

KERICHO COUNTY ASSEMBLY

THE HANSARD

SPECIAL SITTING

Vide Gazette Notice No.9196

Third Assembly

Third Session

Wednesday 31st July, 2024

(The House met at 4.00 p.m.)

[The Speaker (Hon. (Dr.) Patrick Mutai) in the Chair]

PRAYERS

The Speaker (Hon. (Dr.) Patrick Mutai): Good evening Honourable Members and welcome to our Special Sitting, today being 31st July 2024. Clerk, Order of Business!

COMMUNICATION FROM THE CHAIR

DIRECTIONS REGARDING THE SPECIAL SITTING

The Speaker (Hon. (Dr.) Patrick Mutai): Honourable Members, I have one communication to make in regards to our Special Sitting for today and I will read:

Honourable Members, on 23rd July 2024 via Gazette Notice number 9196, I appointed 31st July 2024, 9.30 a.m. to be a Special Sitting whose agenda is to discuss, one, Report by Select Committee on the Removal of Dr. Wesley Bor as Kericho County Secretary, and two, Report of Ad-hoc Committee on Insecurities within Key Urban Areas in Kericho County. However, there was an ongoing vetting process for Litein Municipal Board that was put up in the Standard Newspaper of 23rd July 2024. The last nominee was to be vetted at 2 p.m. today. Further, honourable members, the committee on Kericho Water and Sanitation Company (KEWASCO) Ad-hoc Committee had also scheduled hearings for their witnesses in the morning hours of 31st July 2024. As a result, therefore, honourable members, of all these activities and upon consultation with the host leadership, the agenda of the Special Sitting were rescheduled to today afternoon.

That is just in-house for you to note that the Special Sitting is scheduled, only that we didn't start on time because of the reasons that I have mentioned.

Clerk, Next Order!

NOTICES OF MOTION

The Speaker (Hon. (Dr.) Patrick Mutai): Honourable members, we have two Notices of Motion. One is the Motion by the Honourable Moses Rotich, Chairman of Select Committee. Proceed to give your Notice of Motion!

Hon. Moses Rotich (Member for Tendeno/Sorget ward): Thank you so much, Mr. Speaker, for giving me this opportunity to give a Notice of Motion; THAT, this House adopts the Report of the Select Committee on the Removal of Dr. Wesley K. Bor as County Secretary and Head of Public Service. Thank you so much, Mr. Speaker.

The Speaker (Hon. Dr. Patrick Mutai): Alright, thank you, The Hon. Moses Rotich. And maybe, to just confirm from the Clerk, Honourable Members, as you have noticed that on my left, there is a table with a green... what is that, is that a flag? A table cloth! Yes, with some two seats. The seats are meant for one Dr. Wesley K. Bor, (Dr.) who is the Kericho County Secretary, and the other one was reserved for his lawyer. But we need confirmation, whether they are here. Clerk, are they here?

(The Clerk-At-the-Table consulted with the Chair)

Alright, so we have been reliably informed that one Dr. Wesley Bor is not here with us this afternoon, and neither is his legal representative. I was just confirming that because that is the Motion before this House and the Notice has been given by Hon. Moses Rotich, who was the Chairman of the Select Committee.

So the other Notice of Motion is by Hon. Philip Mutai, who is a Chairman, Ad-hoc Committee on Insecurity within our County. Give Notice of your Motion, the Hon. Philip Mutai!

REPORT OF THE AD-HOC COMMITTEE ON INSECURITIES IN THE KEY URBAN CENTRES OF KERICHO COUNTY

Hon. Philip Mutai (Member for Kipchimchim Ward): Thank you, Mr. Speaker, Sir, for this opportunity. I just want to give Notice of Motion on the Report of the Ad-hoc Committee on the Insecurities within Key Urban Areas in Kericho County.

The Speaker (Hon. (Dr.) Patrick Mutai): Okay thank you, the Hon. Philip Mutai. So we can proceed. Clerk, Next order!

MOTION

REPORT OF THE SELECT COMMITTEE ON THE REMOVAL FROM OFFICE OF DR. WESLEY K. BOR AS COUNTY SECRETARY AND HEAD OF COUNTY PUBLIC SERVICE

The Speaker (Hon. (Dr.) Patrick Mutai): The Honourable Moses Rotich, now you can table your Motion before the House.

Hon. Moses Rotich (Member for Tendeno/Sorget Ward): Thank you so much Mr. Speaker. I seek your guidance so that I may start from 1.2 on the Terms of Reference of the Select Committee.

The Speaker (Hon. (Dr.) Patrick Mutai): Okay, you can proceed!

Hon. Moses Rotich (Member for Tendeno/Sorget Ward): Thank you! The terms of reference of the Select Committee as stipulated in a motion approved by the County Assembly are:-

1. To investigate whether the county secretary violated the constitution and other laws;
2. To investigate on the allegation of abuse of office by the Kericho county secretary; and
3. To look into the competence of the Kericho County Secretary.

The Select Committee was to investigate on the above allegations and report to this House within 10 days of the passage of the Motion.

Article 185 (3) of the Constitution provides that:

(a) "A County Assembly, while respecting the principle of separation of powers, may exercise oversight over the County Executive Committee and any other County Executive organs."

