is remaining. If I get a copy, I will just in the boot of my car because I have heard its contents and I don't need to read it twice. It is not the Bible which you can read repeatedly or the Koran. So Mr. Speaker, the reading that was done was enough, we understand it and we know the contents of the report so let us dispense the business now and forever put an end to this so that the House can continue with other business.

Hon. Speaker: Honourable members it is important that you also listen to the Chair. It makes adequate sense for each member to have a copy of this report. It is important that every member reads and gets acquainted with the report. The Standing Orders provide that this should have been done two days before time. And again owing to the urgency, the House can waive that requirement and agree that the report be debated outright owing to its sensitivity. The position facing us as a community is one; that a lot of functions of this Assembly have stalled.

I would want us to take this position so that we appear to be fair to the girl and the boy. That we can adjourn debate of this report but on condition that the works that are in progress continue so that we don't hold the Assembly at ransom. And I am sure that will be an agreeable position and we can give ourselves time. Those who are going outside and after we return, we can put actual debate on this particular report. I don't know what the position of members on that particular point is. The report was received.

Hon. Manyolo: Thank you Mr. Speaker sir and the House at large. As we all know there is a law that governs every item and as you have said Mr. Speaker sir, I support that works should go on and if there were irregularities, we have procedures which we should follow.

Hon. Speaker: Indeed.

Hon. Manyolo: So it is good for everyone to get in touch with the document. English depends from where one comes from. There are simple minds, slow minds so give us time to go through the document and let the work go ahead. If there was anything wrong, we are going to die, we have time to think and if there is anything that is fishy, the law will take its course. This document took a lot of time and at the expense of our money so please let us cool down our tempers.

Think of tomorrow, as the other honourable members said, we are here to represent the interest of the voters. We are not here for personal interests. Let us join our hands together in the

spirit of unity and I know we will achieve. Mr. Speaker sir, let the works go ahead and we go through the document and if there is any item that touches me, I will stand on a point of order or correction or information or clarification to be led in the best way. So Mr. Speaker sir, I support the works to go ahead and when we come back, we will report the issue further. Thank you, Mr. Speaker.

Hon. Nduva: Thank you Mr. Speaker and honourable members. This issue has taken us round and round and members should note that we are here to represent Machakos County. There are several motions that have been represented to this House and now half of the day is going to one motion. Members let us rethink of what we are doing and what we have been doing and not look outwards when we doing things or tackling issues in this Assembly knowing very well we are working for the electorate.

I would echo the words of Hon. Manyolo that the rule of the law will take its course if any irregularities will be found but let us not stop the progress of this House. I propose that we adjourn this Debate on the report and let the work contracted continue. We may create another picture to the electorate. If the projects were paid for and irregularities, then the person concerned will face the law but at the moment let us learn to live to forgive if someone wrongs you because according to what I have seen, it seems as if we will be killing each other here in the next day. I second Hon. Manyolo that the progress of the projects be undertaken be carried on and if there are irregularities, this House is not moving anywhere else. Thank you, Mr. Speaker.

Hon. Speaker: I think without much ado so that we don't keep rubbing it in, can we agree that the projects that are ongoing proceed.

(Question put and agreed to)

Let us go to the next question. That the debate.....yes. You want to say something? We have the report deferred until that other time. I am the one who had proposed that position. Let's proceed now on the next agenda. Copies be circulated. Yes. Once a question has been put and determined you cannot talk about that question further. Next item.

STALLED COUNTY ASSEMBLY PROJECTS

Hon. (Ms.) Ndinda: Mr. Speaker, Sir.

Hon. Speaker: We have two honourable members.

Hon. (Ms.) Ndinda: Yes, there is a motion which I had moved.

Hon. Speaker: We are not yet there. On the stalled projects? You put your motion now, sorry.

Hon. (Ms.) Ndinda: It must be discussed openly and clearly because I am the one who moved the motion. Yes.

Hon. Speaker: Proceed. Allow her to proceed it is her motion.

Hon. (Ms.) Ndinda: Yes. Mr. Speaker sir, I now beg to move the motion.

Hon. Speaker: Please do.

Hon. (Ms.) Ndinda: It is my humble request that this honourable House discuss the issue of the stalled projects at the Assembly. In the perimeter wall project, I would point out that we are not safe when the wall is not fully done. Secondly, the Assembly is in a total mess and is not conducive beginning with the parking bay and toilets. Especially for the lady members, our toilets are in a total mess such that we cannot step in. We are forced to go to big hotels and pay by taking a cup of tea so that you can use the facilities. This is embarrassing because we can be infected by diseases. We also need facelift of our offices.....

Hon. Speaker: Like what diseases do you fear you will contract?

Hon. (Ms.) Ndinda: Infectious diseases that can be transmitted in dirty toilets.

Hon. Speaker: Ok, proceed.

Hon. (Ms.) Ndinda: We can even contract skin diseases. Secondly, the face-lifting of offices. It is just a few weeks ago that we visited Nakuru County Assembly and I really felt ashamed and embarrassed of my county when I related and compared our offices and Nakuru. In fact one of our members made a joke that we are not supposed to go inside because you do not deserve to be in that place which was spotlessly clean, properly managed and everything was in order. I think because we are touted as number one in the country, we should lift our standards to match what the nation is talking about. We have integrity because even the way we are dressed matters. I humbly request we discuss this issue so that everything can move forward. The other thing is the upgrading of the Hansard equipment. Those who went to Nakuru saw what is going on there. This is not a digital set up, it is analogue. Even analogue is better, I don't know what you would even call it. Please let us upgrade it to full digital status, thank you.

Hon. Speaker: Thank you very much. Who is supporting your motion?

Hon. (Ms.) Ndinda: I want to ask Hon. Joseph Kalunde to support the motion.

Hon. Kalunde: I stand second the motion. Mr. Speaker, I thought that through the discussion, that motion had gone through because you asked a question whether the perimeter wall and other jobs should continue and the House said yes. So why should we continue to discussing what had been passed. So without wasting time, I suggest that we agree that motion

has gone through and the works that had stalled should continue as before they were stopped. Thank you.

