

REPUBLIC OF KENYA
COUNTY ASSEMBLY OF KILIFI

THE HANSARD

Monday, 16th April, 2018

*The House met at the County Assembly Chamber,
Malindi Town, at 2:30 p.m.*

[The Speaker (Hon.Kahindi) in the Chair]

PRAYERS

NOTICE OF MOTION

ECDE OFFICERS TO TAKE UP SUPERVISORY ROLES OF VILLAGE POLYTECHNICS

Hon. Kenga: Thank you very much Mr. Speaker. Allow me to give the following Notice of Motion to the County Committee Member in charge of the Department of Education and ICT:-

THAT, aware that pre-primary education, village polytechnics, home craft centres and child care facilities are devolved functions of the County Government as per the Second Schedule of the Constitution of Kenya, 2010.

FURTHER aware that, the County Government of Kilifi has only been able to employ Early Childhood Development Education (ECDE) Officers.

NOTING with concern that the County Government of Kilifi has not been able to either employ sub-county village polytechnic officers or ward polytechnic officers.

ACKNOWLEDGING that lack of these village polytechnic officers has greatly affected supervision and thus leading to poor performance and un-satisfactory service delivery.

This House urges the County Executive Committee Member in charge of the Department of Education and Information Communication Technology to initiate immediate measures that will enable the Sub-County ECDE officers to also take up the supervisory role of the village polytechnics within the Sub-Counties.

Thank you.

STATEMENTS

STATUS OF KIREPWE EARLY CHILDHOOD DEVELOPMENT CENTRE (ECD)

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Hon. Changawa: Thank you Mr. Speaker. I wish to seek the following Statement from the County Executive Committee Member in charge of the Department of Education and ICT, through the Chairperson of Pre-Primary Education and Vocational Training Committee:-

Whether, the County Executive Committee Member (CECM) in charge of the Department of Education and ICT is aware that the construction of two number of classrooms at Kirepwe ECD Centre was allocated Ksh3.2 million in the approved FY 2014/2015 budget. The amount was re-voted in the FY 2016/2017 supplementary budget and further allocation of Ksh66, 870 was allocated in that approved estimates for the FY 2017/2018, but the project has not yet kicked off? If yes, what measures has the Department taken to ensure the completion of this project?

STATUS OF MIDA DISPENSARY

The second Statement is directed to the County Executive Committee Member in charge of the Department of Health Services through the Chairperson of the Health Services Committee:-

Whether the County Executive Committee Member in charge of the Department of Health Services is aware that, Mida Dispensary has not been operational for over three years? If yes, what actions is she taking to ensure its operational?

STATUS OF MIJOMBONI MARKET TOILETS AT DABASO WARD

The third Statement is directed to the County Executive Committee Member in charge of the Department of Trade, Tourism and Co-operative Development, through the Chairperson of Economic Planning, Trade and Co-operative development Committee:-

Whether, the County Executive Committee Member in charge of the Department of Trade, Tourism and Co-operative Development is aware that the constructed toilets in Mijomboni markets are complete? If yes, why has the project not been handed over to the community?

ENCHROACHMENT OF GEDE YOUTH POLYTECHNIC

The third Statement is directed to the County Executive Committee Member in charge of the Department of Lands, Energy, Housing and Settlement, Physical Planning and Urban Development, through the Chairperson of Land, Physical Planning and Urban Development:-

Whether the County Executive Committee Member (CECM) in charge of the Department of Lands, Energy, Housing & Settlement, Physical Planning and Urban Development is aware that, the land belonging to Gede Youth Polytechnic has been encroached? If yes, what measures has the CECM taken to address the encroachment? Thank you Mr. Speaker.

The Speaker (Hon. Kahindi): Thank you. Hon. George Baya please proceed

MOTION

ILLEGAL APPOINTMENT OF FIVE CHIEF OFFICERS

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Hon. Baya: Thank you Mr. Speaker, Sir. I beg to move the following Motion to the County Secretary on illegal appointment of five chief officers:-

THAT, aware that Section 45 (1) of the County Governments Act, 2012, provides that the Governor shall nominate qualified and experienced county Chief Officers from among persons competitively sourced and recommended by the County Public Service Board and with the approval of the county assembly, appoint county Chief Officers.

AWARE THAT, Section 45 (5) of the County Governments Act, 2012, provides that the Governor may re-assign a county Chief Officer.

FURTHER AWARE THAT, Section 4 of the Public Appointments (County Assemblies Approval) Act, 2017 provides that an appointment under the Constitution or any other written law for which the approval of the county assembly is required shall not be made unless the appointment is approved or deemed to have been approved by the county assembly in accordance with that Act.

NOTING WITH CONCERN THAT, the Governor issued appointment letters to five chief officers contrary to the provisions of the County Government Act, 2012 and the Public Appointments (County Assemblies Approval) Act, 2017.

THIS House urges the County Governor through the County Secretary to immediately revoke the appointments and submit the five nominees for vetting and approval by the County Assembly.

Before I call upon hon. Valentine Matsaki to second this Motion, I beg to make my submissions.

The Speaker (Hon. Kahindi): Please proceed.

Hon. Baya: Mr. Speaker, Sir, history will judge this County Government especially this House. Last year in August, this Country was subjected to elections. Immediately after the elections, people were elected and his Excellency the Governor hon. Amason Jefwa Kingi took an Oath that he will defend and protect the Constitution of this Country. On the 6th of September, 2017 every Member of this House including you Mr. Speaker, Sir, took an Oath and clearly stated that they were going to defend and protect the Constitution of this Country.

According to the Kenya Constitution, 2010 Article 185 gives this House the mandate for legislation. I personally did a research and I got a legal opinion from this County Assembly. Mr. Speaker, sir, allow me to read this opinion;

“To the Clerk of the County Assembly from the Legal Department, Re: Advisory on appointment of County Chief Officers. We write in reference to the above and do offer our advice as follows. That; pursuant to our Standing Order No. 194 (5) (f), provides for the function of a Sectoral Committee among others is to vet and report on all appointments where the Constitution or any law requires the county assembly to approve except those under Standing Order 154, that is Committee on Appointments.

The County Governments Act, 2012 Section 45 (1)(a) provides that the Governor shall nominate qualified and experienced County Chief Officers from among persons competitively sourced and recommended by the County Public Service Board and Section 45 (1)(b) provides that with the approval of the county assembly appoints county Chief Officers. Section 45 (5) provides that the Governor may re-assign a County Chief Officer from one Department to another but does not provide for re-appointment.

The Kilifi County Vetting and Appointment of Public Officers, County Assembly Approval Act, 2016 and the Public Appointments County Assemblies Approval Act, 2017 both

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provide for the procedure for the approval of public appointments by the county assemblies as envisioned under Chapter six of the Constitution of Kenya, 2010; Leadership and Integrity. Both Acts at Section 5 and Section 4 respectively provides that an appointment under the Constitution or any other law for which the approval of the county assembly is required shall not be made unless the appointment is approved or deemed to have been approved by the county assembly in accordance with this Act.

Finally, therefore from the above, any appointments made by the Governor contrary to the said provisions shall be held to be un-constitutional. Principal Legal Counsel, Legal Department County Assembly of Kilifi.”

Mr. Speaker, Sir, allow me to refer Members to the County Governments Act, 2012 Section 8;

“8. Role of the county assembly

(1) The county assembly shall—

(a) vet and approve nominees for appointment to county public offices as may be provided for in this Act or any other law;”

In reference to the Public Appointments (County Assemblies Approval) Act, 2017 Section 4;

“4. An appointment under the Constitution or any other law for which the approval of a county assembly is required shall not be made unless the appointment is approved by relevant county assemblies in accordance with this Act.”

The County Governments Act, 2012 Section 45 (1);

45. Appointment of county chief officers

(1) The governor shall—

- (a) nominate qualified and experienced county chief officers from among persons competitively sourced and recommended by the County Public Service Board; and
- (b) with the approval of the county assembly, appoint county chief officers.

So, this law states clearly that appointment comes after approval and not vice versa.

Mr. Speaker, Sir, it is my submission and I urge this House that as a matter of recognition, the existence of this County Assembly and this House has to be recognized and the law has to be protected and defended. I call upon hon. Valentine Matsaki to second this Motion.

