



REPUBLIC OF KENYA

COUNTY ASSEMBLY OF KILIFI

SECOND ASSEMBLY –THIRD SESSION

THE HANSARD

Wednesday, 20th March 2019

*The House met at the County Assembly Chamber,
Malindi Town, at 9:30 a.m.*

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

PRAYERS

MOTION

TERMINATION OF SERVICES FOR ALL CASUAL WORKERS WITHIN THE COUNTY PUBLIC SERVICE

Hon. Mwayaa: Thank you, Mr. Speaker, Sir. I have a Motion to move and it reads as follows:-

That, aware that Section 74 of the County Governments Act, 2012 provides that the County Public Service Board shall regulate the engagement of persons on contract, volunteer and casual workers, staff of joint ventures and attachment of interns in its public bodies and offices.

Aware that, the County Public Service Board has not yet submitted to the County Assembly the regulations for the engagement of persons on contract, volunteer and casual workers, staff of joint ventures and attachment of interns in its public bodies and offices for approval.

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

Noting with concern that, County Chief Officers have engaged persons on contract and casual basis with neither their knowledge nor guidance from the County Public Service Board nor approved regulations by the County Assembly.

This county assembly urges the County Secretary to direct all the County Chief Officers to terminate services of all casual workers within the County Public Service Board with an exception of casuals from all dispensaries until the County Assembly approves the regulations for engagement of persons on contract, volunteer and casual workers, staff of joint ventures and attachment of interns in the county public bodies and offices.

As the Majority Whip of this assembly, I have decided to bring this Motion to the Floor of this House mainly because Kilifi County needs healing and if the healing is to come then all casuals must be terminated.

Hon. Mramba: Point of Order!

(Hon. Mramba stood on a Point of Order)

The Speaker: What is your Point of Order hon. Mramba?

Hon. Mramba: I need a clarification from you Mr. Speaker. The hon. Member for Kayafungo is saying that as the Majority Whip of this assembly he has decided to bring this Motion to the Assembly. Has he brought this Motion as a Member for Mwanamwinga or as the Majority Whip?

(Hon. Kenga stood on a Point of Order)

Hon. Kenga: The hon. Member for Kakuyuni is misleading the House that hon. Mwayaa is from Mwanamwinga, yet he is from Kayafungo.

The Speaker (Hon. Kahindi): The implication that when you say that I bring this in my capacity as the Majority Whip it might intend to mean that it is a party Motion; that is the only slight difference otherwise it is still okay. The Motion which was approved was signed by hon. Mwayaa, the area MCA of Kayafungo.

Hon. Mwayaa: I will not argue more on the Majority Whip; but still I am a Member of Kayafungo and again I am the Chief Whip of this Assembly. I have brought this Motion as a Member of Kayafungo Ward. Kilifi County needs healing and if Kilifi County is to get the healing then all casuals must be terminated.

The County Government of Kilifi has a huge wage bill and sometimes we do very little for our community because of the wage bill; this is the plight we are facing. You will find that in terms of projects we are doing very little for the community and we have realized that it is because of the casuals that are working in some Departments in Kilifi County. You will find that these casuals were hired without following the rightful procedure. I have a list with me here that the Department of Water and Natural Resources has about 478 casuals and quarterly they have consumed Kshs. 17.813 million that is from October and December. So if you multiple by four which makes one year you will find that a lot of money in Kilifi County goes to paying the casuals. I have a list of about 23 casuals from the Enforcement Department; these were recently recruited with no due proper process. So I want to urge this House to join hands with me so that this Motion can see the light of the day. With those few remarks, I want to call upon hon. Mramba to second.

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

(Hon. Mramba seconded)

(Question proposed)

Hon. Hassan: Asante mheshimiwa Spika kwa kunipatia nafasi hii. Nimesimama kupinga Hoja hii. Sababu za kupinga ni kwamba nafikiri ingekuwa bora kama tutashindwa kutengeneza nafasi za kazi basi ni afadhali tuseme; twapitisha Hoja ya kwamba watu wasiajiriwe tena mpaka bunge la kaunti litoe ruhusa. Ni mambo la kusikitisha kwa sababu sote tunafahamu kwamba kupata kibarua ni kazi ngumu.

Leo hii mtu ana familia asimamishwe kazi wakati wengine wana wagojwa ambao wanawashughulikia. Mimi binafsi sioni kama hili litakuwa ni swala la busara. Hii Nyumba kazi yake kubwa ni kupunguza mambo yanapokuwa moto si kuongeza cheche. Tuko na vijana wengi sana ambao hawana shughuli za kufanya leo hii sisi tunatakikana kuunda kazi lakini si kwenda kuharibu kabisa. Mimi nimesimama na ninapinga tena kwa nguvu zote hii Hoja iliyoko mbele yetu. Asante.

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

Hon. Ndago: Asante sana mheshimiwa Spika. Kwanza nasimama kuunga mkono Hoja hii. Kulingana na vile mheshimiwa Mwayaa amezungumza ya kwamba pesa nyingi za serikali ya Kilifi zinatumiwa kuwalipa mishahara wafanyikazi haswa wa vibarua. Tukiwa Kirinyaga kwa mambo ya ugatuzi, mheshimiwa Rais alisema serikali za ugatuzi nyingi zinatumiwa pesa za serikali ya kitaifa nyingi kulipa mishahara kuliko kuleta maendeleo kwa jamii. Nataka niamini ya kwamba serikali ya Kilifi ni mojawapo; ikiwa idara moja iko na wafanyikazi 478 na tuko na idara zaidi ya 10 mheshimiwa Spika na hakuna mfanyikazi anayelipwa chini ya 10,000; hizo ni pesa nyingi sana ambazo zinaenda kwa mishahara. Mbali na kwamba pesa nyingi zinaenda kwa mishahara, kunao wafanyikazi ambao wameandikwa kwa njia ambazo si za sawa.

Mwenyekiti ambaye anasimamia maswala ya maji na mazingira mheshimiwa Hassan ambaye ametoka kuzungumza kabla mimi nizungumze anajua kwamba wizara ambayo anaisimamia yeye imepeana mwelekeo ambao si mzuri. Sisi kama serikali tunajua ya kwamba wizara hiyo imekosea mambo mengi. Kwanza, ukiangalia wizara hiyo wafanyikazi ni wengi; tumeitengea pesa nyingi tena wamechukua kazi wakapeana kwa mwanakandarasi. Mwanakandarasi yualipwa zaidi ya milioni moja kwa mwezi, na sisi kama serikali tumenunua lori la kukusanya takataka na lori hilo bado linalipiwa na ni la serikali ya kaunti. Mwanakandarasi ana wafanyi kazi wake sehemu ya Malindi...

(Hon. Hassan stood on a Point of Order)

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

Hon. Hassan: Mimi naona mheshimiwa anayezungumza kwa sasa anakosa mwelekeo kwa sababu kama ni idara ambayo naisimamia mimi kama mwenyekiti imepewa majukumu mengi sana kutoka kwa idara nyengine lakini si kwa sababu eti iko na mzigo kutokana na hiyo idara yake. Labda angetoa ufafanuzi na kama ni jambo kuhusu mishahara kuna wafanyikazi sisi tuliwarithi kutoka kwa serikali za zamani za *County Council* na hapo ndio tumeongezekewa na huo mzigo. Kwa hivyo, labda ana ufafanuzi mzuri zaidi anieleweshe. Asante.

The Speaker (Hon. Kahindi): Yes, hon. Ndago?

Hon. Ndago: Thank you, hon. Speaker. Let me speak in English because I want to believe that hon....

The Speaker (Hon. Kahindi): No, your Swahili is very fluent and we would wish you to proceed according to the rules.

Hon. Ndago: Asante sana mheshimiwa Spika. Nataka niamini ya kwamba mwenyekiti wa kamati ambayo leo hii inafanya serikali ya Kilifi leo itatingisha Kilifi nzima kwa sababu yeye mwenyewe ana ufahamu; ni juzi tu kila kamati iliweza kukutana na mawaziri wake. Labda awe hakuhudhuria vikao vyake lakini zile pesa zilizotengwa kununua lori la kuzolea taka ni zaidi ya milioni 21 mheshimiwa Spika; ili kununua lori la kuzolea taka Kaunti ya Kilifi. Milioni 21 ni pesa nyingi sana; tena hapo serikali ikarudi kuandika vibarua. Vibarua ambao wako Kilifi ni 478; wale wanaofanya kazi.