Hon. Speaker: Thank you very much. The ruling that was made was for another motion. This is a House for records and we want to record the grounds put forward because we have a HANSARD. Points in support?

Hon. Manyolo: Thank you, Mr. Speaker. This is Hon. Manyolo from Matuu 1. Well it is true that the situation here does not favour members. Go to the washrooms of the boys...honourable male members. Not boys, but honourable male members.

Hon. Speaker: Did I hear boys?

Hon. Manyolo: You didn't hear, it is them saying it. Thank you, Mr. Speaker sir for your protection. In fact the situation here does not favour us. We need to uplift the buildings and security. In addition to it we have many stalled projects in our wards and I had suggested that we even have a tour of the wards to have an idea of what is happening in the wards. If a motion comes, every member will have background information so the subject is well discussed. So I request that next week but one, we have a tour of all wards with all members. Thank you, Mr. Speaker.

Hon. Speaker: Finally, unless there is something very new I didn't hear.

Hon. Kathinzi: Thank you, Mr. Speaker. I am just but supporting this particular motion and without wasting time and to finalize the business of the day, please give guidelines for other people who were mentioned adversely in the other debate so that we can get official apology in regard to that. Thank you. I am demanding an apology letter because they adversely mentioned me when they were chasing away the contractors.

Hon. Speaker: Honourable members, we now all agree that.... I now say that Hon. Kathinzi is out of order. If you were falsely mentioned, go through the Standing Orders, there remedies so you can raise that motion eventually in time. I don't think we need more on that particular motion unless it is....yes you are sure we need more.

Hon. Kyuli: Thank you Mr. Speaker. Yes I wanted to move an amendment to that motion, if you allow, to include even the offices for members that we were promised across the Assembly and also the cafeteria. If you allow me to move this as an amendment, I will ask for it to be seconded by Hon. Muinde.

Hon. Muinde: Thank you Mr. Speaker. I second that we amend the motion so that we include other offices so that the procurement department can go ahead and ensure the office of committee chairmen and any other works that need to be done immediately we get the necessary development funds. Thank you, Mr. Speaker.

Hon. Speaker: Before I even put that to vote because you are rather hijacking another member's motion. Were those projects really stopped by anybody? They are still on course and the Assembly is really functional. I think the amendment is really out of order. In oneness we say that the motion that has been moved by Hon. Mary Ndinda be approved as it is.

(Question put and agreed to)

Hon. Members, we need to learn to endure difficult moments.

REINSTATEMENT OF CLERK TO COUNTY ASSEMBLY

Hon. (Ms.) Musyoki: Mr. Speaker, Sir, I beg to move the following motion. That this Assembly reinstate the County Assembly Clerk Mr. Felix Mbiuki because he has been cleared by the courts. Mr. Mbiuki should report back to his office to continue giving his services as required. The Assembly can give Mr. Mbiuki the last chance. Is there anybody in this Assembly who does not sin? You have just been told by Hon. Manyolo that we should learn to forgive and forge forward. The Assembly had approved the appointment of Mr. Mbiuki when nominated members were not even here. So Mr. Speaker, with that.....*(Inaudible)*

Hon. Speaker: Okay, who is seconding your motion?

Hon. (Ms.) Musyoki: Hon. Nzoka.

Hon. Nzoka: Thank you Mr. Speaker, Sir. I stand here to support reinstatement of Mr. Mbiuki and I want members to listen carefully. We are not here to see who is bigger than the other. I have undergone that trauma. I have been arrested and arraigned in court four times and after the trial with witness by the defence, I have been cleared. So you have to know there are those who intimidate others and wish others to have bad things are still here. It is bad to have a bad opinion of another. If Mr. Mbiuki was arraigned in court, that is right. If he has been cleared, let us not go personal.

(Applause)

It would be ridiculous for a person to wish another to die when he is alive. He has a family like us and what he has gone through....Maybe it was a set up. You have to be human and mindful to others. We could come here and say Hon. Ndawa is this and that and then she is arrested. Those people are there. I request this House to set aside personal issues and we reinstate

Mr. Mbiuki as the Clerk because it is us who vetted him and he was cleared. So my dear colleagues, be mindful and know that you could be next. Thank you.

Hon. Speaker: Okay, we can have.....we can begin with those for and those against. We can take two for and two against and then we assess the debate. Those in support.

Hon. Kasimu: Thank you, Mr. Speaker. I stand to support the motion because Mr. Mbiuki has not only been cleared by courts of law but also by Ethic and Anti-Corruption and the Transition Authority. I remember very well that the Assembly itself approved his job and if he has been cleared by the three legal institutions, I ask we stop witch-hunting and personal attacks and adhere to the rule of law. May God bless the House.

Hon. Speaker: Another one member in support. Okay.

Hon. (Ms.) Ndumi: Thank you Mr. Speaker sir for this opportunity. I support reinstatement of our Clerk Mr. Felix Mbiuki. A time when I was not in this House, men in this House stood and.....

Hon. Speaker: You said what, honourable member?

Hon. (Ms.) Ndumi: Honourable members who are men stood in this House confirmed Mr. Mbiuki as the Clerk. If you give me an opportunity, I will read from the Hansard. One of them is Hon. Felix Ngui who said (*reading from HANSARD of 7th May, 2013* 'I stand here to confirm that for last few months I have known Felix Mbiuki as a man of experience and a very well versed with rules of the Assembly. I stand here to confirm Mr. Mbiuki as our County Assembly Clerk.' If you give another opportunity, Mr. Speaker, I will continue.

Hon. Speaker: Honourable members allow her to proceed. Proceed.

Hon. (Ms.) Ndumi: Thank you Mr. Speaker, Sir. A well-dressed man in a very nice suit worth about Ksh. 45,000, Mr. Speaker, Sir I sell suits, stood here and said.....can I mention him?

Hon. Speaker: Proceed.