(Hon. Matsaki seconded)

The Speaker (Hon. Kahindi): Thank you. Just kindly submit the opinion letters that you are relying on to the Clerks’ for purposes of the record.

(Hon. Baya laid the documents on the Table)

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(Question proposed)

Hon. Matsaki: Mheshimiwa Spika, kwanza nimesimama kuunga mkono Hoja ambayo iko mbele yetu. Mimi nataka tu niwakumbushe kidogo; najua sote tunajua majukumu yetu ya Bunge. Tuko na kazi tatu muhimu sana lakini iko kazi ya Kamati zile za Bunge ambazo kazi zake ni ku *vet* wale *chief officers* ambao wametolewa upande ule mwengine. Leo hii, wale *chief officers* hawajaletwa katika Bunge kwani Gavana amefanya yale amefanya lakini sisi hapa au mimi naona yale aliyofanya hakufuata sheria. Hili ni Bunge la sheria; si siasa.

Tukiwa hapa, tunaongozwa na sheria za *Standing Orders*. Yule aliyeleta Mswada ameongea mengi lakini nataka tu nisome mahali katika Kitabu chetu cha *Standing Orders* ili pia hata kama ni kurudia iwe tunaweka ule msumari pale panapofaa. Nataka nisome majukumu ya *Sectoral Committees*; ni mengi lakini nitasoma “*is to vet and report on all appointments where the Constitution or any law requires the County assembly to approve except those under Standing Orders 185, that is committee on appointments*”. Tukienda kwa sheria ambayo ilipitishwa na *National Assembly*, iko hapa ambayo ni *Public Appointments (County Assemblies Approval) Act 2017*.

Bw. Spika niruhusu tu nisome mbili halafu tuwe tutaendelea mbele, *Chapter 4* inasema;

“An appointment under the Constitution or any other law for which the approval of a County Assembly is required shall not be made unless the appointment is approved by the relevant county assembly in accordance with the law.”

Pia kuna nyengine hapa, nitaenda nambari nne. Mimi nataka niulize wajumbe wenzangu, wale *Chief Officers* saa hii kama hawataletwa hapa, utajua wana makaratasi gani? Utajua tabia zao ni zipi kikazi? Kwa hivyo, ni muhimu kama Bunge na kama ni liheshimike na watu wa Kaunti ya Kilifi wapate haki yao ni wale wote waliochaguliwa na Gavana zile barua zitolewe na waletwe katika zile Kamati ambazo zinahusika.

Watu wa Kilifi wanatuangalia; kuna mambo mengi ambayo yanaendelea ambayo hayafuati sheria. Sasa kama sisi ambao tuko hapa sote tulichukua kiapo na tukasema tutatetea Katiba, tutatetea Katiba gani kama sisi wenyewe tutakuwa tunaenda kombo? Nataka niwaulize wenzangu na kusema kweli sisi sote hapa tunampenda Gavana na hii si siasa bali tunataka afuate sheria. Haya yaliyozungumzwa na yule aliyeleta Mswada ni yale ambayo tunaongezea ni dhahiri kuwa kuna makosa yalifanyika mahali. Kwa hivyo, ni tusimame pamoja tuone ya kwamba tunazungumza ule ukweli na ni vizuri zaidi kwa sababu hata wanahabari wako hapa; kila mtu azungumze kuhusu mawazo yake ili watu wajue kwamba sisi tunavyosema Gavana alifanya makosa tunasema uongo na sisi tunategemea sheria ile ambayo iko hapa. Bw. Spika, sitaki kuongea sana kwa sababu ni wengi wanataka kuongea lakini nataka kusema ninaunga mkono Mswada huu mia kwa mia. Asante sana.

The Speaker (Hon. Kahindi): Yes hon. Mwarandu please proceed. Order hon. Mramba have a seat. Press the intervention button; it easier for me.

Hon. Mwarandu: Yes, I have pressed the intervention button. Thank you Mr. Speaker, Sir. I stand to support this Motion.

(Applause)

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I think much has been said and all the laws that have been quoted by the Mover of the Motion are correct and true. We cannot purport to be a big critic of the National Government and in return we embrace and make it a role model. These five chief officers must come to the Assembly to be subjected to vetting and then to be approved; there is no grudge on it. I don't have much to say but to support this Motion. Thank you, Mr. Speaker.

Hon. Mramba: Thank you Mr. Speaker, I wish to support this Motion. The County Assembly is a House of honour, dignity and decorum hence we cannot purport to be a House of decorum, dignity while other people are doing things that are contrary to the Constitution. The bottom line here is that an illegality was done, be it by the Governor, the County Secretary or Legal Officer but the truth still stands that an illegality was done.

An Advert was put in the newspapers for people to apply to be chief officers; they applied, they were shortlisted, they went for interviews but then what happened? You do an interview and then you are given a letter just because Uhuru Kenyatta exempted his Cabinet Secretaries from vetting. Who told you that a big brother is always right? Two wrongs can never make a right. If Uhuru Kenyatta did this and it was wrong, we cannot do another wrong to rectify that. Let us be very honest; an illegality was done and we do not have any personal grudges with any chief officer but we only want the procedure to be followed.

I want to say that the independence of the County Assembly is on trial today. It is either we redeem our image or we are swallowed completely. This is because in the doctrine of separation of powers, the Governor cannot appoint any person as the chief officer until such a time that the vetting shall have taken place, as it has been elaborated by the Mover of the Motion. So, there is nothing wrong here.

We want to know whether, in his wisdom, the Governor thought it better to exempt them from vetting or maybe he was mis-advised. Let us stand up to the occasion today and Kilifi County is watching us. We must say that enough is enough. Let his five chief officers come back to the House for vetting. After the vetting, we can now approve them so that they can continue working for the benefit of our great County of Kilifi.

If people applied and they went for an interview, what made it impossible for them to come for vetting? We can now say that this Assembly is being taken as a rubber stamp by the Executive and we must say no today.

(Applause)

We must say no because the Governor did something wrong. He is my friend and he is a friend to almost everyone but he did something wrong and we must be ready to point out that he did wrong. This is because those names were sent via email to the Clerk for vetting after...

(Hon. Mramba spoke off record)

Now if the names came via email to the Clerk telling him that those are the names of the chief officers to undergo vetting... Surprisingly after two hours, another email came to the Clerk telling him to withdraw the names so that they can report to the office immediately. We are saying this is abuse of office and we will not tolerate it.

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If today we are saying the Governor erred, in legal language we say he erred in law, even if tomorrow the Clerk of the County Assembly will go against the Constitution we are going to tell him point blank because this is a House of honour, dignity and decorum.

Mr. Speaker, I beg to support and let those chief officers vacate office immediately, come back to the Assembly for vetting and then report back to work. Thank you so much.

(Applause)

The Leader of Majority (Hon. Mwathethe): Thank you Mr. Speaker. I had been to your office to say hi but you were not in, that is why I am smiling to you in a way of saying hi.

(Loud consultations)

Mr. Speaker, I have no objection supporting this Motion but this Motion is fatal and it will not see the light of day. To put it very clearly, I am in opposition of this Motion. The first reason as to why I am opposing this Motion is not necessarily because it is against the Government but I do not support it because I believe we have more than five chief officers. However, this Motion is seeking to recall only five chief officers so the question that I remain to ask myself is whether the other five are in office legally. This is because as to my understanding there is no chief officer that has been vetted by this House. So if you say that only five must be recalled then you should also tell me what should happen to the other five.

(Loud consultations)

The Mover of the Motion has not given us the names of these particular five chief officers who must be recalled. We are talking of five chief officers; we do not know whether they are among the old ones who are serving already or the new ones that were employed lately. You see this information is not there. By the lack of this information, we are left in limbo for we do not know who should stay and who should be recalled for vetting. Mr. Speaker, I will also need to be informed...

The Speaker (Hon. Kahindi): Hon. Kiraga you are raising on a Point of Information?

Hon. Kiraga: No!

The Speaker (Hon. Kahindi): Who had a Point of Information?

Hon. Kiraga: I had a Point of Order.

The Speaker (Hon. Kahindi): A point of Order?

Hon. Kiraga: Yes!

The Speaker (Hon. Kahindi): Let's hear what came first. Hon. Mwathethe, do you wish to be informed now that you said you do not have the information?