Mheshimiwa Spika, hapa uko na lori na hapa uko na vibarua na hili lori ni la kufanya *recycling*; vibarua ambao uko nao ni zaidi ya 300. Tena tukirudi hapo mheshimiwa Spika bado tuko na vibarua ambao wanalipwa na serikali ya kaunti na wizara ikiwa bado ni moja. Akiwa yeye kama mwenyekiti anafaa kupeana mwongozo hapa ndani ya hawa waheshimiwa na hana mwongozo badala yake anaomba mwongozo kutoka kwa serikali, hafai kuwa mwenyekiti wa hii kamati...

The Speaker (Hon. Kahindi): Okay, proceed with your submissions now.

Hon. Ndago: Kwa sababu serikali inapoteza pesa nyingi na tumechoka kupoteza pesa. Huu Mswada haujaletwa na mtu ambaye yuko nje ya serikali; mheshimiwa Spika Mswada huu umeletwa na mtu ambaye yuko ndani ya serikali nay eye ni Kiranja wa Bunge la Kilifi. Yule ambaye ameunga mkono anatoka upande wa serikali na anayezungumza ni makamu wa walio wengi katika Bunge la Kilifi. Hiyo ni kuonyesha ya kwamba serikali imelemewa mahali fulani. Na ikiwa tumelemewa ni lazima tutafute mbinu ambayo tutaweza kusaidia jamii ya watu wa Kilifi. Na kumsaidia mtu wa Kilifi, tusingojee matamshi kutoka kwa mheshimiwa Rais ya kwamba kunazo kaunti ambazo zimetumia pesa kulipa mishahara; ikiwa Kaunti ya Kilifi ni moja wapo.

(Hon. Mwarandu stood on a Point of Order)

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

Hon. Mwarandu: Mheshimiwa Spika, hapo mbeleni tulivyokuwa bado tunasoma katika shule za misingi tuliambiwa kwamba Kiswahili kitukuzwe, kuna tofauti ya makamu na naibu wa walio wengi Bungeni. Sasa Mjumbe wa Shimo la Tewa anapotosha bunge hili kwa kusema yeye ni makamu. Asante.

The Speaker (Hon. Kahindi): Okay, thank you. Hon. Ndago...

Hon. Ndago: Asante sana mheshimiwa Spika...

The Speaker (Hon. Kahindi): Just to quote, are you a *makamu* or *naibu*?

Hon. Ndago: Mimi ni naibu...

The Speaker (Hon. Kahindi): Okay, proceed.

Hon. Ndago: Mheshimiwa Spika, kunao waheshimiwa ambao wamekuja kutatiza shughuli na kuna waheshimiwa ambao wamekuja kusaidia watu wa Kilifi. Wale waliokuja kutatiza sisi hatuko pamoja na wao; wale waliokuja kusaidia mtu wa Kilifi mimi nitawaunga mkono moja kwa moja. Nikizungumza hivyo ni kwamba naunga mkono Mswada ambao umeletwa kabla tuende kwa Bajeti. Ukiangalia vizuri mshahara wa mtu ambaye amechukuliwa na serikali ya kaunti na hana barua, tunajuliza mshahara wake utatoka wapi? Hilo ni la kwanza.

Hawa vibarua wa Serikali ya kaunti tokea wachukuliwe bila barua kufikia sasa huwezi kufahamu kama ni mtu anafanya kazi na serikali ama ni mtu yuko tu hohe hahe kwa sababu

gani? Mshahara wake huyu mtu unatoka wapi? Na tukipitisha bajeti hakuna mahali tumeweka mshahara wa kibarua. Ndiposa mimi naunga mkono kuhakikisha ya kwamba vibarua wote wakae pembeni na tume ya kuajiri watu kazi iseme tuna upungufu fulani na upungufu huu tunaomba kuchukua watu ili tukawapatie kandarasi, aidha ni ya mwaka mmoja, miaka miwili, mitano ndio hawa watu tuweze kufanya nao kazi.

Mheshimiwa Spika mimi ninashukuru kwa fursa hii kwamba nimezungumza ule ukweli kutoka upande wa serikali ya kwamba mzigo umetulemea na tunataka kupunguza huu mzigo kwa niaba ya watu wa Kilifi na nitakapopata nafasi nitazungumza tena kwa sababu kiongozi wa walio wengi bungeni hayupo; ni mimi nimeshikilia usukani. Nitazungumza kwa niaba yake wakati wowote mheshimiwa Spika utakaponipa nafasi. Asante.

The Speaker (Hon. Kahindi): This is getting interesting, Yes hon. Baya.

Hon. Baya: Thank Mr. Speaker, Sir. I wish to congratulate the hon. Senior (Mwayaa) the MCA Kayafungo Ward. Today it has been proved that a short man is always wise...

(Hon. Mwarandu stood on a Point of Order)

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

Hon. Mwarandu: The hon. Member on the Floor hon. George Baya Mramba, the MCA for Watamu Ward, if I can use a good word then the hon. Member is turning to be senile because it is just yesterday he brought a Statement in this House that the casuals at the Scholarship Board to be absorbed and today he is supporting their contract to be terminated. I think he is more confused than a hon. Member.

The Speaker (Hon. Kahindi): That word is not appropriate; I would like to protect the Member.

Hon. Mwarandu: I will replace that with senile; he is senile.

Hon. Baya: Thank you Mr. Speaker. I think the hon. Member should go back to the Statement and read clearly if he does not understand English.

The Speaker (Hon. Kahindi): Kindly proceed, you are protected hon. Member.

Hon. Baya: Mr. Speaker, I repeat that today we have proved that a short man is always wise bringing this Motion. As the Chairman of Public Investments and Accounts Committee, the few financial reports that I have gone through I have seen that the County Government of Kilifi is spending higher percentage on recurrent expenditures; 80 percent of our recurrent expenditure included inside is the wage bill. Wages are very high and if this County Government is of the spirit of devolution and if this Motion goes through will assist this County Government to reduce its recurrent expenditure and raise the development amount so that it can assist us to fulfill the spirit of devolution.

Mr. Speaker, I know very well as leaders we have promised our voters that we are going to empower them through employment and all that; but there are so many ways of empowering our youths. Now the County Government has introduced the Mbegu fund; this is also a way of empowering our youth instead of unnecessary appointments of these casual workers.

In fact the Department of Environment has been misusing this opportunity in my area; I have few youth who are working at the Environment Department and what is happening is that someone who wakes up around six and by around 9 he is back at home saying he has completed his duty and the same person is expecting a salary at the end of the month. So this opportunity has been misused for long and the only solution is to pass this Motion and terminate all casual workers and find other ways of empowering the youths and also other ways of solving this

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

problem of garbage. I am planning to bring a Motion in this House so that people should not drop garbage anyhow like the way people are used to, so that we can also keep some garbage sites so that people can drop garbage on collecting sites instead of just dropping anything anyhow and then at the end of the day you are expecting someone to be employed and do the same job. Thank you very much Mr. Speaker, Sir. I support this Motion fully.

The Speaker (Hon. Kahindi): Yes, hon. Mramba.

Hon. Mramba: Asante mheshimiwa Spika. Nami nasimama kuunga mkono nikisema haya machache. Hoja hii imeletwa kwa nia njema na wala haikuletwa ili kuadhibu mtu yeyote. Lakini ukweli ni kwamba sheria inasema wazi wazi kifungu cha 74 kwamba ile tume ya kuajiri itatengeza mapendekezo wayalete bungeni ili tuyapitishie ndio tujue vibarua wanaajiriwa kwa njia gani. Lakini kwa sasa hakuna mapendekezo yaliyoletwa hivyo basi imeleta mwanya kwa *chief officer* kuleta watoto wao au shemeji zao ama hata marafiki zao aidha wa kike ama wa kiume wanaajiriwa kila siku.

Bwana Spika, ni jambo la kusikitisha kwa sababu hata hivi majuzi kuna afisa mmoja hapa Malindi aliwaachisha kazi vijana ambao wanafanya kazi kwenye idara yake na badala yake akachukua watu wake kutoka kwao akiwemo mmoja wao ni mtoto wake wa kumzaa; kijana yule alifanya mtihani juzi na hajapata majibu ya kidato cha nne na hajapata hata kitambulisho mpaka mshahara unapitia kwenye akaunti ya mama yake. Ni jambo la kushangaza...