The oversight role of the County Assembly involves the interrogation of the discharge of functions by the County Executive Committee including the County Secretary who is an *ex officio* Member of the Committee and to ensure that the rule of law is upheld. The County Assembly is constitutionally mandated to enforce accountability within the County Executive in the discharge of its functions.

In carrying out this function, the County Assembly is mandated to conduct investigations and establish facts regarding matters of general public interest. The provisions of Section 40 of the County Governments Act and the powers of the Assembly provided thereon, must therefore be understood, appreciated and interpreted in that context so as to ensure that the intendment of the constitution and the statute.

Section 44 of the County Governments Act, 2012 establishes the office of the County Secretary and bestows the office with the different roles including being the secretary to the County Executive Committee.

Article 260 of the Constitution defines state offices to include members of the executive committee of County Governments where the County Secretary serves as the Secretary. The same provision also defines a public officer as a state officer or an officer who serves in a public office.

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Section 7 of the Leadership and Integrity Act and Section 10 of the Public Officers Ethics Act provides that a State officer shall respect and abide by the Constitution and the law and shall carry out the duties of the office in accordance with the law. The provision further states that the state officer shall not violate the rights and fundamental freedoms of any person unless otherwise expressly provided by law.

Section 8 of the Leadership and Integrity Act provides that a state office is a position of public trust and the authority and responsibility vested in a state officer shall be exercised by the State Officer in the best interest of the people of Kenya.

Section 9 of the Leadership and Integrity Act further provides that the state officer shall take personal responsibility for the reasonably foreseeable consequences of any actions or omissions arising from the discharge of the duties of the office.

The County Secretary while performing his functions ought to comply with Section 10 of the Leadership and Integrity Act and Section 9 of the Public Officers Ethics Act. He shall:

- a) Carry out the duties of the office efficiently and honestly
- b) Carry out the duties in a transparent and accountable manner
- c) Keep accurate records and documents relating to the functions of the office
- d) Report truthfully on all matters of the organization which they represent

Section 11 of the Leadership and Integrity Act and Section 10 of the Public Officers Ethics Act further expects the County Secretary to treat members of the public and other public officers with courtesy and respect and maintain high standards of performance and level of professionalism.

Mr. Speaker Section 19 of the Public Officers Ethics Act 2017 further provides that the public officer shall not knowingly give false or misleading information to members of the public.

Mr. Speaker, procedure for removal from office of a County Secretary.

Procedure for removal of members of executive committee where the County Secretary serves as a secretary to the County Executive Committee is highlighted in Section 40 of the County Governments Act, 2012 which provides that:

“The Governor may remove a member of the County Executive Committee from office on any of the following grounds:

- (a) Incompetence.*
- (b) Abuse of office.*
- (c) Gross misconduct.*

- (d) Failure without reasonable excuse or written authority of the Governor, to attend three consecutive meetings of the County Executive Committee.*
- (e) Physical or mental incapacity.*
- (f) Gross violation of the Constitution or any other law.”*

A member of the County Assembly, supported by at least one third of all the members of the County Assembly, may propose a motion requiring the governor to dismiss a County Executive Committee Member on any of the grounds set above. In this case the County Secretary being part of the County Executive Committee hence the procedure for the removal of the county executive committee member applies to him as well.

Standing Order 76 (1) provides that a member shall give the Notice of Motion and forward the same to the Clerk who will in turn forward to the Speaker for approval.

Honourable Paul Bii submitted the said Notice of Motion to the Clerk on the 4th of July 2024 and the Clerk forwarded the same to the Speaker for approval and onward forwarding to the House Business Committee for scheduling. The above Notice Mr. Speaker is annexed as 1a, a copy of the memo and 1b a Notice of Motion in this Report.

The Speaker before approving the said motion ought to confirm that it is supported by at least a third of the Members of the County Assembly as is highlighted in Section 40 (2) of the County Government Act and in this case the Notice of Motion was supported by Twenty Eight (28) Members. This met the threshold as it exceeded the required support of Sixteen (16) members. The above too Mr. Speaker is annexed.

The Motion was debated upon on 9th July 2024 in the morning Session and the same was supported by all the members present. Again Mr. Speaker, it is annexed in this Report.

The law continues to provide that if the said motion is supported by at least one third of the members of the county assembly;

- (a) The county assembly shall appoint a select committee comprising of five of its members to investigate the matter;*

On 9th July 2024 afternoon session, the County Assembly constituted a Five-member Select Committee. The above is annexed Mr. Speaker.

The County Governments Act provides that the Select Committee shall report, within ten (10) days, to the County Assembly whether it finds the allegations against the County Executive Member to be substantiated.

Article 47 on fair administrative action and Article 50 (1) read together with Standing Order 77 gives the County Secretary the right to appear and be represented before the Select Committee during its investigations.

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The County Secretary via letters dated 10th and 17th July 2024 was invited to appear before the Select Committee on 23rd July 2024. The copy of the letter Mr. Speaker is annexed as number five.

However on 22nd July 2024 the Office of the Clerk received a letter from the County Secretary declining to attend the scheduled hearing on the ground that he had given a notice of resignation to H.E the Governor. The above also Mr. Speaker is annexed as number six.