The Leader of Majority (Hon. Mwathethe): I wanted the information from the Mover of the Motion.

The Speaker (Hon. Kahindi): Hon. Mramba wishes to inform you. Do you wish to be informed by hon. Mramba?

The Leader of Majority (Hon. Mwathethe): Not by Hon. Mr. Mramba because I am responding to a Motion that has been moved by a Member who is seated in front of me.

The Speaker (Hon. Kahindi): Hon. Kiraga what is your Point of Order?

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Hon. Kiraga: I am rising on a Point of Order under Standing Order No. 87. The Member on the Floor is the Leader of Majority. He is representing the Government in this House and I feel he is having very insufficient information from the Executive. The five chief officers names brought to the County Assembly for vetting and immediately after two hours the letter was withdrawn are Chief Officers that served in the First Government. The Leader of Majority should have this information on his finger tips. I do not know why he is trying to mislead this House. The others are on acting capacity; they have not been appointed. Thank you.

The Speaker (Hon. Kahindi): Yes hon. Mwayaa.

Hon. Mwayaa: Mheshimiwa Spika, asante. Napinga mia kwa mia Mjadala ulioko mbele yetu. Napinga kwa sababu nikiwa na ufahamu wa kwamba nimetumikia kile kipindi cha kwanza. *Chief officers* hawa ambao waliambiwa na Gavana wabaki kwa ofisi ni kwa sababu ya utendakazi wao mzuri. Tukiangalia kwa mfano *chief officer* wa maji; Kilifi hii haikuwa na maji na maji yametolewa na hata kufika Magarini na kwengine ambako hakuna maji. Nguvu zake za kazi zikamfanya Gavana...

(Loud consultations)

Mheshimiwa Spika, nataka ulinzi kutoka kwako...

The Speaker (Hon. Kahindi): Let the hon. Member make his presentation unless you have a Point of Order, please.

Hon. Mwayaa: Asante. Ukiangalia barabara katika Kilifi hii; Malindi barabara za lami zimejaa na *Chief Officer* ambaye aliregeshwa ndiye aliyewezesha haya. Ukiangalia Kilifi yetu ina barabara za lami na tukisema eti wakilifi wanatuangalia waangalie pia kazi ambazo zimefanywa na hao *Chief Officers* waliokuwa. Sio eti wananchi wa Kilifi wanatuangalia na wasahau kuangalia utendakazi ambao wamefanya na ndio maana Ganava wetu akaangalia na kawaregesha kwa utendakazi wao. Maji yalikuwa hakuna na sasa hata Magarini imepata maji na hata kwengine na *Chief Officer* huyu huyu ambaye amefanya kazi...

The Speaker (Hon. Kahindi): Order! Yes hon. Kiraga. What is your Point of Order?

Hon. Kiraga: Bw. Spika, nitaongea kwa Kiswahili ijapokuwa sio mweledi wa lugha ya Kiswahili. Nafikiri sisi hatujakataa utendajikazi waliokuwa nao, aidha ni utendajikazi ama la! hatujakataa. Kitu ambacho tunaangalia hapa ni je, sheria imefuatwa? Sasa ikiwa huyu ni kiranja wa hapa Bungeni halafu unajua...

The Speaker (Hon. Kahindi): Let me just give direction on that. In fact, the subject matter of today is not whether somebody has performed or not; it is about a procedure whether it was followed or not. So let us not drop names of chief officers whether they have performed or not. That is not even in the Order Paper today. Please let us confine ourselves to that. Hon. Mwayaa, I will give you time to proceed. You will have your opportunity to proceed hon. Mwatethe.

Hon. Mwayaa: Mheshimiwa Spika, hata kama itasemekana kazi walizozifanya si kazi nafikiri roho ya Gavana wetu ni kupenda wananchi wa Kilifi wafanyiwe kazi Mheshimiwa Spika. Kwa hivyo, kama utasema tuangalie sheria, je hao waofisaa ambao waliregeshwa walifanya kazi nzuri? Tukisema ya kwamba leo hii tuangalie sheria kama ilifuatwa ni sawa lakini je tunaweza tukaweka mtu na akahujumu kazi ya Kilifi ili kwamba tutendee wafanyikazi wa Kilifi itabidi tuweke watu ambao wana uwezo, watu ambao wanapenda Kilifi hii na tukiangalia maofisaa ambao waliregeshwa, tukiangalia wakati wa njaa, Ganze walikua wana njaa na Gavana

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akazunguka na *Chief Officer* kugawanyia chakula watu wa Kilifi. Watu wanasema leo hii wananchi wanatuangalia, sawa acha watuangelie...

The Speaker (Hon. Kahindi): Yes hon. George Baya. There is a Point of Order hon. Mwayaa. What is your Point of Order hon. George Baya?

Hon. Baya: Mr. Speaker, Sir, the hon. Member on the Floor is completely out of Order. We are not discussing performance of Chief Officers; we are discussing the procedure for appointing chief officers so please stick to the point. Thank you.

The Speaker (Hon. Kahindi): Thank you. Do you wish to wind up hon. Mwayaa?

Hon. Mwayaa: Asante Mheshimiwa Spika. Na tukiangalia hivi mara nyingi huwa tunasema Bunge hili ni mfano wa Bunge kuu. Gavana wetu ndiye Rais wa hapa Kilifi na Uhuru ni Rais wa hii Kenya. Kule *chief officers* na mawaziri wake alichagua kwa kuwa *appoint* na sisi kwa nini Gavana wetu asifuate ikiwa sisi ugatuzi ni mfano wa serikali kuu? Nasema Gavana wetu hakuenda nje kwa sababu hamu yake ilikuwa ni watu wa Kilifi wafanyiwe kazi. Naipinga Hoja ambayo iko mbele yetu.

The Speaker (Hon. Kahindi): Because of the interruption of the system I think hon. Mwachethe I did not give you an opportunity to finish. Can you kindly finish?

The Leader of Majority (Hon. Mwachethe): Thank you Mr. Speaker. I was still making my contribution then something happened in between. I was also saying that this Motion should fail...

Hon. Kenga: Point of Order Mr. Speaker!

The Speaker (Hon. Kahindi): Yes hon. Stanley Kenga, what is the Point of Order?

Hon. Kenga: Thank you Mr. Speaker. I want to appreciate the fact that you have given the Leader of Majority time to proceed because I had wanted to raise a Point of Order initially when he was making his contribution and because he is representing the Government's side and he has given a statement that is not factual. He said that there are ten chief officers who are in office. Guided by Standing Order No. 87 (1) of the Standing Orders of Kilifi and I wish to quote and it is on the responsibility for statement of fact;

“87. (1) A Member shall be responsible for the accuracy of any facts which the Member alleges to be true and may be required to substantiate any such facts instantly.”

I wish to call upon the Leader of Majority representing the Government's side to instantly substantiate the information that he is giving to this House. Thank you.

The Leader of Majority (Hon. Mwachethe): Mr. Speaker, having ten CEC (County Executive Committee) Members then it follows that we will also have ten Chief Officers. But what I was actually saying was that the Mover of the Motion has...

The Speaker (Hon. Kahindi): Yes hon. Kiraga.

(Loud Consultations)

Hon. Kiraga: Mr. Speaker, I am still on Standing Order No. 87; the Leader of Majority cannot tell this House that since we have ten CECM positions, we automatically have ten chief officers. Some Departments have got even three Chief Officers, for example the Department of Agriculture is supposed to have fisheries, livestock and crop husbandry. So he cannot tell us that

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since we have ten CECs, then we are automatically going to have ten Chief Officers and he is the Leader of Majority. He is lying to this House.

The Speaker (Hon. Kahindi): Thank you hon. Kiraga for your intervention. Hon. Leader of Majority you have the Floor now to wind up and please let us listen to him.

The Leader of Majority (Hon. Mwathethe): Thank you Mr. Speaker. Please allow me to speak for at least one or two minutes before you allow another Point of Order so that I can at least arrive at the point that I want to drive at in this House.

The Speaker (Hon. Kahindi): Please proceed.