(Hon. Kenga stood on a Point of Order)

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

Hon. Kenga: Thank you, very much Mr. Speaker. The statement which is coming from the seconder of the Motion is something very weighty and I would wish that the same is substantiated that we are able to know the name of the said officer and even to prove that it is very correct that a child of the same person is employed yet this child is an underage; a person with no identification document so that it can be used as a proof of the ills that have bedeviled the department and the entire county. So I would wish you direct the Member to even go further and name this officer for us to be able to know.

The Speaker (Hon. Kahindi): I think that is really a valid point to note because if what hon. Mramba has said is true then we have a very big problem. Do you have any information with regards to the particulars you are talking about or you are using it as a persuasive measure to persuade Members?

Hon. Mramba: Hapana, yule afisa yuko na yule mtoto yuko ingawaje siwezi kupata jina kwa sasa lakini nikipatiwa mda naweza kuleta jina la yule kijana wake. Haya ni maswala ambayo yanaonekana wazi na hawa vibarua pia wamekuwa wakidhulumika sana mheshimiwa Spika.

The Speaker (Hon. Kahindi): Okay, I direct that you get that name and the name of the kid so that you table them before the Labour Committee for investigation.

Hon. Mramba: Sawa asante. Nikiongezea...

(Hon. Mwarandu stood on a Point of Order)

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

Hon. Mwarandu: Asante mshimiwa Spika. Neno hili la “nikipewa mda zaidi”, limekuwa neno sugu kwa mshimiwa wa Kakuyuni...

The Speaker (Hon. Kahindi): No! I have given my direction on the same; you cannot even make a comment...

Hon. Mwarandu: Mshimiwa Spika, unakumbuka...

The Speaker (Hon. Kahindi): Order! Order! I have given my directions...

Hon. Mwarandu: Lakini mshimiwa Spika...

Hon. Mramba: Mshimiwa Spika...

The Speaker (Hon. Kahindi): Hon. Humphrey (Mwarandu), do not make me invoke Standing Order 105. Hon. Mramba has made a statement. Our Standing Orders demand that if a Member rises up to ask you to substantiate, then if you are not able to do so at that particular time, then a time is given. My directions are, and the Chairperson Labour I think he's walked out; that the Vice Chairperson, kindly take up that matter because it's a matter that requires investigations and if you invite hon. Mramba to appear before your committee so that he tables that information, then you take it up. That is the ruling and that matter is closed. Yes proceed. Yes hon. Kenga, are you rising on a Point of Order or a Point of Information?

(Hon. Kenga stood on a Point of Order)

Hon. Kenga: Mr. Speaker it's on a Point of Order. I am rising because hon. Mramba has requested for time to be able to table before this Assembly and it's very much in order but he has only told us that the name of the kid who was employed is what he does not have but the name of the officer is with him. So I request that he goes ahead to tell us who the officer is as we wait for the name of the kid.

Hon. Speaker (Hon. Kahindi): Is that what you said hon. Mramba?

Hon. Mramba: Mshimiwa Spika, nitaleta jina la yule afisa pamoja na mtoto wake aliyemuajiri.

Hon. Speaker (Hon. Kahindi): There will be consequences. Hon. Shaban you will need to report to us within 14 days that you have called hon. Mramba and he's been able to give you that information. If he will not have been able to give that information then the Chairperson or the Vice Chairperson will report to this House that hon. Mramba was only bluffing and then the Speaker will make his direction.

Hon. Mramba: Basi Mshimiwa Spika nikiendelea ni kwamba, hawa vibarua ambao wameajiriwa na Kaunti yetu kama alivyoongea naibu wa kiongozi wa walio wengi, ni kwamba hapa kuna malori ambayo yamekodishwa kutoka kwa mtu binafsi ambayo kwa mwezi moja yule bwana analipwa inakaribia milioni moja; hilo lori liko na wafanyikazi na linazunguka kuokota taka halafu mwisho wa mwezi linalipiwa shilingi milioni moja. Hapa tuko na wafanyikazi zaidi ya 400 ambao wameajiriwa kwa idara moja peke yake. Hawa wafanyikazi ambao ni vibarua wanadhulumika kwa sababu wanakatiwa pesa za NSSF na NHIF na hizo pesa haziendi kule kwa hivyo zinakatwa kwa *payslip* zao lakini pesa haziendi, na hatujui zinapotelea wapi. Labda mweynekiti wa kamati ya *Labour* pia nalo ulichunguze.

Zaidi ya hapo ni kwamba kila mwisho wa mwezi wale vibarua wanatia sahihi kuhakikisha malipo yao ya ule mwezi na siku alizofanya kazi. Atatia sahihi ya 15,000 kwa mfano, akifika benki anakuta kuna 12,000. Kuna *deduction* ya 3000 ambazo hazijulikani zinaenda wapi kila mwezi. Hapa Mshimiwa Spika, hili jambo mbali na kuwasimamisha kazi, uchunguzi ufanyike kupitia kwa kamati tuone hizi pesa zao zinaenda kwa mifuko gani. Kuna

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

wakati tulikuja tukakaa na Bodi tukawauliza na wakasema hawajaajiri kibarua hata mmoja lakini *Chief officers* wanaajiri watu wao kila siku.

Leo katika gazeti la *The Star* tumesoma kwamba Kaunti ya Vihiga imesimamisha mishahara ya vibarua kupitia kwa benki kwa sababu wanasema kuna majina mengi yako tu kwa *payroll* lakini hawajulikani wako wapi; pengine wako majumbani wanaenda tu kuchukua mishahara na kurudi nyumbani. Wakasema wamesimamisha na kibarua atakuwa akichukua mishahara *cash* kwa ofisi ili kuzuia hii mianya ya pesa nyingi kupotea.

Tumeona pia Mheshimiwa Rais akisema kwamba Kaunti nyingi zinatamia pesa nyingi kwa mishahara kuliko maendeleo. Kaunti ya Kilifi tunakaribia 70% kwa mishahara peke yake; maendeleo yanaenda karibu 30% peke yake ambayo hio si haki. Hii kaunti ilikuja ilete maendeleo kule chini kwa wananchi wala haikuja kuleta mahali ambapo kunaweza kuajiriwa ndugu zangu au rafiki zangu. Ninachoomba mheshimiwa Spika ni wale vibarua wasimamishwe sio kusimamisha hawa wa idara moja ya mazingira peke yake maanake tunaona wengi waliosimamishwa mwezi huu ni wale wa Idara ya Mazingira. Tunataka wote kwa kila idara kama kuna kibarua hata kule kwa *scholarship* kama Mheshimiwa George Baya alisema wao pia wasimamishwe. Halafu wakisimamishwa tuje tukae na bodi ndio tujue mipangilio ya kusaidia wale vijana; aidha kama watarudi au hawatarudi lakini angalau tuwe tumewasaidia kuwapatia ajira ambayo itawasaidia hata mbeleni. Kwa hayo naomba kuunga mkono. Asante.

Hon. Speaker: Hon. Shaban.

Hon. Shaban: Asante Mheshimiwa Spika. Nimesimama kuunga mkono Mswada huu. Nataka kumshukuru Mjumbe wa Kayafungo kwa kuleta Mswada huu. Hapa Kaunti ya Kilifi tuko na shida kubwa sana ya vibarua. Nataka nikupatie takirimu kidogo Mheshimiwa Spika ndio tuweze kujua vibarua ni wangapi katika Kaunti ya Kilifi. Katika Idara ya Uगतuzi tuko na vibarua 57, katika Idara ya Afya tuko na vibarua 768 na katika Idara ya *Trade* tuko na vibarua 10.

(Hon. Ndago stood on a Point of Order)

Hon. Ndago: Thank you, Mr. Speaker. Kindly can the hon. Member Shaban clarify to the hon. House whether he is giving facts because I want to believe that he is the Deputy Chairperson of the Labour Committee and the Chairperson is not around? Is he giving out the information that this is what should be done out of supporting the Motion? What he is actually giving out is the records from the departments and I think as a committee, looking in this House Mr. Speaker the two Chairpersons have run away; Chairperson for Labour and the Chairperson for Water and Natural Resources. Whatever hon. Mwayaa has brought to this House I want to believe that those are the facts. Hon. Shaban should not be used by the other side. He shouldn't speak on behalf of the Executive.