If the select committee reports that it finds the allegations;

- (a) Unsubstantiated, no further proceedings shall be taken, or
- (b) Substantiated, the County Assembly shall vote whether to approve the resolution requiring the County Executive Committee to be dismissed.

If the resolution is supported by a majority of the members of the County Assembly;

- (b) The Speaker of the County Assembly shall promptly deliver the resolution to the Governor; and
- (c) The Governor shall dismiss the County Executive Committee member.

Mr. Speaker, on number 3.0 of the Committee proceedings, the Select Committee was to conduct its hearings on 13th and 15th July 2024. However, on 12th July 2024, the Office of the Speaker received a letter from His Excellency the Governor dated 12th July 2024 informing the Speaker of the receipt of Notice of resignation from the County Secretary. The above too is annexed as 7 (a) Mr. Speaker.

As a result of the communication from H.E. the Governor, the Committee suspended its proceedings to await for further direction. On 16th July 2024, the Speaker made a communication to House that the select committee proceeds with its investigations and report back its findings within 10 days. The Communication is annexed as number eight.

The committee resumed its proceedings by conducting hearings on 22nd and 23rd July 2024. The Committee was guided by the rules and procedures as stipulated in Article 195, Article 47 and Article 50 of the Constitution of Kenya, the Kericho County Standing Orders 76 , 77 and Section 40 (3) of the County Governments Act, 2012.

Mr. Speaker there is Summary of Witness Statements and I want to seek permission to skip part four on summary of witnesses where we invited Hon. Paul Bii as witness number one. We also invited the Department of Information, Communication and Technology where Mr. Moses Kibet Yegon appeared, the Department of Health Services where Dr. Betty Langat, Dr. Bramwel Simiyu Wekesa, Robert Cheruiyot Sang, Dr. Samwel Langat, Dr. Calvin Miranga Mosesti, Dr. Harry Mugun, Dr. David Ekuwam and Dr. Joyce Bii appeared. We interrogated all the witnesses Mr. Speaker under oath.

Mr. Speaker, allow me to start reading from part (c) on the Public Service Management because the charges that were preferred against the County Secretary emanated from major transfers in the Department.

Mr. Speaker, in part 10 of the Report, the Chief Officer in charge of Public Service Management appeared before the committee accompanied by the County Human Resource Director Mr. Peter Bii and the Payroll Manager Mr. Duncan Mutai.

The Chief Officer informed the committee that his department is in charge of all issues pertaining employees at the county and that the County Human Resource Management Advisory Committee (CHRMAC) is under PSM department.

The Committee further asked the Chief Officer to shed light on what the CHRMAC does, he responded that they advise on human resource matters and their role is delegated from the County Public Service Board. He further stated that the membership of the CHRMAC comprises of the County Secretary as the chairperson and all the Chief Officers of all the departments as members. The secretariat to the CHRMAC comprises of the Director Human Resource, Payroll Manager and Chief Human Resource Officer.

The Chief Officer further informed the Committee that additional roles of the CHRMAC include performance management, promotions, training and development, management of skills inventory, payroll management, deployment, discipline, pension administration and recommendation for secondments and unpaid leave.

On the CHRMAC meetings, he stated that the Chairperson together with the secretariat liaise on the agenda and do a formal communication to schedule meetings. However, whenever a disciplinary case is reported, the Chief Officer PSM appoints a team to carry out investigations and report to CHRMAC for action.

The Committee also asked the Chief Officer on how the department handles deployment process and he responded that any intended deployment between departments should be discussed as an agenda in the CHRMAC before the same is effected. Mr. Speaker, I wish to read that for the second time. The Committee also asked the Chief Officer on how the department handles deployment process and he responded that any intended deployment between departments should be discussed as an agenda in the CHRMAC

Within the department, the respective Chief Officers are mandated by law to effect any deployment. On the question whether this has been the case, the Chief Officer responded that the County Secretary has been effecting the transfers without involving the CHRMAC, which is illegal.

The Committee asked the Chief Officer when the CHRMAC held its last meeting and he responded that the said meeting was held in March 2024 and that all deployments that were effected in the year 2023 and 2024 were not sanctioned by the CHRMAC.

In his closing remarks, he said that as a way of streamlining performance of staff; performance appraisal, induction, training and capacity building should be done regularly to motivate employees to work optimally and that transfers should be progressive because whenever an employee has been transferred and has undergone various trainings commensurate to that currently held unwarranted transfers that denotes demotion will not only demoralize the employee but also affect service delivery.

One of casualties of the irregular transfers was Andrew Lasoi, Daudi Kipngeno Kitur and Eng. David Mitei in the Department of Water. Another department that was affected by these unsanctioned transfers was Finance where one Fernandez Korir was affected. There was also Wilbert Cheruiyot. Hellen Chepkirui Telle was also affected by the transfers. There is also Jackline Leitich and Mr. Speaker, for her case, on the 26th July, 2024 Jackline appeared before the committee virtually to give her testimony. She informed the committee that she worked for Kericho County as the Deputy Director, Human Resource until 4th January, 2023 when she was redeployed by the County Secretary to Soin/Sigowet Sub - County to serve as the Sub - County Administrator.