The Leader of Majority (Hon. Mwathethe): You see I did not use the word *automatic* but somebody wants to put it into my mouth so that it appears as if I am the one who said it. As I proceed with my submissions, this Motion should be failed because the Mover of the Motion has failed to produce before this House appointment letters saying that this chief officer was appointed through this letter therefore this appointment is illegal. You see, we are talking about hearsay that so and so were appointed but we have not been furnished with the appointment letters. Where are the letters? There is no single letter that shows that so and so was appointed as a chief officer.

I can confirm to this House that any chief officer who is in office today is serving on temporary basis until such a time... if the Governor brought names and recalled them, then I am sure he will send the names and the Committees will have time to sit and deliberate. This is because as I have already said...

The Speaker (Hon. Kahindi): I am inclined to allow the Point of Order from Hon. Mramba. Yes! What is your Point of Order?

Hon. Mramba: Mr. Speaker, the hon. Leader of Majority whom I respect so much is bringing very pertinent issues to this Assembly. He is telling the whole House and the whole world that those five chief officers in office are only temporarily in office if I got him right.

Mr. Speaker, can he please confirm again to this House, if those chief officers got letters of appointment or they are there on temporary basis. This is because as far as I am concerned, I know they got letters of appointments from his Excellency the Governor and he did it simply because Uhuru Muigai Kenyatta who is well known in this world of disobeying court orders did it. We cannot copy somebody who does not respect the law.

The Speaker (Hon. Kahindi): Okay your Point of Order has been made. Now you are running out of order.

Hon. Mramba: Now let the Leader of Majority tell us the correct position in this House today.

The Speaker (Hon. Kahindi): Yes, I think as a matter of responsibility as envisaged in the Constitution and in our Standing Orders we need to get clear information from the Leader of Majority whether the five chief officers are on temporary basis because that is a different statement altogether. If that is the position and you can confirm to it then I think the Motion will have no meaning. However, if they have been employed then you are in breach of the Standing Orders.

The Leader of Majority (Hon. Mwathethe): Mr. Speaker, I want to tell this House and I have already began by saying that this Motion should fail because the Mover of the Motion does not have tangible information. To tell this House that the Governor did an illegality is not correct because he does not have appointment letters to show us.

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There is and we all know and it was in the papers that every chief officer was sent home except they will continue to serve as and when need arises. You will agree with me that there is a time the Governor sent his entire chief officers home but the offices cannot remain empty. If he wrote letters, I need to see one of those letters for me to be able to say that it was an illegality because they were appointed without vetting and we have a copy of the letter.

The Speaker (Hon. Kahindi): Yes hon. Stanley Kenga.

Hon. Kenga: Mr. Speaker, a statement has been made by the Leader of Majority and this statement needs to be substantiated; that the five chief officers are in office on temporary basis. If that cannot be substantiated, then he needs to withdraw and apologize to this House. He cannot be left to proceed and continue making contributions based on statements that are not factual. Mr. Speaker, please give us guidance.

The Speaker (Hon. Kahindi): I was just about to tell him that misleading the House actually amounts to an offence according to the Standing Order. This is because as a Leader of Government, when you state it on record that those five chief officers are actually on temporary basis if it is proven on record otherwise then it is not a good thing. So, hon. I am giving you all the time to make your statements.

The Leader of Majority (Hon. Mwathethe): Thank you Mr. Speaker, my argument was...

The Speaker (Hon. Kahindi): Was it an argument or was it factual things that you know?

The Leader of Majority (Hon. Mwathethe): No! No! It is an argument, I am arguing this Motion.

(Laughter)

The Speaker (Hon. Kahindi): Okay. If it is an argument then it can be constituted as a statement which wishes to convince the others but if it is not factual... but the law requires that you submit facts.

The Leader of Majority (Hon. Mwathethe): You see Mr. Speaker, I am standing here as a representative of Shella Ward who also has a right to contribute to a Motion.

(Laughter)

The Speaker (Hon. Kahindi): Of course and I am allowing you to.

The Leader of Majority (Hon. Mwathethe): It also follows the fact that I am also the Leader of Majority, that one does not stop me from making my clear contribution with a clear conscious.

The Speaker (Hon. Kahindi): So are you submitting on record hon. Mwathethe that you are submitting as a Member of Shella Ward and not as the Leader of Majority?

The Leader of Majority (Hon. Mwathethe): I am submitting as a Member of Shella Ward.

(Laughter)

I am also the Leader of Majority. I am also against this Motion.

The Speaker (Hon. Kahindi): Please wind up.

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The Leader of Majority (Hon. Mwathethe): You see this Motion has been built on hearsay. We have not been given the five names of these chief officers out of which then I would be able to say that this one has a letter and this one does not have a letter. If these chief officers as we all think and agree with as the ones that were there before; if this is the case therefore they then do not need letters of appointments because they were already in the system. Maybe the Governor will bring the new ones and maybe re-appoint the old ones; this is because they are already there and can continue serving like it has happened at the National Government It is not a new thing. The National Assembly is our big brother and as a matter of fact and as a good practice...

The Speaker (Hon. Kahindi): Finalize hon. Mwathethe I have given you enough time.

The Leader of Majority (Hon. Mwathethe): Yes that is what I am actually saying that this Motion is irreparably fatal because it does not have the necessary facts for us to be able to approve it. We have been told five chief officers; I do not know whether they live in the sky or in office. We do not know which office, we do not know their names, we have not been shown appointment letters and this is only hearsay that there are five officers that have already been appointed and the letters are there but we do not know them. Therefore, as a Member of Shella Ward and as a Leader of Majority, I am calling on my team to shut this Motion down. In six months it can be brought back and we will look at it at that time but for now I want to say that I am against this Motion. Thank you, Mr. Speaker.

The Speaker (Hon. Kahindi): Thank you very much. Hon. Maitha.

Hon. Maitha: Thank you Mr. Speaker. I stand to support the Motion. We respect the Governor very much but to this extent we are saying no! As you very well know, I am one of the Members in the Committee of Appointments; the same Governor brought the CEC who were already in the last regime. What made him think otherwise by retaining the chief officers? Yes, a big brother is not always right. We cannot follow what his Excellency, President Uhuru Kenyatta, did at the National Assembly and sit here comfortably copy pasting what he did.

I stand to support the Motion and I do not think there is any harm to recall the five names; bring them to this respectful House, vet them and God willing if they perform well in the vetting they will go back to their working office. We are having a very big problem at the Ward level because people in Kilifi are watching us and this should be part of our lesson hon. Members. We are not here to serve our interest; we are here in this Assembly to serve the interests of the people of Kilifi County. There is a debate. I am representing Jaribuni Ward and three quarters of Jaribuni Ward residents are complaining that in the list of the chief officers there is no Kauma as a chief officer while several members of the Kauma tribe applied. They were shortlisted and went for interviews just to learn that some of the former chief officers were retained. I know some are not going by their own thinking; we are independent and we respect the Governor but to this extent, I beg we support the Motion. Thank you, Mr. Speaker.

Hon. Shaban: Asante sana Mheshimiwa Spika. Mimi nimesimama kupinga Hoja hii. Nataka nifahamishe Bunge kwamba lile Bunge la kwanza, wale *chief officers* ambao wameregeshwa na Gavana walikuja hapa Bunge. Baadhi yao walikuja tarehe 15 mwaka wa 2013 Desemba kwa *vetting* na Bunge hili likaona wako sawa. Baada ya uchanguzi wa 2017, hawa pia walituma maombi, hatua ya mheshimiwa Gavana Amason Kingi kuwaregesha. Nataka niwafahamishe wabunge kwamba hawa ni *chief officers* ambao walipitia Bunge la kwanza na baada ya *County Public Service Board* kuwahoji na kuona kwamba wamehitimu, majina yao yakapelekwa kwa Gavana na Gavana akaweza kuwaregesha.

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The Speaker (Hon. Kahindi): Yes hon. Kiraga. A Member has a right to raise a Point of Order. Let us hear it.

Hon. Kiraga: Thank you Mr. Speaker. There is a difference between moving a point in a public baraza and moving a point in this House. On what the Member is saying, can he tell us what kind of law is backing his point on? We have heard all the devolved laws being highlighted by the Mover of the Motion. What kind of law are you subjecting your views to this House?

The Speaker (Hon. Kahindi): That is a valid Point of Order!

Hon. Shaban: Asante sana. Mimi naomba niweze kuleta ile sheria ya ndugu zetu kule Bunge ambayo inaitwa *The Parliamentary Act of the Public Appointments of 2011*. Mheshimiwa Spika...