Hon. (Ms.) Ndumi: Honourable Dominic Maitha, the most smart man in this House stood and said (*Reading the HANSARD of 7th May, 2013* 'how well of Mbiuki to be our County Assembly Clerk.' Today---

(Loud consultations)

Hon. Members: Point of Order.

Hon. (Ms.) Ndumi: I don't need your order. I don't need your communication for now, I have finished.

Hon. Speaker: Order, Order. Hon. Ndumi, are you reading from the HANSARD. Is that a copy of the HANSARD?

Hon. (Ms.) Ndumi: Yes I have and every member has a copy. I was not even in this House when the members made their contribution. Mr. Speaker sir, when this County Assembly started it is not like two or three years but only about six months ago. How come now that Mr. Mbiuki is now not suitable to work for us? Can we give out Clerk time to work for us like four years then we can comment about him? Thank you Mr. Speaker sir.

Hon. Speaker: Let us hear members who have not spoken. Hon Matheka.

Hon. Matheka: thank you Mr. Speaker, Sir. Honourable members we are not for a fight here because we were elected by the people and they elected the best. We should not behave like the last. Honourable members, I have a few questions to put to this House and I don't need answers but ask yourselves. Did we come here to fight for employees, to fight employees or to work for our people in Machakos County? Another question is to the Chairman and Mr. Speaker.

When the former Clerk Mr. Mbiuki was interdicted, who was the interdicting authority and once the court case was through, did the interdicting authority, give communication to this House? Question No. 3 Mr. Speaker, Sir. If the interdiction was lifted, should we see both communications? When he was interdicted and when the interdiction was lifted from the interdicting authority and not the court, Transition Authority nor anything else. That is my question Mr. Speaker, Sir. Mr. Speaker, Sir, I have another question to this House. We are fighting for employees and they are people of Machakos County.

My question is, if anything and I am not praying that anything bad happens to these employees because there are two employees who are being fought for. If anything happens to these two employees, will Machakos county Assembly close shop or will it continue. Honourable members, we need to ask ourselves, will we close shop and go home or we will move ahead. Mr. Speaker, Sir, I keep on saying in this House, if you see characters behaving in a funny way, there is something motivating it. I wonder what is motivating all this hatred in this Honourable House. We are sons and daughters of Machakos County and I don't know what we are fighting for. We should look towards developing our county whether we have Mr. Mbiuki, or Mr. Meria or Kivelenge.

Anybody can lead this House and we move ahead. We don't need to come here and fight. Hon. Speaker, my last question is: Yes, this House confirmed Mr. Mbiuki, I totally agree with that but when was that? Was it before he was interdicted or after? That is the only question I want an answer for. Then from there we can know the direction we are taking. We should not come to the floor of this House to fight personal fights and get carried by emotions that will take

us nowhere. Honourable members, please I beg we be guided by reason. I know we have to collide, I know we have to do anything, but we be guided by reason.

Mr. Speaker, Sir, I am not supporting or opposing Mr. Mbiuki. I can work with anybody in this Assembly so long as we are doing the right thing in this Assembly. One thing I know is that where there is corruption, corruption fights back and I can see something happening in this House. Corruption fighting back and we need to deal with corruption in this House and Machakos County as a whole. Thank you Mr. Speaker sir.

Hon. Kamitu: Thank you Mr. Speaker sir. I want to put some light in regard to procedures. The motion in regard to Mr. Mbiuki, the Hansard report and discussions carried in this House were valid before interdiction. As we stand in this House Mbiuki is a Kenyan that as per the ethics he can work anywhere in this country. So what am I saying? We should follow the procedures and not opinions. In this regard Mr. Speaker, may I seek your guidance in this line that the validity of his interdiction came from an authoritative office of this government and relevant to this Assembly. It is in the same strength, that we sincerely request your office to present papers in regard to uplifting of interdiction of Mr. Mbiuki.

We shall totally agree with the Authority that has taken the initiative of uplifting the interdiction. For us to forge ahead with sober minds, we request for that letter. That will be valid whether it is from Public Service Commission, Devolution ministry we want that letter because the validity of uplifting of that interdiction. When we get that letter, we have no problem with Mr. Mbiuki because that is an authority and that is a procedure. Thank you Mr. Speaker, Sir.

Hon. Speaker: Thank you very much. I think we have heard two sides. We only want to take members who have not spoken. Let us have the lady.

Hon. (Ms.) Mutune: Thank you Mr. Speaker, Sir. These members are politicians who say yes now and the next minute they say no. This House approved Mbiuki to be here and maybe somebody had vested interest and did not convince Mr. Mbiuki and that is why they are attacking him. We should not dwell on one thing throughout. Honourable members, we are all adult and also spiritual leaders. Lets us not put something that is wrong as if it is right. Some of us are saying we should follow the procedures yet they are the same ones who are not following the procedures. I remember one day, these members one day removed Mr. Mbiuki out of office. Is that one of the procedural thing to do?

(Loud consultations)

Hon. Speaker: Order, order. I am going to hear those who have not spoken. We have not heard the youth.

Hon. Kimanzi: Thank you Mr. Speaker, Sir. I would like say that we need to move. We don't need to keep struggling on one place. Since it was passed and people should not extend their failures to our side. For the sake of everybody, if you totally care, there are people who are taking others for granted and we should stop that and move forward and fight for Machakos County. Nobody should use others to bear a cross for others because maybe you have enmity with another person, you start saying he is like this and that.

From my past experience, I have learnt so many things in this House so please members if you want us to move, let us move with one speed and we also have consensus we have common interest that has brought us here. So please, if possible, let us work towards building Machakos County and because I don't see anything wrong because I have tried to investigate I both majority and minority sides and I could not get anybody who could convince me that that gentleman was bad. I have not seen anything wrong with him. Point number one. I think I am bitter, am bitter. Let me cool first. Point number one.

Hon. Speaker: Kindly don't be bitter.