According to Jackline, the position she held as the Deputy Director Human Resource, by nature of her work and training should be domiciled at the headquarters and that her position is tenable at the County Headquarters and not in a Sub - County.

She further informed the committee that the redeployment ought to have come from the Chief Officer Public Service Management and that the County secretary acted *ultra vires*.

Ms Jackeline informed the committee that during the recruitment under the tenure of Dr. Wesley Bor, the Office of the Human Resource was not involved and as such the process was impaired since the secretariat from the Department of Public Service Management were left out in the recruitment process and neither was their input sought.

She further informed the committee that the human resource officers from PSM did not verify documents during the recruitment of the County Secretary since the files meant for perusal and verification were taken away from her office.

According to Jackeline, the select committee intervention is long overdue and should finalize its investigations so that justice is served to those affected by the County Secretary's actions and the committee's determination will set precedence. As an HR expert, she clarified that a Notice of Resignation can be rescinded before the lapse of the 30 day notice period.

On the question of whether during her time in office they had CHRMAC meetings as the secretary to that committee and her response was that they never held any meeting. She further informed the committee that re-designation does not start from the Office of the County Secretary but it should be initiated by the employee and it is not automatic.

When asked as to whether due process was followed on her re-designation, she responded that due process was not followed because she did not make a request for re-designation and the same was not sanctioned by the CHRMAC and the County Public Service Board would have handled her transfer and that of any other person above job group Q and therefore the County Secretary abused his office in effecting her transfer and re-designation.

Mr. Speaker, I wish to skip the part of Cynthia Koech.

The Speaker (Hon. (Dr.) Patrick Mutai): Is it part of your Report?

Hon. Moses Rotich (Member for Tendeno/Sorget Ward): Yes, it is part of the Report Mr. Speaker. So can I proceed?

Speaker (Hon. (Dr.) Patrick Mutai): Of course. It is part of the Report.

Hon. Moses Rotich (Member for Tendeno/Sorget Ward): Thank you Mr. Speaker for your guidance. Mr. Speaker, Ms Cynthia appearing before the select committee stated that she was working as a personal secretary in the office of the Governor before she was summarily dismissed. Initially, she was employed on contract at Kericho County Referral Hospital in procurement department before serving in the Office of the Deputy Governor as a Messenger. Interesting events Mr. Speaker! While serving, she was summoned to appear before the County Public Service Board on allegations of presenting forged documents an allegation she denied and the County Secretary further forced her to hand in resignation letter which she refused.

She further stated that in March 2023, the County Secretary frustrated her on grounds of falsified documents and pushed her to resign from her position with a promise of being given another appointment in the procurement department. She informed the Committee that the County Secretary accused her of exposing confidential documents at the office the Governor. She also said that the County Secretary persistently extorted money from her in the pretence that he was going to send it to Ethic and Anti-Corruption Commission (EACC) so as not to investigate her credentials and ended up paying Kshs. 20,000.

Ms Cynthia also told the committee that the County Secretary asked for sexual favours from her which she vehemently refused and told him that she was married.

Number 5.0 Mr. Speaker, investigation of the allegations as highlighted in the Motion for Removal from Office of Dr. Wesley Bor as Kericho County Secretary.

One Mr. Speaker was gross violation of the Constitution, County Governments Act, Leadership, and Integrity Act, the County Assemblies' Powers and Privileges Act;

Serious reasons for believing the County Secretary has committed crimes under the Penal Code, Cap 263.

The mover of the Motion alleged that Dr Wesley Bor, the County Secretary of Kericho County is currently under investigation by the Director of Public Prosecutions and the Director of Criminal Investigation and is likely to face arrest, charge, prosecution and institution of criminal proceedings in relation to giving fabricated and false information to the Ad-hoc committee on the Londiani Incident. This discloses grounds that are serious reasons for believing that the County Secretary has committed crime under the national laws including but not limited to offences relating to:

One, False swearing contrary to Section 114 of the Penal Code by presenting forged minutes declaring it as a truthful document;

Two, fabricating evidence contrary to Section 113 (a) and (b) of the Penal Code by adducing fabricated evidence claiming to have been signed by Rosemary Rop, Judith Chirchir, Edina Tonui and Daniel Rop. The said evidence was submitted to the County Assembly Ad-hoc committee on the Londiani incident.

Three Mr. Speaker, giving false information to the Londiani Incident County Assembly's Ad- hoc committee contrary to Section 19 as read together with Section 10 of the Public Officers Ethics Act.

The mover of the Motion in his submission regarding the said allegations stated the following:

- a) On 4th August 2023 when Dr. Wesley Bor appeared before the Ad-hoc Committee investigating the Londiani Victims Fund raising held on 4th July 2023.
- b) The County Secretary was examined on oath regarding the Londiani Accident fundraising
- c) The County Secretary submitted to the committee minutes of Londiani Disaster Committee meeting held on 18th July 2023 at the Governor's Boardroom which was signed and approved by him. The above Mr. Speaker is annexed as 10 (a).
- d) The said minutes indicated to have been attended by:-
 - i. Dr. Wesley K. Bor
 - ii. Hon. Joseph Chererot
 - iii. Hon. Leonard Ngetich
 - iv. Hon. Bill Brenda Bii
 - v. Hon. Rosemary Rop
 - vi. Hon. Edina Tonui
 - vii. Hon. Chirchir Judith