The Speaker (Hon. Kahindi): Which law is that?

Hon. Shaban: This is an Act of Parliament which was passed in 2011, the Parliamentary Act of the Public Appointments of 2011.

The Speaker (Hon. Kahindi): Please, you need to submit it to the Clerk and you make reference.

Hon. Shaban: Mheshimiwa Spika, nimenukuu lakini hiyo sheria iko na kama utaniruhusu basi naweza kui *print* na kuileta.

The Speaker (Hon. Kahindi): Hon. Members, I think we need to get the business very seriously. One, you are not supposed to refer to a statement unless you have made request of the same and you are willing to submit it to the Clerk to form part of the record. We have the County Governments Act which has been submitted, we have the County Assembly's... Where is your Act hon. Member? Because we cannot adjourn the House to allow you to go and print a section; if you were prepared you should have come with your documents.

Hon. Shaban: Asante Mheshimiwa Spika. Naomba nimalize. Hata Bunge la kitaifa Mheshimiwa Uhuru Kenyatta, wale mawaziri na makatibu wa kudumu kwa mfano waziri wa kudumu wa Fedha ambaye anaitwa Kamau Thige, PS (*Principal Secretary*) Nancy Kariguthu, na PS Colletta Suda hao pia walipochaguliwa kwa mara ya pili, hawakufanyiwa vetting kwa hivyo mimi hata mawaziri Dr. Fred Matiang'i, Najib Balala, Amina Mohammed; hawa ni baadhi ya mawaziri waliochaguliwa kama mawaziri na wakafanyiwa vetting wakati ule na wakati huu hawakufanyiwa vetting. Kwa hivyo, mimi mwisho kabisa nasema Mheshimiwa Gavana alikuwa sawa kuchangua *chief officers* wale watano. Asante sana.

The Speaker (Hon. Kahindi): Please press the intervention button hon. Thaura.

Hon. Thaura: Asante sana Mheshimiwa Spika kwa nafasi hii ya kutoa mchango wangu kwenye Hoja ambayo iko mbele yetu. Nataka kwanza niunge mkono Hoja hii kikamilifu. Ninachokiamini hivi leo ni kwamba walionituma hapa Bungeni leo wanafuatilia kwa makini kile chochote nitakachokisema katika Bunge hili kwa sababu siko katika Bunge hili kujiwakilisha; niko ili kuwakilisha wao kama watu ambao wamenituma katika Bunge hili.

Pili, vifungu muhimu katika kanuni zetu za Bunge na sheria nyengine zimesomwa kuthibitisha kwamba sheria haikuchukua mkondo uliokuwa unatakiwa. Kwa maana hiyo, mimi nasimama hapa kusema kwamba naunga mkono Hoja hiyo na kila wakati ambapo sheria itakuwa inavunjwa, haijalishi ni Gavana ama ni mmoja katika wajumbe kwenye Bunge hili, tutapinga vikali kuhakikisha kwamba sheria inafuatiliwa kwa njia ya sawa. Ninavyosimama hapa ni kwamba naunga mkono Hoja kikamilifu. Asante.

Hon. (Ms.) Elina: Asante sana Mheshimiwa Spika. Nami nimesimama kuunga mkono Hoja hii. Ninaiunga mkono kwa sababu tuko hapa kulinda sheria za nchi ya Kenya.

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Kilichonishangaza ni kiongozi wa walio wengi Bungeni kusema ya kwamba kumbe katika serikali yetu ya Kaunti imeandika watu *temporary* ambao ni *chief officers*. Nimeipata hapa Bungeni leo. Ninavyojua mimi hakuna mfanyikazi wa idara anayeandikwa kwa muda kushikilia tu. Ile ni idara na ni lazima iwe na mtu aliyehitimu kielimu na kufanya kazi na utendajikazi wake. Lakini kiongozi wa walio wengi Bungeni leo ametuambia wale watu wako pale kwa sababu wamewekwa tu kwa muda na Gavana. Nataka aambie hili Bunge leo ako hapa kufuata sheria za nchi za Kenya ama ako hapa kuunda mambo yake binafsi?

Tumeletewa mawaziri kumi na tukawahoji na wamerudi kufanya kazi zao. Kwani sisi tukiwahoji wale *chief officers* ni kitu gani ambacho kinafichwa mpaka wanawekwa bila kuwa *voted* na Bunge hili? Kwa nini sisi tujitolee kwa nafasi ambayo tumepewa kwamba lazima waingie hapa tuwahoji kwa niaba ya wananchi wote wa Kaunti ya Kilifi? Tulipitishwa na wananchi wasiopungua maelfu ya watu wa Kilifi; leo hii hatustahili kuhoji *chief officers* lakini tuna haki ya kuhoji mawaziri? Sote ni wachaguliwa wa kura na kama jambo linaenda kombo, afadhali tulizungumze. Sisi sote ni lazima tuwe tutatetea sheria...

The Speaker (Hon. Kahindi): Hon. Mwathethe has a Point of Order.

The Leader of Majority (Hon. Mwathethe): Mr. Speaker, Sir, you have heard that I was put to task that an office cannot be held on temporary basis. I want to tell the hon. Member that when the first County Secretary went to become an MP (Member of Parliament), Ms. Bibi Fondo held that office on temporary basis for a very long time. It is just recently when we appointed a new one. So it is possible that an office can be held on temporary basis with that example. Thank you, Mr. Speaker.

(Hon. Mramba stood on a Point of Order)

The Speaker (Hon. Kahindi): Point of Order on the Point of Order?

(Hon. Mramba spoke off record)

The Speaker (Hon. Kahindi): Order! Order! Hon. Mramba let us go slow. Yes what is your Point of Order?

Hon. Mramba: The hon. Leader of Majority is giving false information Mr. Speaker, Sir. Ms. Bibi Fondo was there in acting capacity not temporary. Let him please differentiate the words; 'temporary' and 'acting'.

The Speaker (Hon. Kahindi): Yes hon. (Ms.) Mbaru (Elina) please proceed.

Hon. (Ms.) Elina: Mheshimiwa Spika, tunamheshimu sana Kiongozi wa Wengi Bungeni na kama atafanya vitu hapa bila mwelekeo tutayazungumza baadaye. Lakini huu ni wakati mwingine sasa...

(Hon. Mwathethe spoke off record)

The Speaker (Hon. Kahindi): Hon. Mwathethe...

(Laughter)

Hon. (Ms.) Mbaru (Elina) I think he is feeling intimidated. Can you just kindly withdraw that statement so that we proceed.

Hon. (Ms.) Elina: Nimetoa lakini asiyafuatefuata. Sisi sio ati tuko na ubaya na Gavana ama wale wachaguliwa; ni sheria ifuatwe. Na kila mtu yuko hapa Kenya kufuata sheria za nchi ya Kenya. Na Sheria za Bunge hili la Kilifi ndizo zinazotupa muelekeo tuweze kufuata zile sheria ambazo ziko hapa Bungeni kama sisi hatutashika ile njia ya sheria mwafaka katika Bunge hili.

Gavana hayo ndiyo aliyoyafanya mwanzo akisema chama ndio kiweze kuleta majina hapa na yakaletwa majina ya kiongozi wa walio wengi na wa walio wachache. Hakuchaguliwa na wanachama kama sisi; mimi ni mwanachama wa ODM(Orange Democratic Movement) lakini sikumchagua kiongozi wa walio wengi kwa sababu alichaguliwa na Mwenyekiti. Ndio anapotosha hili Bunge kwa kusema kuna wengine wako katika serikali ya Kaunti *temporary* na akisema *County Secretary* alipojiuzulu kwenda kutafuta kiti cha ubunge kulikuwa na mtu *temporary* yule alikuwa *on acting capacity*...

(Applause)

Bibi Fondo hakuwa *temporary* pale; kwanza alikuwa ni mfanyaji kazi wa serikali ya Kaunti. Akapewa ile nafasi asimamie na wakati ulipofika tukachaguwa *County Secretary*, tukapeleka pale mambo yakawa sawa. Lakini kama haya yaliyofanyika kama ni makosa, tukubali makosa tuelekeze sheria kisawasawa.