Hon. Kimanzi: The first thing we should discuss is the issues of the person like if he is wrong, we move to the court and if we fail what we want to achieve at the judiciary which may not give us justice according to my knowledge, we can go ahead and use our thorax. We have not reached that point of using our thorax so let him come and we stay with him and we see what wrong has been seen by others because I have come to realize that they are same members who approved him as the Clerk to County Assembly. From there we can chart the way forward. If he is bad, we have everything and if he is a good student, he has learnt from his past mistakes and then we shall throw him out officially. But for now I don't see anything wrong that I can say he can be out of this Assembly. Thank you Mr. Speaker, Sir.

(Applause)

Hon. Speaker: Honourable member, just acquaint to the House at which instances is it lawful to use the thorax.

Hon. Kimanzi: Ok. Mr. Speaker, Sir, I beg your pardon.

Hon. Speaker: Under what situations are you allowed to use the thorax?

Hon. Kimanzi: The first case we had was of one Caleb.

Hon. Speaker: Sorry, you didn't hear my question. I am asking you, under which situations is one allowed to use the thorax.

Hon. Kimanzi: Ok Mr. Speaker, Sir, from the first I had said that I was somehow bitter but for now I withdraw that statement Mr. Speaker, Sir. Thank you.

Hon. Speaker: Thank you very much. We have not heard Mheshimiwa from Kyeleni.

Hon. Kasyoka: thank you Mr. Speaker. Mr. Speaker, it is very good to understand our constitution. When we come to integrity, our constitution is clear that we should follow that provision to the letter. Mr. Mbiuki has been in court and no one has communicated to us that he is clean. Mr. Speaker, what I beg from you is that---

Hon. Speaker: I don't know whether you have been following.

Hon. Kasyoka: It has ever been communicated to us.

Hon. Speaker: Anyway, just proceed. Proceed.

Hon. Kasyoka: If there was communication, it has never reached me as a representative of Kyeleni people. Secondly, Mr. Speaker, we are not fighting because our work as members is to oversee and if it comes to integrity matters and we divide ourselves, then Mr. Speaker I don't see Machakos County getting anywhere because we were here when we heard that Mr. Mbiuki had a court problem from his previous posting. Mr. Speaker, the same source which brought the same message should come and communicate. Even our Governor has said that Machakos is a corruption-free zone so Mr. Speaker sir I beg that for us to adopt Mr. Mbiuki, a communication should be brought to us. For me I say with a big NO for Mr. Mbiuki.

Hon. Speaker: Let us hear from... you have not spoken?

Hon. M. Mutuku: I would like to say that allegations were leveled against our former Clerk and a communication was done to this Assembly in line with that. As a person I have not problem with Mr. Mbiuki and if a communication from the national government, Transition Authority was done to the office of the Speaker, it is the high time that the communication was made to the members of the Assembly. We know and we have seen many cases where allegations can be leveled against someone and when you clear yourself, you are clean and can be reinstated. If it has happened, a communication is to be done in that line, I think this House has no problem.

Hon. Nzioki: Thank you Mr. Speaker. I remember on the issue of Mr. Mbiuki and we cleared him on condition that we shall have no problem if he is cleared by the court. Now that he has been cleared, I am just posing a suggestion to the members. Do we have a problem with Mr. Mbiuki?

Hon. Member: No.

Hon. Nzioki: Then on that note Mr. Speaker, I would say we have no problem with Mr. Mbiuki and he should go back to his work. Thank you.

Hon. Speaker: Let us hear two from this side and two from the other side.

(Loud consultations)

Hon. Speaker: Honourable members let us hear two from here and..... *(Inaudible)*

Hon. Kitheka: Thank you Mr. Speaker, my points are very simple. One, Mr. Mbiuki was acquitted by the court and he was reinstated by TA. That is a fact. The bottom line is: was he reinstated by the appointing authority? One, Mr. Speaker, to be very correct and we should not do things haphazardly because Mr. Mbiuki was not reinstated by the ministry of Devolution and the Machakos Public Service. He was not.

I can communicate clearly for you to hear and the HANSARD to capture. He was not cleared by the ministry of Devolution which is the employer. Two. He was not cleared by Machakos County Public Service Board which is a subsidiary employer of Mr. Mbiuki. So, with that information, we can make a verdict in this House and look irrelevant. Let us go ahead and forge for the betterment of this Assembly.

Hon. Speaker: One other person.

Hon. (Ms.) Ndawa: Thank you Mr. Speaker and the House at large. I would urge this House to know that there is a constitution to follow. One, I would say that the interdiction letter against Mr. Mbiuki is still valid. The ministry of devolution has not revoked that letter. A letter TA is null and void. I personally called the ministry and inquired about it because this Assembly-

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(Loud consultations)

Hon. Speaker: Order.

Hon. (Ms.) Ndawa: The ministry of devolution will be the only authority to issue a letter to Mr. Mbiuki to come back to work. And let me tell the House that when somebody is interdicted and is later cleared by the court, it not a must to go back to the same station because you can be transferred. We confirmed him when he already had an interdiction letter. These members were fooled and went ahead to confirm him only to realize later that he had an

interdiction letter. When we had the Speaker's Kamukunji, you read a statement from Ethics and Anti-Corruption Commission and Transitional Authority. You told members clearly that the ministry of devolution has not communicated. If that communication is there, then I will have no issue with one Mr. Mbiuki. Personally, I have no issue with him. It should be clear that we need the letter from the ministry of devolution.

Hon. Speaker: Let us go to this other side.

Hon. Maitha: Thank you Mr. Speaker. I would like to say this before I speak. I didn't stand here to seek support from anyone in regard to my sentiments because that is my personal opinion. I am entitled to that and if anyone feels that ridiculed by what I say, that member can move out and come back when I am through. I would like to say that if you feel you don't want to listen to me, please get out so that those who want to listen can do so.

Hon. Speaker: Honourable member, just restrain yourself.