Hon. Speaker: He is actually speaking in support of the Motion.

Hon. Ndago: No, but he is giving out some points. I want to believe that these are the expectations of not less than 20 or 10 Members that hon. Shaban is the Deputy Chairperson of the Labour Committee and as a Deputy you must know before this Motion came to this hon. House. They were supposed to tell us in the Committee's that we have this problem; then we as Members come out and decide.

(Hon. Mramba stood on a Point of Order)

Hon. Mramba: Mr. Speaker, I am meant to believe that hon. Ndago is confusing the whole Motion Mr. Speaker because hon. Shaban was giving us the details so that we can know the magnitude of this problem. So I think he was in order.

Hon. Speaker: Order! I want to protect Hon. Shaban; I presuppose that he will table that document. I believe it's a document that is genuine by virtue of him being the Vice-Chairperson of the Labour Committee; it is my assumption that you have the contents with you. You will proceed to give us the overview of what is really happening at the Executive. We have a point of order from hon. Mwarandu. What is your Point of Order?

(Hon. Mwarandu stood on a Point of Order)

Hon. Mwarandu: Mheshimiwa Spika, nitaregelea tu palepale kwa Kiswahili kitukuzwe. Alivyokuwa anaongea mbele ya Bunge hili mheshimiwa Dickson Shaban amesema kwamba ako na takirimu na Kiswahili sanifu ni 'takwimu'.

The Speaker (Hon. Kahindi): Thank you for the correction, *mwalimu wa Kiswahili*. Proceed hon. Shaban.

Hon. Shaban: Asante mheshimiwa Spika, ameniambia ni twakimu. Nafikiri ndugu yangu mheshimiwa Ndago ambaye pia ni jirani kule Mtwapa alikuwa hajanielewa vizuri. Mimi ni Naibu Mwenyekiti wa Kamati ya Leba na nimesimama kuunga mkono kwamba hawa vibarua waweze kuondolewa. Ndio maana nikasema kwamba wakati Mswada ukija ni jukumu langu kama mheshimiwa nikija katika sakafu hii kuchangia ni lazima niwe nimeipitia na nimetafuta habari ili niweze kuizungumzia.

Ndio maana nikasema kwamba katika Idara ya Ugatuzi iko na vibarua 54, Idara ya Afya 769, Idara ya Biashara 10, Idara ya Ukulima 25, Idara ya Mazingira 422, Idara ya *Executive* 20, Irada ya Elimu 39, Idara ya Teknolojia na Mawasiliano 52, Idara ya Uchukuzi 42, Idara na Idara ya Pesa 51. Kwa jumla tuko na vibarua 1,506; huu ni mzigo mkubwa sana ambao unalemea serikali kama vile ndugu yangu mheshimiwa Ndago alivyosema.

Nakumbuka siku moja tuliweza kumwita Mwenyekiti wa Bodi James Mulewa tukiwa na Kamati ya Leba na tukamuuliza hawa vibarua wanalipwa na kina nani kwa sababu sisi tunajua kwamba wewe ndiye Mwenyekiti ambaye unaajiri watu na kukitokea nafasi za kazi ni jukumu lake yeye kutangaza watu waweze kutuma maombi na baadaye kuchukuliwa. Nataka niseme kwamba Mwenyekiti wa Bodi ile James Mulewa alisema yeye hajui vibarua hao wanalipwa na kina nani.

Ni kwamba vibarua hawa wanalipwa na *Chief Officers* pasipo na mipangilio mizuri ya Bodi. Mimi nataka nisema kwamba tunaunga mkono huu Mswada ili kuwe na nidhamu katika mambo ya kuajiri wafanyikazi. Mfanyikazi ni sharti apewe barua; ni sharti barua yake ielezwe vizuri kwamba yeye yuko katika kandarasi ama kazi ya kudumu. Lakini vile ambavyo tunaona ni kwamba vibarua hawa hawana barua yoyote ya kusema kwamba wameajiriwa. Ikiwa mtu hana barua mheshimiwa Spika ni tatizo kubwa sana kwa sababu huwezi kusaidika kamwe; huna barua huna lolote wewe umekaa tu hivi hivi. Kwa hivyo inafanya ile *wage bill* inapanda juu sana.

Mimi nataka tulate nidhamu katika mambo ya kazi. Watu waandikwe vizuri; ijulikane kama wewe kandarasi yako ni ya miaka mitano, ufanye kazi na baada ya miaka mitano kama kuna marupupu upewe. Lakini vile tunaenda tunaona kwamba huu mzigo ni mkubwa. Naona kwamba mheshimiwa wa Jaribuni ambaye ni mwenyekiti wa Kamati ya Utekelezaji amelalia kazi yake. Tunataka huu Mswada utakapopita uweze kutekelezwa mara moja ili tuweze kuokoa Kaunti ya Kilifi. Asante sana mheshimiwa Spika. Mimi nataka nikomee hapo.

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

(Hon. Mramba stood on a Point of Order)

Hon. Mramba: Mr. Speaker, hon. Dickson Shaban is raising a very pertinent issue in regards to the conduct of the Chairperson of Committee on Implementation. I would rather he apologies or he brings a substantive Motion to discuss the conduct of the Chairperson. It is not fair.

The Speaker (Hon. Kahindi): I think that is noted. As to whether or not the Chairperson is doing his job or not, I think that is a matter that is supposed to be discussed at the Liaison Committee not to be brought here without any substantive evidence. It is demeaning to raise a statement like that. I do not think it is fair to say somebody has failed without justification. I would wish you withdraw that statement.

Hon. Shaban: Mheshimiwa Spika, unajua hii inatokana kwamba...

The Speaker (Hon. Kahindi): Otherwise I will require you to bring and table evidence to this House

Hon. Shaban: Mheshimiwa Spika, naomba niondoe maneno hayo. Asante.

The Speaker (Hon. Kahindi): Thank you. Okay hon. Mwarandu. Let us hear you speak in Kiswahili now so that we can learn from you.

Hon. Mwarandu: No I will speak in English.

The Speaker (Hon. Kahindi): Proceed.

Hon. Mwarandu: Thank you very much, Mr. Speaker, for this opportunity. Today I am between the devil and the blue seas and this is because the Mover of the Motion is a very senior Member of this Assembly and not only that but he is my area MCA(Member of County Assembly). That notwithstanding, I think we are all here because of some laws and we are guided by the Standing Orders in this Assembly, that is number one. Number two, we have the supreme law which is the Constitution of Kenya and then we have other statute laws.

Allow me to refer to Standing Order number two of our County Assembly. 'The decision made in paragraph (1) shall be based on the Constitution of Kenya, statute law and the usages, forms, precedents, customs, procedures, traditions and practices of the County Assembly of Kenya and other jurisdiction to the extent that these are applicable to Kenya.' Why am I referring to this Standing Order? It is because passing this Motion is going to be a breach of the Constitution, one, and two the Employment Act.

Standing Order number 87 talks about statements of facts; we cannot deliberate on a Motion here based on hearsay since we cannot ascertain who these casual workers are. I think the Mover of the Motion ought to have done what he did yesterday rather than bringing this Motion before this Assembly. Yesterday he tabled a Statement requesting the list of casual workers first then after that we could now know who these casual workers are.

(Hon. Mwayaa stood on a Point of Order)

The Speaker (Hon. Kahindi): Yes hon. Mwayaa you have a Point of Order?

Hon. Mwayaa: Mheshimiwa Spika, mnenaji ambaye yuko kwa Sakafu anasema ya kwamba kuwasimamisha vibarua hawa itakuwa ni kuvunja sheria. Ni sheria gani iliyofanya mpaka vibarua hao wakaandikwa? Manake tunaona ya kwamba waliandikwa bila kujulishwa Bodi na yeye anasema kwamba tutakuwa tumevunja sheria; atuelezee ni sheria gani ambayo tutakuwa tumevunja.

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

The Speaker (Hon. Kahindi): Okay, press your microphone.