- viii. Hon. Daniel Rop
 - ix. CO Betsy Chebet
 - x. Mr. Wekesa Simiyu
 - xi. CO, Mr Alphonse Rotich-Taking Minutes
- e) From the Londiani Accident Ad-hoc Report the following witnesses appeared before the committee and denied to have attended the meeting:
- i. Rosemary Rop
 - ii. Judith Chirchir
 - iii. Edina Tonui
 - iv. Daniel Rop
- f) The said witnesses who denied appearing in the meeting submitted affidavits verifying not to have been present in the meeting of 18th July 2023 annexed as 9 (a), (b), (c) and (d) as copies of sworn affidavits.
- g) Further Mr. Alphonse Kipkirui Rotich also submitted an Affidavit indicating that Rosemary Rop, Chirchir Judith, Edina Tonui and Daniel Rop had not attended the meeting held on 18th July 2023.
- h) The County Secretary also submitted to Londiani Accident Ad-hoc Committee minutes dated 20th July 2023 on distribution of Cheques for the Londiani Accident Victims;
- i) Mr. Speaker, Mr. Alphonse Rotich's affidavit denied having any meeting dated 20th July 2023.
- j) Chanzu Victor & Co. Advocates had intention of instituting private prosecution against Dr. Wesley Bor on the said allegations. The said law firm confirmed via letter dated 12th July that the EACC and ODPP confirmed to be engaged in active investigation over the said matter. This has been annexed as 11 (a).

The Committee had further done letters to EACC, DCIO and ODPP seeking clarification and status of the said matter and as of the date of submission of this report it had not received any response. The allegations being criminal in nature and as confirmed by Chanzu Victor and Co. Advocates, the allegations are still pending before the investigatory bodies. However, from perusal of the affidavits submitted by the mover of the Motion it is clear that the said allegations have been substantiated.

Two Mr. Speaker on employment issues;

Several witnesses who appeared before the Committee on 22nd July, 2024 and 23rd July, 2024 justified their issues to the committee on employment procedures and process followed by the County Government of Kericho. Further they stated that the department of Human Resources is responsible for recruitment, selection, appointment and transfers.

Mr. Speaker, from what was stated by the witnesses the following was observed by the Committee;

1. That the County Secretary acted beyond his powers by redeploying some of the employees
2. Appointing employees on his own capacity without following the due process of appointment
3. Instructing Chief of Staff to issue termination letters which is against the law.

It is trite law that he who alleges must prove. Section 107 (2) of the Evidence Act provides that when a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person. The burden to proof on employment therefore lied on the witnesses before the committee to prove the same which they did by producing their appointment letters which are herein attached to the report.

Ms Hellen Tele who appeared before the Committee stated that she was appointed on 20th September, 2022 as an Assistant Director of Education by the Public Service Board and later redeployed to the Office of the Deputy Governor as an Administrator effective from 1st August, 2023 by Dr. Wesley Bor through C.O Education Mr. Richard Tonui. In this case therefore, the County Secretary acted beyond his powers by deploying Hellen without the recommendations or consultation of the CHRMAC which was contrary to Section 69(2) (d) of the County Government Act, 2012 and Section A.15 (X) of the Human Resource Policies and Procedures Manual for the Public Service, May 2016.

The above witness further mentioned that one Grace Sinei who had attended the interview together, was later appointed by the County Secretary to the office of the Deputy Governor. That the lady was not qualified as she had not been served with an appointment letter contrary to Section B.7 (1) of the Human Resource Policies and Procedure Manual for the Public Service, 2016.

Mr. Speaker, in another scenario, the County Secretary deployed some employees from one department to another. An instance case is that of one witness, Mr. Wilbert Cheruiyot, CPA who was deployed from the Lands department to Finance department without any form of a written notice to that effect. The Chief Officer informed him verbally that the orders for his deployment was from the County Secretary and when he asked of how the decision made, he was not accorded any hearing for his transfer as he had requested an explanation on the same.

Article 47 (2) of the Constitution of Kenya stipulates that if a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative person, the person is to be given a written reason for the action. Therefore, the County Secretary in this case did not act as per the said Article by not giving clear or any reason to the said witness on his transfer. Furthermore, the decision to deploy him was not in accordance with Section A.15 (X) of the Human Resource Policies and Procedures Manual for the Public Service, 2016.

Dr. Betty Langat one of the witnesses before the committee stated that she was deployed to head dental services at Kericho County Referral Hospital whereas she was a County Director of Medical services before the said deployment was effected through a letter dated 19th February, 2024. The letter was signed by Dr. Wesley Bor through Chief Officer Health Services. The process and procedure by the County Secretary was contrary to Section 72(1) of the County Government Act, 2012. The County Secretary acted without following the due process of Section A. 15 (X) of Human Resource Policies and Procedures Manual, 2016. Furthermore, the CHRMAC Minutes did not indicate any disciplinary case against Dr. Betty Langat.

In a similar case, Dr. Joyce Bii an Assistant Director of Pharmaceutical services was redeployed to act as Deputy Director of Clinical Services vide a letter dated 19th February, 2024. The letter by Dr. Wesley Bor through the Chief Officer Health Services which did not follow the due process contrary to Section 72 (1) of the County Government Act, 2012.