Tunavyoomba sisi ni *chief officers* waletwe kwa Kamati husika, wakaguliwe na warudi kazini. Lakini kwa sasa ni watoke katika maofisi kwa sababu sheria haikufuatwa. Nashukuru sana Bw. Spika kwa kunipa nafasi ya kuchangia.

Hon. Kiraga: Thank you very much Mr. Speaker, Sir. I also stand to support this Motion. It has been said that the big brother is not always right. I want to give reason as to why I am saying the big is not always right. It is true that the President of the Republic of Kenya appointed the Principal Secretaries without even vetting by the National Assembly.

Mr. Speaker, Sir, let us try to reflect on the mood in those times; we are all aware that even the opposition in the National Assembly had boycotted the proceedings of the National Assembly. I feel the President took advantage of that and probably there might have been some consultations with the Jubilee Members of Parliament before that was arrived at.

We are the representatives of the people and by these chief officers being vetted by the County Assembly; we are also giving an opportunity for the public to air their views concerning these chief officers. We understand that they have been there and bearing that in mind, it does not give them a leeway just to be pushed into those jobs. If that is right Mr. Speaker, I was also in the First Assembly but I was also subjected to the public for me to retain my seat. I feel we should also give an opportunity to the public to say something to these chief officers.

This is the only opportunity the members of public can also at least say something about these chief officers. I also thank you for giving the direction that we have to go while debating this issue. That we are not debating the performances of these chief officers; what we are simply looking at is whether the procedure has been followed according to all the devolved laws and the prime law that the Mover has submitted.

So, Mr. Speaker, Sir, I feel these appointments should be withdrawn and the names brought to this Assembly for vetting and as a norm, the public is also invited to come and have

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that opportunity to present anything concerning these chief officers. But, by denying the public a say in these appointments, we are going contrary to the laws of this country. With those few remarks, I wish to support this Motion. Thank you.

Hon. Mwambire: Asante sana Bw. Spika kwa kunipatia nafasi hii kuchangia katika Hoja hii. Kwanza kabisa, Hoja hii ni nzuri lakini ninaipinga kwa sababu naona imeletwa mapema zaidi. Katika mtazamo wangu, naona bado kuna taratibu ambayo inaendelea ndio tuweze kufikia pahali hapa. Hizi ofisi ni za umma na ofisi haiwezi kuachwa wazi. Ndio maana tunaona *chief officer mmoja* kwa sasa kama leo kulikuwa na *chief officer* wa Maji akisimamia Idara ya Kilimo.

Kwa hivyo, tunaona hii Hoja japo ni nzuri lakini imerauka kwa sababu kama kuna mtu ambaye anapika sima ama ugali, kwanza kuna ule uji sasa mpishi mwingine akiingia pale ama mwenye njaa anaweza akafikiria huyu alikuwa anatararisha alikuwa anapika uji wala sio sima. Naongea hivi kwa sababu, *chief officers...*

(Hon. Kiraga stood on a Point of Order)

The Speaker (Hon. Kahindi): Yes hon. Kiraga, what is your Point of Order?

Hon. Kiraga: Mr. Speaker, Sir...

The Speaker (Hon. Kahindi): Hon. Mwambire take a seat.

Hon. Kiraga: The Member is claiming that there are still some other processes to follow. Can he tell this House what type of processes have to be follow after an appointment letter has been issued to a candidate?

The Speaker (Hon. Kahindi): Yes that is a valid question hon. Member; press your button once again.

Hon. Mwambire: Asante sana mheshimiwa Spika. Mimi naongea hivi kulingana na yule aliyekuwa akiendesha hii Hoja na ule mchango ambao waheshimiwa wamechangia. Wamesema kwamba kuna barua pepe ambayo ilitumwa kwa Ofisi ya Katibu wa Bunge ya majina kisha baadaye ikatolewa. Jambo lingine...

(Hon. Kenga stood on a Point of Order)

The Speaker (Hon. Kahindi): What is your Point of Order?

Hon. Kenga: Mheshimiwa Spika, naomba tutambue kwamba tukiwa hapa sisi ni wawakilishi na sisi ni viongozi na yale tunayozungumza yana uzito na yanapeana mwelekeo fulani katika maswala ya kimaendeleo. Tunatambua sana kwamba mheshimiwa Spika awamu ya kwanza ya Ugatuzi tulikuwa na wale tunawaita *chief officers* kumi. Na kama mheshimiwa anasema kwa sasa wamechukuliwa ili wawekwe pale kwa muda ili mengine yafanyike, mbona sio wote kumi waliwekwa pale ndio waendeleo kuhudumu wakati wengine wanakaribishwa?

Tutambue pia kwamba kulitangazwa kazi za *chief officers* na tayari waliweza kuenda kwa mahojiano na ndio majina yakatumwa kwa Gavana ili apate nafasi sasa ya kuleta majina wale ambao ataridhika nao ili Bunge liweze kuchukua nafasi ya *vetting*. Kwa hivyo, si vizuri mtu azungumze Mswada na ashindwe kuweza kuthibitisha ukweli wake. Nafikiri tutakuwa tunadanganyana na sio vizuri.

The Speaker (Hon. Kahindi): Thank you. You know there is one rule which I would want to advice Members not to flout because there are consequences in flouting that rule. When you make a statement and a Member rises on a Point of Order and urges you to substantiate that

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statement you have actually a responsibility to tell the House. If you are unable to, it is normally construed like you are misleading the House.

So, you are bound by your own statement and woe unto you if a Member rises on a Point of Order to demand that you substantiate your statement. It is our own Standing Orders that demand that you should be able to. I will allow you hon. Mwambire to proceed but if you are asked to substantiate your statement, please proceed and do so. The alternative is always to withdraw that statement.

Hon. Mwambire: Asante mheshimiwa Spika wacha ni *withdraw* hiyo *statement* nashukuru kwa kunipatia nafasi hii niendeleo katika mchango wangu ni kwamba ile hatua ya Gavana kuteua hawa *chief officers* ni kwamba wanaotakikana ni kumi na wale watano ambao wako pale ambao wanaendelea ni wale ambao tayari walikuwa wamechaguliwa na lile Bunge ambalo lilipita. Kwa hivyo, mimi katika mtazamo wangu...

The Speaker (Hon. Kahindi): Yes hon. Mramba what is your Point of Order?

Hon. Mramba: Mr. Speaker, Sir, the hon. Member for Bamba is misleading the House. The total number of chief officers is 13. Currently we have five who are in office by letters from the Governor and eight names came to the Clerk which are waiting vetting; so the total number is not 10 but 13.

Hon. Mwambire: Asante sana mheshimiwa Spika. Nilikuwa naongoea kuhusu wale wa Bunge lililopita...

The Speaker (Hon. Kahindi): Just hold. If you had pressed the microphone, please press again because once the power goes it goes off... okay thank you. Proceed hon. Mwambire.

Hon. Mwambire: Asante. Kwa hivyo, mimi nilikuwa nasema hii hali ya uteuzi bado inaendelea kwa sababu tunasikia kuna barua pepe ilitumwa kisha baadaye ikatolewa.

Ya pili ni kwamba, kama kuna barua zile za ule uteuzi, zingekuwa zimeletwa hapa na kuonyesha kwamba ni kweli hawa watu wameteuliwa. Kwa hivyo, napinga huu Mswada kwa sababu nafikiri Gavana anangojea kukamilisha ule uteuzi kupitia kwa ile bodi; ipitishe yale majina mengine ambayo yamebaki ili yaletwe katika ile Kamati ya kupitisha majina ili iweze kuletwa hapa Bungeni kujadiliwa. Na kwa ajili ya huduma ya hii Kaunti ya Kilifi ndio nilikuwa nimeanza kuchangia pale mwanzo ya kwamba tulikuwa tuko na swala la mambo ya kilimo. Waziri hakuwepo lakini *chief officer* wa Maji imebidi aje asimamie kwa niaba ya yule *chief officer* ambaye hajateuliwa. Kwa hivyo, kivyangu mimi ninasema mfano ule ambao nimeupeana kwamba mtu huwa anapika ugali lakini anaanza kupika ule uji kwanza; wakati uji unatokota yule mwenye kuingia akiwa yuko na njaa ataona kwamba huu uji naweza chukuwa nikala kumbe yule mwenye kupika anataka aongeze unga na atengeneze sima. Ndio nikachangia nikasema huu Mswada umeletwa mapema mno. Tungengojea wale wengine nane ambao walikuwa waongezewe waletwe 13 halafu tuone haya majina ya hawa watu watano yawe hayakuletwa ndio tunaweza kujadili kuhusu Mswada huu. Asanteni. Kwa hivyo, mimi siungi mkono Mswada huu.