Hon. Maitha: What I want to say is that I am married to the Embu-Meru community. I have no personal issues with Mr. Mbiuki but if the law is clear of what has happened, Mr. Speaker, I would like to say that people are fighting and I am not ashamed to say that most of the members who are raising their voices have been given money to come and shout here. I have no fear to say that. I can substantiate.

Hon. Speaker: Honourable member, you are now out of order.

Hon. Maitha: Mr. Speaker, Mr. Speaker.

(Loud consultations)

Hon. Speaker: Order, Order, Order. Kindly withdraw.

Hon. Maitha: Mr. Speaker, Mr. Speaker.

Hon. Speaker: Kindly withdraw. I urge you to withdraw.

Hon. Maitha: Mr. Speaker, I want to say that---

(Loud consultations)

Hon. Speaker: Order, Order, Order.

Hon. Maitha: Let us listen. If you want me to withdraw, listen. It doesn't matter whether I withdraw or not, the fact remains that...if you are contented when I withdraw, the fact remains you cannot change the fact. I withdraw the statement but Mr. Speaker I would like to say that I would better remain the only person in this House who stands for what I know is right. I don't

want to be listened to by anyone to get support. When the interdiction letter for Mr. Mbiuki came to this Assembly, we were not informed of that. Someone sneaked in the approval of Mr. Mbiuki knowing that he had been interdicted.

It was never communicated to the House that he was already on interdiction yet we are being told now that he has been cleared. I have no problem with that but the vice we are fighting is other members taking others for granted. Let them not go and hold their Kamukunji there and then come and cheat members here. I know that one day one time, I want to finalize, Mr. Speaker, and I want to be in record, that I will never coerce anyone for the interest of anybody. I stand by my rights and I know that one day, it shall be known clearly to this House who was right and who was wrong. Thank you, Mr. Speaker.

Hon. Speaker: Ok. Let me hear three from this side. Yes. How many were heard? Three were heard.

Hon. Itumo: Thank you Mr. Speaker, Sir. I am supporting the comeback of Mr. Mbiuki. Mr. Speaker it is pathetic when someone who has been cleared by a court of law of this country gets another personal difference with another person. Because what I can see or trace in this House is like Mr. Mbiuki has some differences with some members here. And those are the members who don't want his comeback. They are a few members and I can even mention their names because once they get out of this House they will get to my House.

And the same members are the thorn in the flesh of this House and we will move nowhere but I want to tell them today Mr. Speaker, Sir, everyone who was elected or nominated has the same capacity to serve in this House just like them. Mr. Speaker, there is nothing that goes on in this House that we don't know. We cannot go on and on and on with *kuvutana kuvutana*. What is this! I am not out of order. Protect me Mr. Speaker.

Hon. Speaker: Kindly sit down Bwana Itumo.

Hon. Itumo: Protect me Mr. Speaker and let me carry on.

Hon. Speaker: When you begin your debate in one language, please you must finish with that language.

Hon. Itumo: Ok I hear Mr. Speaker let me continue.

Hon. Speaker: You are out of order kindly take your seat.

Hon. Itumo: Mr. Speaker, I have finished.

Hon. Speaker: Kindly have your seat then.

Hon. (Ms.) Ndinda: Mr. Speaker, Sir, I support Mr. Mbiuki and my reasons are these. When I came to this House, I never knew Mr. Mbiuki but out of information from people, I developed some interest about him and I decided to do my personal scrutiny to know more about

him. I am not standing here supporting anybody because I was given anything but according to the County Government Act Section 12 (2) that states that...*the County Assembly Service Board shall be a body corporate with perpetual succession and a common seal.* This means that this body is independent. Out of the investigations that I did, I discovered that the Clerk, Mr. Mbiuki, was cleared by the ministry of devolution. Secondly, the County Assembly Service Board also cleared him. Thirdly, on 26th September, 2013, the Transition Authority also cleared him.

(Loud consultations)

Hon. Speaker: Order, Order. Let her proceed

Hon. (Ms.) Ndinda: Listen. Excuse me.

Hon. Speaker: Just proceed.

(Loud consultations)

Hon. (Ms.) Ndinda: Listen. Those are my own investigations and I think you also have the freedom of investigating.

Hon. Speaker: Just wrap up

Hon. (Ms.) Ndinda: And I therefore say that because he was cleared, is support him.

Hon. Speaker: Just sit down.

Hon. (Ms.) Ndinda: And I totally say he should come back. I have the letters.

Hon. Speaker: Order.

Hon. (Ms.) Ndinda: I have the evidence of the letters.

Hon. Speaker: Let me see the documents that you have. Okay.

(Loud consultations)

Hon. Speaker: Ok, the letter I have if from the Transitional Authority. Order, Order. I am just reading this letter. The letter from TA is dated 26th September, 2013 and the last time we had a meeting here, I indicated that we have that letter. Any other member in support. We can the nominated member, she has not spoken.

Hon. (Ms.) Nziva: Thank you Mr. Speaker. I am in support of the comeback of the Clerk Mr. Mbiuki. I personally know him more than some members here because we worked with him in the last council, the last five years. I was there for the five years and Mr. Mbiuki even led the

council to position five out of 175 civic bodies. He is a hardworking guy who can take us very far and if given an opportunity to serve in this County Assembly, I think we can go very far. And again if he was cleared by the court, I wonder. Many of the members here even have cases in court and if you are cleared, you are free to do anything. You are free to go back to the former office where you were working. Thank you.

Hon. Speaker: Let us cap it up finally with Pastor.

Hon. Ndeto: Honourable members, I think quite often we talk of order and following the Standing Orders but when it comes to personal interests, we abuse the same. We have three arms of the government. We have judiciary, executive and legislature. The issue we are dealing with Mr. Speaker, according to my wisdom, went to one arm of the government that is the judiciary and I tend to believe, I have not seen the letter but I have heard that...allow me to finish what am saying. I heard that Mr. Mbiuki was cleared by the court which is one arm of the government. It has now come to our hands which is the legislative arm which has its own authority.