Mr. Speaker, Fernandez Korir who also appeared before the committee stated that he was deployed by the County Secretary to the Department of Health Services while there was no vacancy at that department. The action taken by Dr. Wesley Bor was contrary to Section B.21 (3) (Vii) of the Human Resource Policies and Procedure Manual, 2016.

On the count of incompetence Mr. Speaker, when one is cited to be incompetent it means he/she is unable to perform his duties or responsibilities within the jurisdiction as required showing that the person lacks the skills to perform.

Mr. Speaker, Section 44(3) of the County Governments Act, 2012 outlines the functions of the County Secretary where the person holding that office is;-

1. The Head of County Public Service;
2. Responsible of arranging the business, and keeping the minutes of the County Executive committee subject to the directions of the executive committee;
3. Required to convey the decisions of the county executive committee to the appropriate persons or authorities; and
4. To perform any other functions as directed by the County Executive Committee.

Some of the instances where the County Secretary can be said to have acted incompetently is as follows:

- a. Where he provided false information
- b. Deploying and redeploying employees within the departments

- c. Appointing employees without deliberating with respective members of the board or CHRMAC
- d. Acting within his personal interests without regarding those of the public.

Despite being the Head of the Public Service and chairperson of the CHRMAC, the County Secretary acted *ultra vires* by making his own decisions without the involvement of other members of the CHRMAC and CPSB. The County Secretary by failing to meet duties required of that position can be judged as an incompetent person to hold office.

The County Secretary acted without the directions of the County Executive Committee instead he could make decisions and communicate the same without the knowledge of the said committee. He further failed to hold meetings with the members of the County Public Service Board or the CHRMAC on deliberations of appointment, deployments, redeployments and re-designations which signifies that he could not perform his duties diligently as required by the law.

The deployment and redeployment of the employees by the County Secretary within the department showed his inability to discharge his duties as required by the law. The County Secretary acted beyond his powers by delegating himself the Chief Officer's duty which therefore contravenes Section 72(2) of the County Government Act, 2012. He went ahead to revoke the deployment and redeployment letters that had been served upon the medical officers attached to the Health department after recognizing and realizing that he had overstepped his mandate.

One of the witness who appeared before the committee, one Wilbert Cheruiyot stated that he was deployed for disobeying the orders given to him by the County Secretary where he was required to make some transactions for payment but instead he declined. The reason for his refusal to obey the orders from the County Secretary to validate payment was because the company that had been contracted had not completed the works since no certificate of completion had been submitted by the company. The County Secretary in this matter therefore asserted his powers contrary to Section 48 of the Public Procurement and Asset Disposal Act, 2015 as well as putting his personal interests before that of the public contrary to Section 35 of the Leadership and Integrity Act, 2012.

The County Secretary did falsify minutes of a meeting that was held on 18th July, 2023 regarding the Londiani disaster that occurred on 30th June, 2023 by including members who were not present in the meeting. The County Secretary in doing so, contravened Section 129 of the Penal Code and Cap 63 Laws of Kenya whereby it is a criminal offence to provide false information.

Mr. Speaker, 6.0, the turning point of events is the implication of resignation of Dr. Wesley Bor as the County Secretary.

The courts in our land and other jurisdictions have dealt with the matter concerning Notice of resignation and letter of resignation as well as when a resignation can be rescinded by an employee. A Notice of resignation is basically a notice of termination of employment given by an employee to an employer it is a unilateral act. In this matter Mr. Speaker, Dr. Wesley Bor did serve H.E the Governor with a Notice of resignation on 8th of July 2024 who later accepted by

writing a note on 11th July 2024 on the said Notice of resignation. H.E the Governor further wrote a formal communication on the same to the Speaker on 12th July 2024. It is important to note that the notice of resignation by Dr Wesley K. Bor was copied to the Clerk of the County Assembly. Despite having served the said Notice of resignation, Dr. Wesley Bor is bound to be in office till the expiry of the notice which is thirty days when his exit from office will be effective. Mr. Speaker, I wish to read the second part again. Despite having served the said Notice of resignation, Dr. Wesley Bor is bound to be in office till the expiry of the notice which is thirty days when his exit from office will be effective.

Under Section 35 of the Employment Act, 2007 the duration of the notice to terminate is directly proportionate to the duration one has to work in order to earn a wage. In this instance therefore, the notice can be by any stretch of imagination be said to have been notice in compliance with the provisions of Section 35 of the Employment Act, 2007 as read together with Section 44 (4) of the County Governments Act, 2012.

Acceptance of resignation by the employer does not bar the employee from revoking his decision. Mr. Speaker, acceptance of resignation as for this case by the employer who is H.E the Governor does not bar the employee who is Dr. Wesley K. Bor from revoking his decision before the end of the period where it can be shown that the decision was made on the spur of the moment, and special circumstances exist. Therefore, the courts have given their decisions on these instances and made findings in line with the employment and labour laws.

In the case of Edwin Beiti Kipchumba versus National Bank of Kenya Limited (2018) eKLR the Court held that;

Withdrawal of the notice of resignation should be communicated to the employer as soon as possible. Where an employee makes the decision on the heat of the moment, and the situation is still retrievable, it has been held that it would be unreasonable for an employee not to be allowed to recall his decision to resign.