Hon. Mwarandu: Thank you Mr. Speaker. Sometimes hon. Members rest their eyes and if they rest their eyes sometimes they also rest their ears. What I have said Mr. Speaker is that we cannot really ascertain or we cannot prove that there are casual workers in this county government because we do not have any list to prove the same Mr. Speaker and if we are going to go by the...

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

Hon. Mwayaa: Niko na orodha ya vibarua 478 na kama zile *Quarterly Report* tunazozipata hazisomi vizuri, nataka nimtume asome ile *Quarterly Report* iliyotoka kwa Maji; ataona kwamba kuna vibarua pale 478 ambao wamekula pesa yetu ya Kilifi milioni 17. 813. Kwa hivyo, wako vibarua na asipotoshe Bunge hili.

The Speaker (Hon. Kahindi): Yes, hon. Mwarandu.

Hon. Mwarandu: Mr. Speaker, the only Member who has the list is the Mover of the Motion, right? And that is making it difficult for us to know the authentication of the list; we cannot even know the origin of that list Mr. Speaker. So I still believe that because that list has not even been tabled before this House Mr. Speaker...

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

Hon. Mwayaa: Ripoti hii inayozungumziwa mheshimiwa Spika ililetwa ndani ya Bunge hili na iligawanywa kila Mjumbe ambaye yuko hapa. Kwa hivyo akisema ya kwamba haijaangaliwa nafikiri anaendelea kupotosha zaidi maanake yeye ni Mjumbe ambaye yuko hapa na anastahili kusoma kila nakala ambayo anapatiwa; asiendeleo kutupotosha mheshimiwa Spika. Nakala hii ilijadiliwa hapa.

The Speaker (Hon. Kahindi): Quarterly Reports are normally tabled before this House and deliberated. I am seeing you have a valid point, okay? You were expecting him to perform like the way lawyers do, okay? Because what he has not done and probably which he should have done to easily convince you is that during submissions; you see like the way lawyers do that they say Your "Lordship I relay on this authority" and then you hand it over then you proceed; that is not that. However, in the County Assembly record and I am aware has the Quarterly Reports which indicates the number of casuals which are available in the department because remember him, is only very specific to a particular department from his submissions. However, his Motion requires that all the casual staff be sent away with an exception of the ones in the Health Department. So proceed hon. Humphrey (Mwarandu), if he will not have convinced you it is okay but as to whether or not the numbers are available in the record of the Assembly, they were tabled here.

Hon. Mwarandu: Thank you very much Mr. Speaker. What I was saying is that we are also guided by the supreme law which is the Constitution of Kenya 2010 and Article 236(b) which says that "A public officer shall not be dismissed, removed from office, demoted in rank or otherwise subjected to disciplinary action without due process of the law" Mr. Speaker.

Now, if we characterize this Motion, it is itself defective Mr. Speaker because the last paragraph reads; this County Assembly urges the County Secretary to direct all the county Chief Officers to terminate services. Section 45 of the County Governments Act stipulates the responsibilities of a County Chief Officer and terminating workers is not one of them. We are also here to uphold the rule of law and here again Members of this House want to breach that law which they also need to uphold. But, that is not all Mr. Speaker, we also have the Employment Act Section (45) Mr. Speaker...

The Speaker (Hon. Kahindi): I want you to look at the Motion; I want to give directions so that Members are guided. The point you are making is valid but who employed these people? Is it the Board? Is it the County Secretary? Or is it the Chief Officers? Now, do Chief Officers have the power to employ? So, why would they have the power to employ and not have the power to dismiss? I do not want to argue the Motion since it is not my job; I just want us to understand it very well. So, that then you can make very informed contributions. It reads that “Noting with concern that the County...” Noting with concern; meaning out of the ordinary that Chief Officers have engaged persons on contract and casual basis”.

The question is; do they even have a right to do so in the first place? I am not trying to convince you, the hon. Member is saying if I understand it is that because you have engaged these people illegally, go take care of them yourself. I am not arguing it; I do not know whether they are on the same page. However, you are deemed to proceed and submit the way you wanted but you know you introduce an aspect as though you wanted to amend the Motion and it did not come out very clear to me.

Hon. Mwarandu: No, Mr. Speaker. This Motion can be very good but we should follow the law.

The Speaker (Hon. Kahindi): Okay, no doubt, the law has to be followed.

Hon. Mwarandu: And this is not the case in this Motion Mr. Speaker.

The Speaker (Hon. Kahindi): Okay.

Hon. Mwarandu: Section 45 of the County Governments Act Mr. Speaker, talks about unfair termination. Mr. Speaker you have said that the Chief Officers are not the appointing authority

The Speaker (Hon. Kahindi): I have not said it, it is not me, and it is actually hon. Mwayaa.

Hon. Mwarandu: It came...

(Hon. Ndago stood on a Point of Order)

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

Hon. Ndago: Thank you, Mr. Speaker. I want to believe personally that the Motion is not against the permanent employees of the government but we are talking about the casuals and the hon. Member who was on the Floor has just said that section 45 is talking about termination of the contract of public officers; these are not public officers. These are casuals; a casual, you can decide today whether you are in this office and I mean may be around the County Assembly but the Head of Human Resource (HR) is looking for someone who can sweep in his office, then he can say come today and sweep and tomorrow do not come at all; that is a casual. A permanent employee is going through the Public Service Board whether on contract services, whether in a year or permanent. So the hon. Member who was on the floor was misleading this House and I was keen listening to him that we are not talking permanent employees by Chief Officers; we are talking about the casuals and casuals are not permanent!

The Speaker (Hon. Kahindi): Thank you. You have made your point hon. Member...

Hon. Ndago: They did not go through the Public Service Board.

The Speaker (Hon. Kahindi): Thank you. I can see we are breeding so many lawyers in this Assembly. You see the angle this is taking now. So let us proceed. Your Point of Order is actually very relevant.

(Hon. Jana stood on a Point of Order)

Yes hon. Jana Tsuma Jana.

Hon. Jana: Pengine nimuulize mjumbe ambaye ni rafiki yangu anaunga mkono mada hii ama anapinga atuambie wazi wazi kwa sababu ni makosa kutomuelewa mheshimiwa Humphrey Mwarandu.

The Speaker (Hon. Kahindi): Yes hon. Kombe Mwarandu.

Hon. Mwarandu: Thank you very much. I think whether I propose or oppose it is my prerogative and I will say it.

The Speaker (Hon. Kahindi): Okay thank you, proceed.

Hon. Mwarandu: Number two; I was a bit confused when the hon. Member for Shimo la Tewa was on the floor, you cannot say “I and personally” it is the same thing...

(Laughter)

Yes I was on the Section 25 of the County Governments Act on unfair termination; no employer should terminate the employment of an employee unfairly.

Hon. Ndago: Point of Order Mr. Speaker.

The Speaker (Hon. Kahindi): No! Let us give him time to finish. Proceed hon. Humphrey Mwarandu.

Hon. Mwarandu: Sub-Section two; a termination of employment by an employer is unfair if the employer fails to prove that the reason for termination is valid. So what is our reason for the termination of this if there are because I believe we have no proper way to prove that there are? What is the reason Mr. Speaker?

The Speaker (Hon. Kahindi): Okay, are you finished because you have less than a minute to wind up.

Hon. Mwarandu: Thank you Mr. Speaker. I oppose the Motion.

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

Hon. Kenga: Asante mheshimiwa Spika, na kwa sababu leo tumepata mwalimu wa Kiswahili naomba kuzungumza kwa lugha ya Kiswahili ili ninapokosea niweze kurekebisha na nitashukuru ninaporekebisha.

Mheshimwa Spika, niruhusu kwanza nielezee Bunge hili kwamba wale tunaita *Chief officers*; lakini sheria imetueleza kwamba wakati idara husika inapohitaji kuajiri ni jukumu la idara ile iweze kuandikia barua tume ya ajira katika kaunti kuelezea lile hitaji ambalo lipo ili ajira iweze kufanyika. Lakini tume haitapeana nafasi ya kuajiri kama idara ile haijathibitisha kama ina uwezo wa kuweza kulipa wale wafanyikazi na kama kweli kuna haja ama pengo la kujaza mahala pale na iwapo tume imeweza kuthibitisha na imepeana idhini basi wale *Chief Officers* wana nafasi za kujaza lile pengo ambalo limeruhusiwa.