It is now upon this House to make a decision not based on what is in court or anywhere else to either accept or say no to Mr. Mbiuki. According to County Government Act 2012 Section 3 (13) states about the Clerk of County Assembly and Staff; *there shall be a Clerk of the County Assembly appointed by the County Assembly Service Board with the approval of the County Assembly.* We are now at that point as a County Assembly to either reject or approve the comeback of the Clerk and a minority because of shouting should not control the House. We should be controlled by reason. Order and reasoning should control us and what is in the written form. Thank you.

Hon. Speaker: Thank you very much. Honourable members---

(Loud consultations)

Hon. Kamitu: Mr. Speaker sir, once again. There are some corrections and procedures I want to give light on. My dear honourable members and through the Chair sir, my concern as I had earlier mentioned is that we have no problem with Mr. Mbiuki. As per the government procedures, normally and everybody is aware that Mr. Mbiuki was interdicted, the case in question is his interdiction. My colleagues, I want us to be clear that the case in question today is Mr. Mbiuki's interdiction. So what am I saying?

I am kindly asking this House with a very sober mind is that the approach is we should get a clearance letter from the authority because normally what is done is that when judgement is passed from the judiciary, it is normally communicate to the respective department. We are

taking of cases that Mr. Mbiuki was cleared by Ethics and Anti-Corruption Commission (EACC) or by other bodies but what we want is documentary evidence because when you come to define evidence Mr. Speaker, Sir, it is either direct evidence or documented evidence. We are requesting this honourable House to follow the recommendation from the judiciary to the department concerned in regard to lifting of interdiction of Mr. Mbiuki.

We are not against anything but sincerely where are the documents? We are being told that Mr. Mbiuki was cleared by the EACC but whatever documents were are talking about, let them be presented to this House for us to discuss that Mr. Mbiuki on this matter and cite dates of the correspondence. What we know, because there is no letter, is that the interdiction is still valid and until then we cannot discuss about Mr. Mbiuki. Thank you.

Hon. Speaker: Honourable members, I think we will stop this debate there. He has not talked? Ok, be brief, I give you one minute only.

Hon. Ngui: Thank you Mr. Speaker, Sir, I am happy you have given me an opportunity to talk. I will not waste time but give my opinion on this. Mr. Speaker, you sat on that Chair when we had a Speaker's Kamukunji and you gave a communication that you have received a letter of clearance of Mr. Mbiuki and a communication will come from the Chair whether the letters are genuine or not. We have not received that communication from you. Secondly, this House should be respected because it is not a Church.

I have heard honourable members asking for forgiveness. This is not a Church where we come to ask God for forgiveness. Honourable members, you are asking for forgiveness to forgive Mr. Mbiuki? This is not a Church. This House should be a legislative House and not forgiveness House Mr. Speaker. Again, Mr. Speaker, I stood here as my colleague said....

Hon. Speaker: Honourable member, are you saying that forgiveness is only in the Church?

Hon. Ngui: Yes. This is a legislative House. It is only in the Church and we ask forgiveness to God and not through an Honourable member.

Hon. Speaker: Proceed.

Hon. Ngui: We cannot forgive here. We are here to make laws.

Hon. Speaker: Address the Chair, don't shout.

Hon. Ngui: We are here to make laws for the betterment of Machakos County. We need this County to be led better without corruption. Mr. Speaker, I have just said that I stood here to support Mr. Mbiuki when he was not interdicted and I have a right to stand here again and say he should not be in office in this Assembly because of corruption-related issues. Mr. Speaker, we need to get clearance letters for the court, TA and the ministry of devolution which is the

employer of Mr. Mbiuki. Mr. Speaker, to wind up, this House is being misled by a few people and these is my last statement. Protect me Mr. Speaker.

Hon. Speaker: Proceed.

Hon. Ngui: My last statement is; no matter how much money is given to Honourable members or what, we are going to let the people of Machakos speak. We are not going to allow corruption to go on Machakos County no matter how much money is being given to the members. I am going to come here with the people of Katangi to remove Mr. Mbiuki out of office either illegally or legally. Thank you.

Hon. Speaker: Honourable member, you are out of order. You cannot remove somebody out office illegally because if we make the law, we cannot promise to disobey the law. Kindly withdraw that statement. It is wrong to have that record in the Hansard.

Hon. Ngui: Mr. Speaker, I cannot get you clearly, just tell me what I need to withdraw.

Hon. Speaker: You need to withdraw that you said you can evict somebody from office illegally. That is wrong for you and for the HANSARD REPORT.

Hon. Ngui: Mr. Speaker, I meant that we shall not allow Machakos County to be run by corrupt people when people are being given money to support corruption.

Hon. Speaker: I urge you to withdraw.

Hon. Ngui: Personally I cannot do that. Personally I cannot support corruption and that is my stand.

Hon. Speaker: So, basically you have refused to withdraw.

Hon. Ngui: I withdraw my statement.

Hon. Kyuli: Asante sana Bw. Spika, nakushukuru kwa kuniona ingawaje mwili wangu si mkubwa sana. Mimi nataka kuja kwa mambo ambayo ni ya kisheria. Nambari moja ni kuhusu nani alimpa Clerk kazi? Wakati ule, ilikuwa ni Transition Authority na baadaye yakaja mambo ya korti alipopelekwa na waliompeleka. Mambo yakachapwa kule kortini hadi yakaisha vile yaliisha. Yalipokwisha yalivyokwisha---

Hon. Speaker: Allow him to finish please.

(Loud consultations)

Hon. Speaker: Order.

Hon. Kyuli: Yalipokwisha hivyo---

Hon. Speaker: Order, Order, Order.

Hon. Kyuli: Na mimi nataka niweke kila kitu bayana Bw. Spika. Kwani watu fulani hapa ndio walikuwa wamepewa barua ya kumrudisha kazini?

Hon. Speaker: Order, Order. Hon. Kyuli let me hear what the point of order is about. Is it a point of order? What is the correction? Just one minute.