The rationale is that where an employee is under undue influence and duress to resign from his employment, upon the realization of the undue influence and duress, such must be addressed instantly and a revocation done.

An employee has the right to unilaterally withdraw his resignation once given as decided in the High Court of Kenya in the case of William Kariuki v Kenya Civil Aviation (2008) eKLR where it was held that, *to the effect that acceptance of resignation brings to an end the contract of employment, it does not deal with it on the spur of the moment resignation was made within the context of special circumstances.*

It was further stated that if the employee has resigned with clear intention to do so, he is bound by his decision more so where the employer has accepted resignation. In addition, that the employee can only be accepted back in employment, if his employer consents to the employee's decision to withdraw resignation. Clear and unequivocal resignation, which has been accepted by the employer deprives the employee of *locus poenitentiae* (right to

withdraw an offer of resignation after it has been accepted)

In the case of *Steve Mutua Munga v Homegrown Kenya Limited & 2 others* (2013) eKLR, the Court adopted the definition of the term coercion as given in Black's Law Dictionary 8th Edition, to comprise compulsion by physical force or threat of physical force. Further it stated that elements of coercion also include where a person acts out of fear or actual or threatened confinement.

Case laws from different comparative jurisdictions however, is that an employee may withdraw a notice of resignation, where special circumstances exist, relating to the context in which resignation occurred. The Irish Employment Tribunal in UD 946/2007, *McManus v Brian McCarthy Contractors* accepted that a letter withdrawing a Notice of resignation made by the employee was binding on the employer having taken stock of the context in which resignation was offered.

In the UK case *Kwik-Fit (GB) Limited v Lineham* (1992) IRLR 156 it was held that if an employee resigns on the heat of the moment, and special circumstances exist, the employer should investigate the matter and ascertain the employee's true intentions. Special circumstances, it was held, may include pressure on the employee or the employee's personality. In this case, the employee resigned on the heat of the moment after considerable humiliation by his Manager.

The question now is, did Dr. Wesley Bor voluntarily resign or was he coerced to resign and can he rescind his resignation before the lapse of the notice he served?

The disputes on resignation are highly fact-driven and the best approach in resolving such disputes is to examine each case on its own facts. The test is whether a reasonable person would understand the employee's statements and actions, surrounding resignation, to show the employee to have made a decision to clearly and unequivocally end the employment relationship.

The best practice from a succession commonwealth judicial pronouncements, is that the employer should allow a cooling-off period, to ascertain the circumstances of resignation.

In conclusion therefore, the fate of rescinding the notice of resignation by Dr. Wesley Bor cannot be ascertained in regard to the fact of his resignation although the period of the notice has not expired for him to do so. This therefore means that Dr. Wesley K Bor can still rescind his notice of resignation any day before the lapse of the period of the notice of resignation.

Mr. Speaker in the case of *Mtati v. KPMG (Pty) Ltd (2017) BLL 315 (LC)*, the court distinguished the consequence of immediate resignation, and resignation by notice, on pending disciplinary process. It stated that where the employee has given notice, and is serving notice period, it was held that the employer retains jurisdiction to discipline the employee until notice takes effect.

The court held in *Ronnie Peter Loittering v Stellenbosch Municipality: C159/2010* that if notice is given and not waived, the contract terminates on the expiry of the notice. If the employer waives any part of notice, the contract terminates when the employee leaves work (i.e. at the commencement of the waived period).

Also, in the case of *Honono v Willowvale Bantu School Board & Another 1961 (4) SA 408 (A) at 414H – 415A* the court held that the contract terminates when the full period of notice expires. In other words, if a month's notice is required on or before the first day of the month, notice given on the second day of the month will mean that the contract ends at the end of next month.

In the case of *SALSTAFF obo Bezuidenhout v Metrorail [2001] 9 BALR 926 (AMSA) at para [6]*, the court opined that subject to the waiver of the notice period and the possible summary termination of the contract by the employer during the period of notice, the contract does not terminate on the date the notice is given but when the notice period expires.

As highlighted in the above case laws, the Select Committee is therefore properly placed to proceed and conclude its investigations and report to the House within the stipulated timeline as captured in Section 40 (3) (b) of the County Governments Act 2012.

Mr. Speaker, the Committee made the following observations:-

On Violation of the Constitution and other laws;

- i. That through scrutiny of affidavits of Rosemary Rop, Alphonse Rotich, Judith Chepkorir Edinah Tonui and Daniel Rop the County Secretary indeed falsified and fabricated minutes dated 18th and 20th July 2023.
- ii. That Chanzu Victor and Company Advocates through their letter to the Clerk dated 12th July 2024 confirmed that EACC, DCI and ODPP are actively investigating whether the County Secretary falsely swore contrary to Section 114 as read together with section 36 of the Penal Code, fabricated evidence contrary to Section 113 (a) (b) and section 36 as read together with section 349 of the Penal Code and gave false information to the members of the public and public officer contrary to Section 19 as read together with section 10 of the Public Officers Ethics Act.