Sasa kitu ambacho kimedhihirika katika Hoja mbayo iko mbele yetu na mazungumzo ambayo yamefanywa na wenzangu ni kwamba kuna ajira ambazo zimefanywa kiholela bila kufuata taratibu za kisheria na kwa sababu ya ajira hizi kufanywa kiholela basi kuna mambo ambayo yamejitokeza kwamba baadhi ya maofisaa wanaajiri mabibi zao ama hata watoto wao. Sasa kile ambacho kinajitokeza wazi ni kwamba unapokuwa na ufahamu wa mtu katika kaunti hii ya Kilifi basi unapata kuajiriwa huku wale wengi ambao wako kule mashinani ambao wanahitaji pia usawa katika upande wa ajira basi tunawanyima nafasi kwa sababu hawana watu katika uongozi wa Kilifi ambapo wangeweza kutafuta hizo nafasi za ajira ili waweze kupata.

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

Kwa hivyo hii ndio nafasi ya kipekee ambayo tumeipata kwamba tunaelewa na tunatambua kwamba hizi idara ziko na mahitaji kwa kima fulani cha kuweza kutafuta huduma za hawa vibarua. Lakini tunasema wakati wanaposimamishwa kazi, kuwepo na nafasi sasa na kwanza kuwepo na uchunguzi iweze kubainika je hawa ambao walijajiriwa ndio kama ni maswala ya kisheria kama vile mwalimu wangu wa Kiswahili anavyosema Kiswahili kitukuzwe, Kiswahili sanifu; basi ibainike wazi kwamba kweli hawa walijajiriwa kwa mjibu wa sheria ndio labda mahali fulani sheria lakini kwa sasa inajitokeza wazi kuwa ajira hizi zilifanywa nje ya sheria na kwa hivyo basi kwa mjibu wa sheria hazitambuliki kwa sababu hazipo hasa kwa sababu zilifanywa nje ya sheria.

(Hon. Ziro stood on a Point of Order)

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

Hon. Ziro: Thank you very much Mr. Speaker. When hon. Ndago was on the Floor he hinted that the Chairperson for Labour had run away from this House and now he is back, could you allow him to speak?

The Speaker (Hon. Kahindi): Okay thank you. If he wishes to speak he will do so. Hon. Stanley Kenga.

Hon. Kenga: Mheshimiwa Spika, ni vizuri Hoja imeletwa na mbunge wa Garashi lakini pia niseme kwamba hayuko nadhifu kuruhusiwa kubaki katika Bunge hili kwa sababu shati lake sijui nikuelezee vipi vipi; sijui ni kuelea ama ni kuolea kwa sababu hii lugha unajua ni ngumu lakini amevaa kiholela na nafikiri kwa mjibu wa sheria za Bunge angeendelea kukaa bila kusimama na kuzungumza labda wengi wetu tusingejua lakini yeye amekuwa na tabia ya kutoka nje na kurudi hapa kuja kuchukua simu na kwenda nje na ilhali hajavaa nadhifu kwa mjibu wa sheria za Bunge. Kwa hivyo kabla sijaendelea naomba uweze kuamuru kwamba atoke nje ama asimame uweze kuthibitisha haya ninayoyazungumza na kisha atoke nje aweze kurekebisha ndio arudi niendeleo. Ni ombi mheshimiwa Spika.

The Speaker: Hon. Ziro can you please stand up so that we see.

Hon. Ziro: Mheshimiwa Spika ni vile nilikuwa nimesimama na nimeshiba hili sharti limetoka, lakini bado nime *tuck in*, iko ndani ni kutoka tu ndio imetoka.

Hon. Kenga: Huko nyuma? Umeshiba tumbo?

(Laughter)

The Speaker: I think we need that laughter sometimes. Let's proceed.

Hon. Kenga: Asante Mheshimiwa Spika. Kwa hivyo Mheshimiwa Spika tunataka tutatue swala la ufisadi katika ajira na huenda ikawa ufisadi unaendelea katika haya mambo ya ajira. Na pengine uchunguzi utakapofanywa huenda ukabainisha haya tunayozungumza; kwamba watu wanaitishwa hela ili wapate ajira. Ajira hizi zinazofanywa kiholela pasipokuwa na utaratibu zinachangia mambo ya ufisadi. Tunapozungumza hapa Kayafungo ni wadi sawa na Adu, Adu ni Wadi sawa na Shimo la Tewa, ni Wadi sawa na Mtepeni na zile Wadi nyengine zote katika Kaunti ya Kilifi. Yale ambayo kwa sasa huenda yanafanyika Mheshimiwa Spika unapoangalia Kifungu Cha 10 katika Katiba ya Kenya tuliyoipitisha mwaka wa 2010, inayazungumzia maadili ya Taifa letu la Kenya; moja ya yale maswala ni kuhusishwa kwa kila mmoja kwa nafasi zozote ambazo zinapatikana katika Kaunti zetu na Taifa letu la Kenya. Hapa sasa kuna kitu kinajitokeza kwamba huenda watu wa Kayafungo wananyimwa nafasi sawa za ajira, kwa sababu ajira hizi

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

zinafanywa kiholela na kwa sasa tunapoitisha ujumbe pengine itatuonyesha kwamba hizi ajira zimetoka katika sehemu moja na wengi katika sehemu fulani wamekosa hizo nafasi. Kwa hivyo vibarua wasimamishwe na wale ambao wameajiriwa kiholela na wakati itakapobainika ya kwamba baada ya kwamba wamesimamishwa ipo nafasi ya hizo idara ya kwamba zinauhitaaji basi hizi ajira ziende kwa mujibu wa sheria na tupewe nafasi sawa, ili watu wa Adu waajiriwe, watu wa Magarini waajiriwe, watu wa Bamba waajiriwe, watu wa Jaribuni waajiriwe na kwa kila nafasi tuhakikishe kwamba tumeenda katika nafasi ya kisheria.

Tunapofanya hivyo tutatoa ufisadi, dhuluma, maswala ya *nepotism*, mambo ya *ghost workers* na yale mengine ambayo kwa sasa yamepata nafasi. Halafu niseme Mwenyekiti wa kamati ya Implementation anaweza tu kutekeleza kufuatilia na kuhakikisha kwamba mambo yametekelezwa baada ya kupitisha hii Hoja; hatuwezi kwa sasa kumlaumu kwamba amezembea kikazi ikiwa hata Hoja yenyewe hatujaipitisha Mheshimiwa Spika. Kwa hivyo tunasema kwamba tuweze kupitisha Hoja hii, na tunapoipitisha sasa tuweze kumtwika majukumu ili aweze kuyatekeleza lakini kwa sasa tusimhukumu na kumsulubisha kwa sababu ya Hoja ambayo haijawezwa kupitishwa. Mheshimiwa Spika naomba kusitisha mazungumzo yangu nikiamini kuwa nimejieleza wazi na naunga mkono. Asanteni.

The Speaker: Thank you. Hon. Mwamsti.

Hon. Mwamsti: Mr. Speaker, thank you for giving me this chance to voice my opinion on the matter on the Floor. The Motion before the Floor of the House cuts across all people without considerations. Mr. Speaker as I am aware Hon. Shaban has given information about the so said casuals in quotes in the departments. However, Mr. Speaker, you know the word casual in English is the one who does the work and is paid daily. The people that are termed as casuals within the county some of them their rights have been violated. We have people that have worked without permanent employment since the inception of devolution; now coming here on the Floor of this House and passing a law that puts all people in the same category as the Member for Kibarani I will not be doing justice. I want to caution my fellow Members that when we were there being ushered in this House, we vowed to protect the Constitution of the Republic of Kenya. This says that even as we look at matters to do with wage bill, we should not move ahead by taking away the rights of some of the people in these categories. Somebody working for over six months continuously is not a casual and if this law has to pass, then these members who have been working since the inception of devolution should be compensated for that duration that they worked.

(Hon. Mwayaa stood on a Point of Order)

Hon. Mwayaa: Mheshimiwa Spika naomba Mheshimiwa ambaye yuko kwa sakafu aisome vizuri Mada hii. Upishi wa pilau ni makaa yawe juu na chini. Sasa nauliza pilau hii haina makaa ya juu ni upishi wa pilau gani? Mheshimiwa Spika wacha waelewe kwa sababu yafikia wakati nauliza vibarua hawa ambao wamechukuliwa hawakuchulikwa na njia ya sawa. Ndio nimeuliza huyu anasema watakuja wadai, watadai na hakuja na mlangoni ameingia na dirishani?