Hon. (Ms.) Ndawa: Thank you, Mr. Speaker. My point of correction is that the Transition Authority seconded Mr. Mbiuki to Machakos County Assembly, they are the employers of Mr. Mbiuki but rather the ministry of devolution.

Hon. Speaker: Proceed.

Hon. Kyuli: Nakushukuru Bw. Spika. Wengine wetu hawajui tunatoka wapi au tunaenda wapi. Kwasababu nasema hivi.....

(Loud consultations)

Hon. Speaker: Proceed.

Hon. Kyuli: Nasema hivi ni kwa sababu---

Hon. Speaker: Please.

Hon. Kyuli: Wakati TA ilikuwepo, wizara ya magatuzi iliku haiku.

(Loud consultations)

Hon. Kyuli: Nimesema naweka mambo yangu bayana.

Hon. Speaker: Omba msamaha kwa hayo uliyosema. Omba msamaha.

(Loud consultations)

Hon. Speaker: Let us not shout. I am still in control.

Hon. Kyuli: Bw. Spika, mimi sikusema mtu nimesema wengine wetu mimi nikiwepo.

Hon. Speaker: Hata hivyo, jiseme sasa.

Hon. Kyuli: Bw. Spika, TA ilikuwa imeundwa mbele ya wizara ya magatuzi. Kwa hivyo Bw. Spika, yule bwana alitoka wapi? Alitoka kwa TA. Wakati tuliingia hapa, tulite ngeneza Service Board ya bunge iliyo na mamlaka ya kuajiri, kufuta.

Hon. Speaker: Sorry, Sorry. Proceed.

Hon. Kyuli: Sasa hivi basi, mambo yalienda kortini na yakamalizikia huko na hata mimi Bw. Spika sijaona ya korti bali ni wewe uliyaona ya korti. Barua imeandikwa na TA ikaja kwa

Assembly yetu, na wewe Bw. Spika umepewa barua. Sasa basi tumesdharuka wale watu wanaosukumiwa wamwandikie barua na hata na hata wakisukuma kuna korti ambayo iko juu ya mambo hayo yote. Sasa, korti imeshaamua yule bwana hana makosa. Korti imeshaamua yule bwana arudi kazini. Korti imeshaandikia ile TA imrusrishe huyu bwana kazini. Sasa, sisi kama Assembly tuko hapa kuidhinisha arushishwe au la. Na mimi, kwa maoni yangu ni arudishwe kazini. Kama kuna mvutano, Bw. Spika, nakuomba hivi sasa tupige kura hapa. Tujue arudi au asirudi. Kazi rahisi. Halafu, Bw. Spika, naomba unisikize.

Hon. Speaker: Wait, wait.

Hon. Kyuli: Mimi naomba hivi; kama barua zote zikitoka mahali zinakotoka, zinafaa ziletwe kwa kila mbunge, basi hiyo iwe ikifanyika lakini kama sio lazima, basi ikija kwako sisi tunakuamini. Hivyo ndio maana wewe ndio Spika na kuna kaimu karani. Kwani barua ikiletwa ikisema Bw. Spika nenda Amerika, tutaleta hapa tuseme hii iklikuwa ya Bw. Spika aende Ulaya? Au ikiletwa ya Karani huyu amekaa nasi, ikiletwa barua yake aende mahali fulani, ni lazima iletwe hapa kwetu wote? Juzi wabunge wenzetu walienda mahali kwengine, ililetwa hapa tukazungumzia? Imekuwaje kila mbunge anaamka akiuliza ‘wapi barua, wapi barua?’ Kwani barua inaandikiwa kila mbunge? Barua haijaandikiwa kila mbunge. Bw. Spika, kama inakuwa ngumu, kama inakuwa ngumu---

(Loud consultations)

Hon. Speaker: Ngoja, ngoja. Order!

Hon. Kyuli: Kama inakuwa ngumu, tupige kura hivi sasa tujuani ni akina nani wamekula pesa nyingi.

Hon. Speaker: Order!

Hon. (Ms.) R. Nduku: Asante sana Bw. Spika. Nasikitika kwani wabunge wenzetu ni kama kula wale wanaingia katika bunge letu linaloheshimika wakiwa walevi. Sababu ni kwamba Bw. Spika, kuna wale wametulia wanasikiliza na kuna wale....ni kama utanunua mashini ya kuangalia tukiingia kwa hii bunge tuwe sote tunaielewana. Kuna wale wakiongea, wanabweka kama mbwa, Bw. Spika.

(Loud consultations)

Hon. (Ms.) R. Nduku: Wengine wakiongea....utanyamaza, nitanongea. Bw. Spika, I am addressing the chair. Bw. Spika---

(Loud consultations)

Hon. Speaker: Order!

Hon. (Ms.) R. Nduku: Mimi, nataka kusema ya kwamba---

Hon. Speaker: Just sit down.

Hon. (Ms.) R. Nduku: Ninajua, hiyo ni mfano.

Hon. Speaker: Umusema hao ni mbwa. Ngoja, ngoja, ngoja.

(Loud consultations)

Hon. Speaker: I want her to withdraw, she is withdrawing now. Hon. Rachel.

Hon. (Ms.) R. Nduku: Hawa watu nio watatu na hii bunge imejaa wawakilishi. Sijaita mbunge yeyote mbwa.

(Loud consultations)

Hon. (Ms.) R. Nduku: Nyinyi mnabweka.

Hon. Speaker: Order! One minute. Hon. Rachel

Hon. (Ms.) R. Nduku: Tuko na Spika mmoja.

Hon. Speaker: One minute. Just sit down.

(Agitated consultations)

Hon. T. Kilonzo: Bw. Spika, Bw. Spika.

Hon. Speaker: One minute. Hello!

Hon. T. Kilonzo: Bw. Spika.

Hon. Speaker: I did not call you. Just sit down. I am still in the chair. One minute. Hon. Rachel, come and apologize.

Hon. (Ms.) R. Nduku: Bw. Spika, mimi nimesema mfano, sijaita mtu mbwa.