The Speaker (Hon. Kahindi): Thank you. Hon. Victor Gogo.

Hon. Gogo: Asante sana mheshimiwa Spika kwa kunipatia hii nafasi na mimi nitoe mchango wangu kwa Mswada huu ambao uko kati yetu. Kwanza, naomba kitu kwako kwa sababu kuna Ripoti tunaambiwa hapa kwamba kuna barua pepe ambazo zimekuja kwa *Clerk* za majina manane. Lakini, habari hii ina watu wachache Bungeni. Mimi binafsi kama Mheshimiwa wa Mtepeni hiyo habari sina. Halafu mheshimiwa Spika, wakati mheshimiwa anasimama kusema kuna barua imekuja kwa *Clerk* ambayo ina majina manane, sikusikii ukisema kwamba huyo anayezungumza hivyo atoe thibitisho bali anaongea na anakaa.

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Mimi kama mheshimiwa wa Mtepeni nilikuwa nasubiri umwambie huyo mheshimiwa atoe thibitisho wa hayo majina manane ambayo yamekuja huku na ile baruwa ambayo ilikuja kwa barua pepe halafu Gavana akasema ya kuwa itolewe. Mimi kama mheshimiwa, hiyo barua sijawahi kuiona. Sasa kama ipo ni vizuri sisi wabunge wengine pia tuonyeshwe ama tuletewe katika Bunge.

Mheshimiwa Spika pia huu mswada si mbaya; mheshimiwa George Baya nampenda kwa sababu amejitolea si kuhudumia wananchi wa eneo Bunge lake peke yake lakini kuhudumia watu wa Kilifi Kaunti nzima. Huwa nafuatilia sana hoja zake Bungeni; ni mtu ambaye kwa hakika ana moyo wa watu wa Kilifi ndani yake. Kile naomba ni kitu kimoja tu; nimekaa hapa kama mheshimiwa wa Mtepeni lakini sijapata thibitisho kuna *chief officers* watano ambao Gavana amewajiri...

(Hon. Gogo spoke off record)

The Speaker (Hon. Kahindi): You microphone is off hon. Gogo.

Hon. Gogo: Ikiwa Gavana...

(Hon. Changawa stood on a Point of Order)

Hon. Changawa: Asante mheshimiwa Spika. Nataka mheshimiwa ambaye anaongea aeleze anaunga mkono ama haungi mkono kabla hajatoa yale mengi ambayo yuko nayo ndio tumuelewe.

The Speaker (Hon. Kahindi): Thank you.

Hon. Gogo: Mheshimiwa Spika, naomba ikiwa mtu anatoa hoja aidha awe anapinga apewe nafasi azungumze. Mimi naona wale ambao wanaunga hii hoja wanapewa nafasi wazungumze lakini ukipinga tu hapo ndio hoja ni nyingi mpaka unashindwa kueleza nini unazungumza. Mimi nimesema...

The Speaker (Hon. Kahindi): Hon. Victor Gogo, let me guide you to the rules. Once a Point of Order is raised, any person is entitled to raise a Point of Order. You are still on the Floor. I have personally not denied you from making your contributions. So, utilize your time to give contributions to convince Members and on your side, you have not stated and it is required for the House to know whether you are supporting or opposing the Motion; it is procedural.

Hon. Gogo: Asante mheshimiwa Spika. Nitaunga mkono huu mswada ukiwa utarudi kwanza utengenezwe vizuri urudi katika Bunge ikiwa una thibitisho kwamba kuna maofisaa watano wa Kilifi Kaunti Gavana amejiri; kwa sasa hatuna thibitisho. Pengine mheshimiwa Spika kama una thibitisho hapo ulipo ulete Bungeni tuone kweli kuna barua ambayo Gavana amejiri maofisaa watano katika Kaunti ya Kilifi. Kwa sasa haijaletwa katika Bunge tuone.

The Speaker (Hon. Kahindi): I am not the Mover of the Motion so do not direct the questions to me; direct them to the Mover of the Motion.

Hon. Gogo: Kwa hivyo, mimi naomba huu Mswada tuusukume mbele mheshimiwa George Baya apewe wakati alete vithibitisho vya kwamba Gavana amejiri maofisaa watano katika serikali yetu ya Kaunti. Na kama hakuna, naomba upelekwe mbele ajiandae vizuri alete tena na ile barua. Mimi binafsi nitaunga mkono kwa sababu kwa sasa siwezi kwa sababu hakuna thibitisho kwamba kuna watu watano wameajiriwa na Gavana.

The Speaker (Hon. Kahindi): So, you are opposing the Motion?

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Hon. Gogo: Naukataa; siungi mkono.

Hon. Kenga: Thank you very much Mr. Speaker. I am raising to be counted among those who are in support of the Motion and I know that this is history we are making and I do not want to be on the wrong side of history because then I will be judged harshly. For those who have not been able to make submissions and for those who have had the opportunity to quote and were not able to provide where they are quoting from, it is okay.

I want to be very different because I have carried with me various legislations that guide me in making my submissions. Kenya Gazette supplements the Public Appointments (County Assemblies Approval) Act, 2017. That it is an Act of Parliament to provide for the procedure for the approval of public appoints by county assemblies and for connected purposes that section four of the act and I want to quote.

“That an appointment under the Constitution or any other law for which the approval of the county assembly is required shall not be made unless the appointment is approved by the relevant county assembly in accordance with this Act.”

I want to refer all Members of this honourable Assembly to the County Governments Act which is the mother Act that guides the operations of the county governments. Section 45 of the County Government Act 2012 on the appointments of county chief officers’ states;

45. Appointment of county chief officers

(1) The governor shall—

- (a) nominate qualified and experienced county chief officers from among persons competitively sourced and recommended by the County Public Service Board; and
- (b) with the approval of the county assembly, appoint county chief officers.

Now Mr. Speaker, the question is whether the County Assembly was involved in the approval of these county chief officers. No names of the five chief officers that are in office were brought to this County Assembly for Members of the relevant Committees within the county Assembly to be able to vet them.

The Speaker (Hon. Kahindi): Hon. Mwambire, what is your Point of Order?

Hon. Mwambire: The rules there are not indicating the time that is why...

The Speaker (Hon. Kahindi): Which time?

Hon. Mwambire: The Standing Orders of allowing the Governor to forward the names of the appointed members; it does not specify the time limit, whether it is one month, two months or three months? That clause is left out that is why I earlier stood and said it is supposed to be given some time. It is in the process...

The Speaker (Hon. Kahindi): Let me just clarify the point. Indeed the five names were submitted. The acting Clerk of County Assembly received a letter from the County Secretary to withdraw those names and that is on record. So, let us not speculate on a matter which is under you. I request the Clerk to avail that document right away so that Members can know. The reason why the same is not before this House is because it was withdrawn before it was even

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presented to the House so there is no way Members could have been aware. I think now that is clear.

Hon. Kenga: Thank you very much and I also wish to inform the Member who had stood on a Point of Order that never had I quoted the Standing Orders. I had quoted the Public Appointments (County Assemblies Approval) Act of 2017 and the County Governments Act. Moving forward, allow me to even make my further submissions that on Article 10 of the Constitution... and remember on the 6th of September, 2017, when I took my Oath of Office, I took the Oath with the intention to defend, protect, preserve and uphold the Constitution of Kenya and the relevant laws that guide the operations of the county assemblies. Given that, the County Governments Act is very clear on how the chief officers are supposed to come to office.

Again, guided by the comprehensive legal opinion that has been submitted and delivered by the Mover of the Motion, I am convinced and I want Members to be convinced because this is now what the law provides.

Another item, if you go to Section five of the Public Appointments (County Assemblies Approval) Act of 2017 (1) is an advertisement inviting the applications for nominations for appointments of an office to which this Act applies. It specifies that the candidate shall be required to appear before the Committee of the relevant County Assembly and this refers to the chief officers.