(Hon. Mwarandu stood on a Point of Order)

The Speaker: Hon. Mwarandu, are you rising on a Point of Order or a Point of Information?

Hon. Mwarandu: Mr. Speaker I want to inform this House.

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

The Speaker: No you can't inform the House. You are either informing somebody. Yes, press your microphone; you made an intervention meaning you have a Point of Order or a Point of Information. Okay what's your Point of Order?

Hon. Mwarandu: Mr. Speaker the Mover of the Motion is saying that these people were employed unprocedurally. I have with me here, a copy of appointment for one of those casual workers, one Khamisi M. Mweni who was...

The Speaker: The document you are relying on is it part of the record? What is that document you are relying on?

Hon. Mwarandu: It is part of the record Mr. Speaker because the contracts of these people were terminated the other day.

The Speaker: Okay. Members I want to bring to your attention the very simple rules in the Standing Orders. It is not sufficient because if you were to rely on any document it must form part of the Assembly records meaning it must be tabled here. Are we together? If you have a contract of one individual then how do I admit it to be part of the record of today's proceedings?

Hon. Mwarandu: Mr. Speaker this document was received.

The Speaker: Received where hon. Mwarandu?

Hon. Mwarandu: Here in the Assembly on 13th March 2019.

The Speaker: Is it part of the Clerk's record?

Hon. Mwarandu: Yes, Mr. Speaker.

The Speaker: Clerk can you confirm the same.

(The Speaker consulted with the Clerk-at-the-Table)

I am informed that this document was brought before the Committee on Labour.

Hon. Mwarandu: It was received here at the Assembly. I don't know whether it was brought in the Committee of Labour or Assembly but the committee has no rubber stamp; it is the Assembly which has the rubber stamp and it was stamped using the County Assembly rubber stamp.

The Speaker (Hon. Kahindi): If you listen to me you will learn if you do not want to listen to me you will not learn and you will make the same mistake tomorrow. Lucky for you maybe there might be no audience here; you will embarrass yourself. The rules are very simple. It is not enough for you to just come with a document and fly it over our faces and you say that this is the position.

If you seek to rely on that document because it has statement of facts the least you can do is you Table it. The moment it is tabled it forms part of the record because you are the only one who has it. This is not a Committee of Labour; this is the County Assembly. The Committee on Labour is just a section of the County Assembly that is given mandate to do some work and I am informed by the Clerk that the Report by the Committee on Labour has not even been formally tabled to us. So clearly it is a matter which is still ongoing as far as the Clerk is concerned and it therefore cannot make part of the Motion unless you want to rely on it now you say 'Mr. Speaker, I have a document here which I would wish to rely on in my submissions and I wish that it forms part of today's record' then it can be put in.

So that in the future any Member who wants to know how the debate went on they will say okay fine in your submissions you relied on this.

Hon. Mwarandu: I was coming to that Mr. Speaker and I was cut short by the hon. Member for Shimo la Tewa on a Point of Order. In fact it is already tabled and you have it.

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

The Speaker (Hon. Kahindi): No! Now you are out of order, tabled by who?

Hon. Mwarandu: By me.

The Speaker (Hon. Kahindi): Hon. Mwarandu, the much you think you know the very less you will end up learning, okay. Why? Because I am trying to give you the directions so that in future you do not have to make me tell you what the rules are in front of everybody. So if you wish to learn when you have a document and I want to repeat it, table it. This is because from the records from the Clerks says that the document came before the committee but the committee has not formally submitted it to the House because the Report is not ready. A matter that is still under deliberations at the committee level is not subject to a discussion in the main House; again those are the rules. If you want me to lecture you on rules during a session like this, I am saying it is not proper. So what is your Point of Order?

Hon. Mwarandu: Mr. Speaker, the same criteria I have used is the same criteria that hon. Dickson Shaban has used. For the first time I think you are biased on this matter.

The Speaker (Hon. Kahindi): No! I am not biased and that will be for your own opinion but I said if you will listen you will learn more; the more you think you know you will learn less. Yes who was on the Floor?

Hon. Mwamtsi: It is me Mr. Speaker.

The Speaker (Hon. Kahindi): Yes kindly proceed.

Hon. Mwamtsi: I had a lot of points to give and these Members disruptions I think it was a ploy to make me not give what I wanted to but I thank God I have remembered. Now as I was putting it, Members here want to put a blanket condemnation to all the people that have been employed by the County Government of Kilifi who are there on non-permanent terms but hon. Mwayaa was talking about *pilau* but at the inception of the County Public Service Board they were already employees that were there on non-permanent terms. I have people that I know that were employed way back.

(Hon. Mramba stood on a Point of Order)

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

Hon. Mramba: The hon. Member for Kibarani is misleading the House because when devolution came we had employees from the Defunct Local Authorities. It is the Member for Kakuyuni who brought a Motion to this assembly so that those casual workers who had been inherited from the Defunct Local Authorities could be absorbed by the County Government and indeed they were absorbed by the County Government. For your information those employees on casual basis who had been inherited from the Defunct Local Authorities were absorbed by the County Government of Kilifi. Thereafter, others were employed by the Chief Officers without following the due process, I hope you are informed.

Hon. Mwamtsi: Mr. Speaker, the Member for Kakuyuni is engaging in fallacy and is making a generalization which could not be the true position. I stand here and the claim I am making I can prove it. Given time I can come and table letters of employment on non-permanent to some employees who are still non-permanent until now. Even as we deliberate on these matters we should keep in mind that this matter carries a lot of weight.

I want to suggest that the committees of this House go and vet the casuals department by department. Those that merit to be retained be retained and those that do not merit based on the committee's recommendations then we make a ruling. Rather than making a general conclusion here.

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

(Loud consultations)

Rather than passing this Motion now, the departments go list by list as the way hon. Shaban has given a list for each department then we do a vetting of all the non-permanent employees. Whoever merits be retained and whoever does not merit be released.

The Speaker (Hon. Kahindi): Just a minute. Let me advice you hon. Mwamutsi. If by any reason you feel that a Motion should not proceed what should you do? You are also right in your own way but I want to pose a question. If you feel like this Motion is not ready to proceed now what are you supposed to do? Just a minute, let me advise you hon. Mwamtsi ...

Hon. Mwamtsi: Yes...

The Speaker (Hon. Kahindi): If by any reason you feel that a Motion should not proceed, what should you do?

(Hon. Ndago spoke off record)

The Speaker (Hon. Kahindi): You know you are also right but I want to pose the question; if you feel like this Motion is not ready to proceed now what are you supposed to do?

Hon. Mwamtsi: Mr. Speaker...

The Speaker (Hon. Kahindi): No, you cannot seek amendment now; we are almost concluding but there is something you can do. I think I need to advise you so that you are properly...

Hon. Mwamtsi: Mr. Speaker...

The Speaker (Hon. Kahindi): I am not asking you to but the rules provide that where you feel that some more consultation needs to be done, the rules allow you to move a Motion for Adjournment. So, do not try to push time to convince Members. However you can conclude if you wish.

Hon. Mwamtsi: I want to conclude Mr. Speaker, but I would need your indulgence to allow me terminate my contribution as I refer to the necessary...

The Speaker (Hon. Kahindi): No! proceed and conclude.

Hon. Mwamtsi: May I invite hon. Humphrey...

The Speaker (Hon. Kahindi): No! You cannot invite anybody; you can consult slowly but you cannot invite somebody to talk. You are the right. Yes, what is your Point of Order hon. Ndago?

(Hon. Ndago stood on a Point of Order)

Hon. Ndago: Thank you hon. Speaker. I want to believe that we are in a serious business...

The Speaker (Hon. Kahindi): Yes.

Hon. Ndago: Serious business especially from the government should be taken as a serious business but today...

The Speaker (Hon. Kahindi): Okay proceed.