Hon. Speaker: Hiyo mfano yako nimesema ni mbaya. Ondoa.

Hon. (Ms.) R. Nduku: Nimeondoa. Nimeondoa. Bw. Spika hajaniambia niketi.

Hon. Speaker: Have you apologized to the members. Apologize.

Hon. (Ms.) R. Nduku: Nimeomba msamaha. Sijaambiwa niketi na Spika. Bw. Spika, tuko na Spika wangapi katika hii bunge? Tukiendelea hivyo Bw. Spika.....kama hutaki kunisikiliza, utaendlea na kupiga kelele. Naongea na Bw. Spika.

Hon. Speaker: Order, Order, Order. Hon. Rachel, have a seat. Okay, honourable members. Let us hear the Leader of Majority.

Majority Leader (Hon. Mwonga): Thank you Mr. Speaker and honourable members. Mr. Speaker, mine is a point of concern. Mr. Speaker it is as if this House is being ruled by just a few members who are less than five in number. Mr. Speaker, these are the same members who are shouting at me. Mr. Speaker, I think what we should do in order to settle this thing once and for all, I want to propose that we vote on this matter. Mr. Speaker, I need your protection.

(Loud consultations)

Hon. Speaker: Order, Order, Order. Order, honourable members.

Majority Leader (Hon. Mwonga): Mr. Speaker, time is of essence and I want to be put on record. Some members are just shouting at their honourable colleagues because they have seen the mood of the House. Mr. Speaker, the mood of the House is that we dispense this mater once and for all. The only way Mr. Speaker.....

(Loud consultations)

Hon. Speaker: Order!

Majority Leader (Hon. Mwonga): Mr. Speaker, I wonder why some members have no respect for the Chair. Mr. Speaker, you are calling for order but some members are still shouting. Mr. Speaker, I wonder where we are heading to if some honourable members are not respecting the Honourable Speaker. How can the Hon. Speaker say 'Order' for more than three times and some members are raising their hands and trying to show other members that they can box them? Mr. Speaker, I think we are heading in the wrong direction.

If it is because of me, let us go to voting and know me or it is because of them. They know themselves better and they are the same members who were against all the motions we have dispensed. Why? This House cannot be held at ransom by just a few members. And Mr. Speaker, if the Standing Orders allow, I can be given permission to name some members. It is not you to give me that permission but the Speaker.

Hon. Speaker: Order. That shouting is out of order. You need to address the Chair.

Majority Leader (Hon. Mwonga): It is the Speaker to give me that permission. Mr. Speaker, I beg to name some members in this House if the Standing Orders do allow.

Hon. Speaker: Are you through, apart from the naming?

Majority Leader (Hon. Mwonga): I think Mr. Speaker, I am through but to put this matter to rest once and for all, let us go voting on this issue. The other thing I should say Mr. Speaker, we have members in this House who had election petitions. When they were cleared by the courts, they did not go to seek for any other clearance. Mr. Speaker, the court is the

Hon. Speaker: Please, if you are contributing, just address the Chair.

Majority Leader (Hon. Mwonga): Mr. Speaker, once a court of law has cleared a person, no other body is supreme than the court of law in this land. That is what I wanted to say Mr. Speaker and time is of essence lets go voting. Thank you.

Hon. Speaker: Honourable members listen to this and I urge you, just take time and ponder. One, Mbiuki was seconded here by the Transition Authority. The Transition Authority under the Transition Authority Act was enacted to take care of the transitional period and indeed it took over all employees of the government. That is why the employees who came here were only on secondment. The ministries that were created are there and are still functioning but again the Transition Authority has not been disbanded, it is still within its mandate to supervise transition.

(Applause)

Hon. Members, when we sat here as an Assembly, and that is what is on record, is that Mbiuki was approved as the Clerk of the County Assembly. We don't say that we need to proceed to work with a Clerk who is not favourable to the Assembly but Honourable members there is a procedure by way of notice of motion that parties can file a notice of motion and petition the County Assembly Service Board to remove Mbiuki from the Assembly. And that is the motion we ought to be debating now.

But now, Hon. Members, I find that the greatest issue we are having is whether there is any communication from the ministry of devolution. I personally called the ministry of devolution and the information I got is that they already have the judgement but an official communication is going to come from them to the Assembly. Immediately we get that communication, then the only option that will be left to the Assembly is to have Mbiuki back. And if there will be anybody who will be dissatisfied by the works of Mbiuki, then they can take the step and file with us a notice of motion.

Why I have chosen to say this is because I wouldn't expect members to come and eject our employees because even the others who are left are feeling insecure. Procedure ought to be followed to the letter. Hon Members, I would say that I have personally been restraining myself in meting out punishment. I would hate to do that but you will force me to do it because we cannot keep on running like this. Ultimately, what the Chair is going to do is, I would not put this matter to vote. I would look at it and immediately I get a communication from the ministry of devolution, then Mbiuki resumes work.

(Applause)

Hon. Members, I would like to say that is the only sober position that we can take. Let us stop hitting around the bush. If Mbiuki brings his letter tomorrow, then he resumes work and we all co-operate with him and hope there is no other pending matter.

ADJOURNMENT

Hon. Speaker: Let us adjourn and wish all of you well.

(Applause)

Hon. Members, I would urge you to sit down because the Chair has not risen. There is a Standing Order that states that members can only rise after the Chair rises and walks out. Thank you very much for your contribution. I would urge you to find reason to work together as one people. Please don't shout at each other. Today many members were shouting at each other and that would attract penalty. Any member doing that would be out of order.

And from now on, I would effecting Standing Orders as provided. I would encourage you to be the first victims (??). Ok. Hon. Members, there was an issue that was brought by Chairman for Agriculture committee, I don't where he is. Then I would urge the House to adjourn but members are requested to hold on for a Kamukunji on matters that are affecting the Assembly vis-à-vis the Executive. And I would now ask for my leave of absence. Thank you very much and have a good afternoon.

The House rose at 3.46 p.m.