Article 10 of the Constitution is talking about the values and principles of governance and one of the key values and principles is the issue of public participation; so for members of the public to be able to get involved in this vetting process where as an Assembly we will invite them through the dailies to bring whatever they have to say based on the names that would have been forwarded by the Governor. We are denying members of the public a very important aspect on the issues of governance.

All of us on the 8th of August last year were subjected to a vetting process that was very vigorous and members of the public had an opportunity to say whether the Member for Adu was fit or not fit so that a new person would be elected to take over that office. This is the same thing that we are requesting that they be given an opportunity to be vetted. As Members of the County Assembly, we do not want to set a trend that is contrary to the provisions of the law that guides the operations of the County Assembly.

Again, looking at what is given on the values and principles of the public service, it is very clear in the Constitution. Article 232 of the Constitution and I would wish to quote some of these things so that Members can be guided as they make their contributions that “the values and principles of public service include; the involvement of the people in the process of policy making, accountability for administrative, the issue of transparency and provision to the public of timely and accurate information...” There are so many issues that are paramount and that as an Assembly we cannot fail to observe.

Therefore, we are not saying that these chief officers did not perform. We have not yet gotten into that item but what we are asking is why are they afraid of the vetting process? Let them be subjected to the vetting process and because hon. Mwayaa is a Member of a certain Committee that the chief officer will be subjected for vetting, then given that he has the history of the performance of chief officer, he should then be in a position to convince the Members to make sure that these people are approved and appointed to those offices.

We cannot sit here and say that these people performed yet we had no members of the public...we are denying the opportunity for us Members of the County Assembly an important

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task of making sure that these people have been vetted. I wish to call upon all Members that if really the Oath of Office that we took and we want to stand by that, then let us come out very strongly, very aggressively and vigorously to defend, protect, preserve and uphold the Constitution and let us be guided. Thank you very much Mr. Speaker. I beg to support.

(Applause)

The Speaker (Hon. Kahindi): Yes hon. Mbura.

Hon. Mbura: Thank you Mr. Speaker, Sir, for giving me this opportunity to give my contributions towards today's Motion. I stand to support the Motion simply because I am guided by the law and the Standing Order of the House. I was also surprised and I was wondering what was going on when I saw my fellow hon. legislatures opposing this Motion because it is well supported by facts and the law.

(Applause)

It does not matter the Party I am coming from neither does it matter the road I was on yesterday but I go by the facts and justifications of this Motion. I therefore stand in support of this Motion. Thank you.

The Speaker (Hon. Kahindi): Thank you. Hon. Cantona Mae.

Hon. Mae: Thank you Mr. Speaker, Sir. I am a member of ODM and his Excellency the Governor is also a member of ODM so I am saying this without fear of intimidation. I stand to support this Motion. The question is, did he follow the right procedures or not? And if not, what is the way forward? His Excellency the Governor should not appear before the people of Kilifi in a white dazzling dress yet inside is something else. I stand to support 100 percent and in fact you should just put the question Mr. Speaker, Sir. Thank you.

(Applause)

Hon. Chengo: Asante sana mheshimiwa Spika. Mimi nimesimama kuunga mkono Mswada huu mia kwa mia. Ninasema hivyo kwa sababu sheria lazima ifuatwe na tunaona kwamba Gavana wetu hakuweza kufuata hiyo sheria na lazima tumrudishe afuate hiyo sheria. Ninaunga mkono huu Mswada ili wale ambao ni *chief officers* waje wakaguliwe halafu mambo yaendeleo kwa sababu sio kama kuna kitu fiche. Kama waziri Mwachitu na Rachael walikuja hapa na wakakaguliwa, ni kwa nini hawa wengine nao wasije nao pia wakaguliwe? Nimesimama kuunga mkono Mswada huu. Asante sana.

Hon. Changawa: Asante mheshimiwa Spika kwa nafasi hii niliyoipata kuwakilisha watu wa Dabaso na watu wa Kilifi Kaunti nzima. Nimesimama kuunga mkono Mswada ambao uko mbele yetu. Nikiwa mwanachama wa ODM, naweza nikasema niko kwa ile serikali ambayo imefanya makosa haya. Na kwangu mimi kuwa katika serikali haimaanishi yote yatakayotoka kwa serikali nitayaunga mkono. Michezo na makosa ambayo yamekuwa yakifanywa katika Bunge la Kitaifa kwa watu kuunga mkono yasiyoungwa mkono kwa sababu msingi kwamba yametoka kwa Serikali, na yeye yuko kwa Serikali, kwangu nasema la kwa kile ambacho hakionekani kuwa kimefuata sheria.

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Mheshimiwa Spika, nimesimama kusema kwamba nilikula kiapo baada ya ushindi wangu ili kuwakilisha watu wa Dabaso na Kilifi nzima. Na kama sheria ni tuitunze na kuilinda, basi ni mahali pale ambapo panaenda visivyo tuseme sivyo na tusimame kidete kupinga jambo hilo. Tunaona ya kwamba tuko katika robo ya mwisho ya mwaka wa kwanza kutoka tuingie katika uongozi, lakini yale ambayo yanatendeka kutoka kwa Gavana wetu ukweli ni kwamba hayaridhishi maana hata tukisema Bunge kufikia saa hizi bado halijafunguliwa na kisheria ni Gavana kufungua Bunge.

Tunapoenda uteuzi wa *chief officers* ambao wako katika ofisi wale watano, tunasema ya kwamba ilifanywa kinyume cha sheria na lazima tutasimama kidete kusema kwamba ni lazima sheria ifuatwe. Kama sheria inatakikana kufuatwa, basi ni kitu gani ambacho kinafichwa ya kwamba majina yale kuletwa katika zile Kamati husika ili kukaguliwa imekuwa ni ngumu ama ni majaribio tunapewa ili kuonekana kwamba je, tuko imara tutafanya kazi yetu ama hatuiwezi ile kazi iliyotuleta katika Bunge hili? Kwangu nasema kwamba viongozi wenzangu ni wakati wa kusimama na mwelekeo ule wa kweli ili kuona kwamba haki inafanywa kwa watu wa Kilifi Kaunti nzima.

Kama ni sheria ifuatwe, lazima sheria ifuatwe. Waziri Rachael aliletwa katika Kamati, waziri Mwachitu aliletwa katika Kamati na hawa ni mawaziri ambao walikuweco katika ile miaka mitano ya kwanza. Kwa nini hawa *chief officers* hawaletwi katika Bunge hili? Kuna kitu gani ambacho kimefichika mahali hapa? Sasa kwa Gavana ni kwamba majina haya tunayataka hapa. Yaletwe katika zile Kamati husika na kisha Bunge lipitishaye yale ambayo ni ya kupitisha na yale ambayo si ya haki yale tukakayoyataka yaletwe hapa. Na tunaposimama katika kupinga si ati tuonekane wabaya; sisi si wabaya, wale wote ambao wako katika ofisi si kwamba hatuwataki.

Lakini cha msingi tunasema lazima sheria ifuatwe na baada ya sheria kufuatwa, Kilifi Kaunti iko na watu wengi. Kwa hiyo, kama iko na watu wengi, si lazima ya kwamba kile kitakachosemwa na Gavana ni lazima kiwe hicho. Tunamuomba Gavana kupitia kwako mheshimiwa Spika, majina haya na hawa wote ambao wako katika ofisi hizi watoke mpaka majina yatakapofika kwetu lakini pia achunge kwamba mwaka unaisha na kama mwaka unaisha, tutafanya kazi vipi bila *chief officers*? Sasa afanye haraka iwezekanavyo baada ya wao kutoka waletwe pamoja *chief officers* wote ili kazi yetu tuifanye kulingana na sheria. Asante mheshimiwa Spika.

The Speaker (Hon. Kahindi): Hon. Geroge Baya, you had requested to make your submissions. You are not entitled to another session to make another submission.

(Question put and agreed to)

Hon. Members, it is therefore now the mandate of the Implementation Committee as required by the Standing Orders to see that the Motion is implemented by the County Secretary. Thank you.

ADJOURNMENT

Hon. Members, in the absence of any other business in the Order Paper, I move to adjourn the House until tomorrow at 2:30 p.m. Thank you.

The House rose at 4:46 p.m.

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