Hon. Ndago: We are seeing here some Members who do not have facts instead they want to manipulate some Members and I want to be very categorical to hon. Mwamtsi and hon. Humphrey (Mwarandu) that this is a hon. House and the Motion has been brought before us and I believe hon. Mwamtsi is my chairperson in the Committee of Transport and Public works and

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

if today he wants to mislead me in this House, I will make sure that we throw him out as a Chairperson from the Committee because he does not have facts.

The Speaker (Hon. Kahindi): Okay, you know if you continue talking and the HANSARD is still recording and I am also bound to consult with Members who wish to consult. So, proceed.

Hon. Ndago: Thank you hon. Speaker. I want to inform hon. Mwamtsi that...

The Speaker (Hon. Kahindi): Hon. Mwamtsi, do you wish to be informed?

Hon. Mwamtsi: Mr. Speaker...

The Speaker (Hon. Kahindi): Your microphone is off, press your microphone.

Hon. Ndago: At the same time, I want to give a point.

The Speaker (Hon. Kahindi): Yes, do you wish to be informed?

Hon. Mwamtsi: Mr. Speaker, I do not wish to be informed...

The Speaker (Hon. Kahindi): Okay, thank you...

Hon. Mwamtsi: Mr. Speaker...

The Speaker (Hon. Kahindi): No You cannot! It is not done like that. Both of you are out of order! Take your seats since your microphones are off. Yes, hon. Kadenge?

Hon. Kadenge: Asante Bw. Spika kwa pia kunipa fursa hii ya kutoa maoni yangu kwa sababu nimeambiwa mimi nimekimbia lakini sikuwa nimekimbia na nimesimama pia kuunga mkono hii Hoja kama Mwenyekiti wa *Labour and Administration*...

(Hon. Mwarandu stood on a Point of Order)

The Speaker (Hon. Kahindi): Hon. Kombe (Mwarandu) you have a Point of Order?

Hon. Mwarandu: Yes, Mr. Speaker...

The Speaker (Hon. Kahindi): Order! Order! Order! Your time is up hon. Mwamtsi. Yes

Hon. Mwarandu: I was asking if the hon. Member has a Point of Order or he is making his submission because hon. Mwamtsi was not done yet.

The Speaker (Hon. Kahindi): If I switch off your microphone it means your time is up. What is happening today? It seems we are not aware of the rules altogether? Can you proceed hon. Kadenge?

Hon. Kadenge: Kwa hivyo mheshimiwa Spika mimi nimesimama kuunga mkono hii Hoja.

(Applause)

Kuna vibarua wengi ambao wameandikwa na tunajua kabisa lakini kama Mwenyekiti wa Kamati hii ya *Labour and Administration*, tulikuwa na kikao na mwenyekiti wa Bodi na akasema hakuna vibarua kabisa. Yeye hajui mambo na vibarua; kuonyesha kabisa kwamba hawa vibarua wako pale na si halali, yaani hawakufwata yale matakwa. Sasa hii Nyumba ikipitisha hii Hoja itakuwa pia mimi inanisaidia; ofisi yangu imekuwa ofisi ya Leba. Vibarua kila siku wako pale na sikuwa tunawataka wasimamishwe kwa sababu hatuwataki lakini ile sheria ifatwe vizuri na watarudi kazini. Lakini ikiwa hiyo Bodi yenyewe ambayo imepewa hilo jukumu la kuandika watu haijui chochote itakuwa hatuendi mahali popote kama watu wa Kilifi. Kwa hivyo, mimi nawaomba waheshimiwa...

(Hon. Mwamtsi stood on a Point of Order)

Disclaimer: *The electronic version of the Official Hansard Report is for information purposes only. A certified version of this Report can be obtained from the Hansard Editor.*

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

Hon. Mwamtsi: My Point of Order Mr. Speaker is that I feel my rights to contribute have been violated because I had not completed my submissions

Hon. Ziro: Your time is over; your three minutes is over. In fact you have been given five minutes.

The Speaker (Hon. Kahindi): Yes, can you conclude?

Hon. Kadenge: Mimi naona mheshimiwa wa Kibarani na Mwarandu, tumejiunga sote shuleni juzi na ni wanafanzi; nitawasaidia kule ili waweze kuelewa hizi *Standing Orders* vizuri..

(Applause)

Kwa hivyo, la muhimu ni tusaaidiane tupitische hii Hoja ili watu wetu waandikwe vizuri ...

The Speaker (Hon. Kahindi): Yes, hon. Mwamtsi?

Hon. Mwamtsi: Mr. Speaker...

The Speaker (Hon. Kahindi): Yes, yes...

Hon. Kadenge: Na tutakuwa pia tumesaidia watu wa Kilifi...

The Speaker (Hon. Kahindi): Order! Order! Order! Hon. Kadenge. Order!

Hon. Mwamtsi: I would wish the hon. Member for Malindi Town Ward to withdraw and apologise. I went to school before he schooled.

The Speaker (Hon. Kahindi): Okay. Hon. Member let us not go into personal academic qualifications. He wants you to withdraw and I think...

Hon. Kadenge: Mimi nafikiri sikuongea kwa ubaya lakini yule hata ukiangalia kwa umri naweza hata kumfundisha. Kwa hivyo kusema kuwa ni *withdraw*, hayo sitafanya kwa wakati huu lakini naomba Bw. Spika uniruhusu na niombe Wabunge wenzangu wapitische hii Hoja...

The Speaker (Hon. Kahindi): No, no, no!

Hon. Kadenge: Na tutakuwa tumesaidia watu wa Kilifi...

The Speaker (Hon. Kahindi): Order! Order! Do you know that the Standing Orders stipulates that where you raise unnecessary Point of Order you commit a gross misconduct which ultimately can lead you to be thrown out. I am always very lenient but you know when you rise on a Point of Order you should stand up and say "I stand under Standing Order 87 which states that you must substantiate facts". So, I tend to be lenient but some of you are misusing that and now I will close that window. Okay. This is not a *baraza*; I want you to be guided by this book. I am trying to leave it open to see whether Members go through it but clearly it seems like we are deviating from the norm.

Hon. Mwamtsi: Point of Order Mr...

The Speaker (Hon. Kahindi): No! You cannot raise a Point of Order on me. Again I am giving directions. You know if I stand you will have to freeze which I do not want unless you have not read this book.

Hon. Mwamtsi: Mr. Speaker...

The Speaker (Hon. Kahindi): Let me just give direction. I am addressing your issue actually. I am actually on your issue and I am addressing hon. Kadenge. When a Member feels offended by your statement and they demand that you withdraw and in the eyes of the Speaker that statement should be withdrawn and the Speaker directs you to withdraw then you have no choice. Because it is when that you say that Member has been protected by the Speaker but when you still say you will not withdraw, it further goes to mean you are defying the directions of the

Speaker which amounts to gross misconduct; standing order 105. Are we reading this book really?

Hon. Kadenge: Mheshimiwa Spika nime-*withdraw* lakini umenibwaga wewe tuheshimiane.

The Speaker (Hon. Kahindi): Thank you.

(Hon. Mwarandu stood on a Point of Order)

So what is your Point of Order hon. Kombe Mwarandu.

Hon. Mwarandu: I am standing on a Point of Order number 80 that is a personal statement. The hon. Member for Malindi town Ward has said that I have just joined school that is KCA University and at the same time I have written to KCA University to drop out of that school. Mr. Speaker, this is because I have received a letter from the University of Combria that is in the United States to join distance learning in that institution. Thank you very much.

(Laughter)

The Speaker (Hon. Kahindi): Hon. Kadenge can you please complete. Okay. Thank you. Hon. George Baya you have an intervention? Okay.

(Question put and agreed to)

COMMUNICATION FROM THE CHAIR

WHOLE HOUSE MEETING AND SHORT RECESS

I have been informed that on Thursday and Friday, Members are going to be in Mombasa and next week hon. Members we will be proceeding for a short recess on Wednesday. Then they will come back on the 5th of April. However I have personal problems which will make me not to be present on Monday and Wednesday; I have to attend to my family issues. So we will be here on Monday to Wednesday and then on Wednesday we will adjourn for the short recess which will end on the fifth. But I am informed that the Clerk has made arrangement for the two days and your facilitation has been made and arranged. That is the information I wanted to pass.

ADJOURNMENT

In the absence of any other business in the Order Paper, I would move to adjourn the House.

The House rose at 4.16 p.m.