On Abuse of Office Mr. Speaker, the Committee made the following observations:

- That the County Secretary indeed acted *ultra vires* and usurped himself powers by transferring staff within departments mostly department of health services without any justifiable reasons thereby causing frustrations and demoralized competent staff of the County Government of Kericho;
- Mr. Speaker some of the transfers according to the witness testimonies were as a result of them not agreeing to demands by the County Secretary;
- Mr. Speaker, that during his tenure as the County Secretary, most of the County staff were frustrated and demoralized by his commissions or omissions;
- That the County Secretary influenced dismissal of some staff of the County despite not being his supervision causing agony on a section of the County Government officers.

Mr. Speaker on the count of Incompetence, the Committee observed that:

- That all the transfers effected by the County Secretary were not sanctioned by the CHRMAC and CPSB resolutions;
- Mr. Speaker, that the County Secretary did not demonstrate management and leadership skills and that a scrutiny of his personnel file revealed that Senior Management Course (SMC) and Senior Leadership Development Program (SLDP) certificates are not attached putting to question his management and leadership capabilities.

Mr. Speaker other observations by the committee are:

- That the County Secretary has tendered a notice of resignation thereby making his intentions known to the appointing authority and not a resignation letter. The notice was accepted by H.E the Governor;
- That the appointing authority's acceptance of his intention to resign is inconsequential and is not binding until 7th of August 2024 , the expiry of the notice period;
- That the actions of the County Secretary were not checked by the appointing authority thus emboldened him to act further;
- That the evidence from some witnesses who appeared before the committee could not be substantiated whereas others were substantiated.

Mr. Speaker, 8.0, Recommendations of the Select Committee are:

- i. That the County Secretary violated the Constitution and other laws therefore he should face the full force of the law;
- ii. That the County Government employees who were frustrated by the County Secretary be taken through psychological examination and counselling sessions to recover from the injustices and trauma meted upon them;

- iii. That the affected employees be served justice through re-examination by the CHRMAC and CPSB in consultation with the respective Chief Officers within a period of 30 days and that training be conducted for effective service delivery;
- iv. That office holders must at all times follow the law in the discharge of their mandate and adhere to the rules and regulations of the public service;
- v. That the CPSB, CHRMAC and the Human Resource Office ensures that all the academic and professional certificates are verified before engaging and promoting County employees;
- vi. That all the public officers, state officers including the appointing authority take personal and political responsibility of their acts;
- vii. That all the public officers at all times adhere to the provisions of Article 10 and Article 232 of the Constitution;
- viii. That the select Committee finds the allegations as highlighted in the motion passed by the County Assembly on 9th July 2024 regarding the removal from office of Dr. Wesley K. Bor as Kericho County Secretary are substantiated.

Mr. Speaker, Sir, the committee acknowledges the Offices of the Speaker and the Clerk of the County Assembly for the support extended to it during the entire period of investigation, cross examination of witnesses and development of the select committee report.

I wish to express my sincere gratitude to the members and secretariat of the select committee for their commitment and tireless effort in ensuring that the committee effectively discharged its mandate.

Mr. Speaker, Sir, the select committee acknowledges the contributions and statements made by the various witnesses more so from the medical officers, senior staff of the department of Health Services and other departments of the County Executive and the Member of County Assembly from Kapsaos Ward.

The Committee sincerely express gratitude to the House for having entrusted us with this important mandate of coming up with a report upon investigation on the Motion of removal from office of Dr. Wesley Bor, County Secretary.

Mr. Speaker, Sir, I wish to confirm that the recommendations of the Committee in this report were carefully considered.

It is my honour and pleasure to present to this House on behalf of the Select Committee, the report of the investigations of removal from office of Dr. Wesley Bor, County Secretary as stated by the mover of the motion which was approved on 9th July 2024 by this House.

Mr. Speaker, there is a list of members, myself Hon. Moses Rotich as the Chair, Hon. Edna Tonui was the Vice Chairperson, Hon. Kiprotich Rogony, The Honourable Ranking Member, Cheruiyot Bett representing the great people of Ainamoi, Hon. Rogony represents Sigowet

Hon. Edna Tonui is a nominated MCA from Waldai Ward, and the Hon. Whip Emeritus, Hon. Gilbert Ngetich, representing Kisiara Ward. We have annexure, of the Motion, the number of persons on annexure two, who signed. The annexure four, on the Motion, invitation to appear before the select committee, we indeed invited Dr. Wesley Bor to appear before the Select Committee for fair administration of justice and he found it fit that, according to him, he didn't wish to appear before this Select Committee. That is on annexure five. On annexure five B, is another letter- you realise that we had challenges initially-so we had two letters inviting him. Then an invitation to appear, that is on annexure six, acknowledging the receipt of the letter that is dated 10th and 17th July 2024. However this is a letter replied to the Clerk of the County Assembly that reads:

'However, I regret to inform you that I will not be in a position to appear before the committee, following my resignation as the County Secretary and Head of County Public Service through a Notice.'

So he indeed gave a Notice of resignation which has been annexed too. There is also annexure number eight that is, your communication on the same. The affidavits from the witnesses are annexed as 9A, 9B, 9C and 9D. These are a copy of the minutes, annexed 10B. The reply from Chanzu and Victor & Company Advocates, have been annexed 11A, 11B, still from the Office of the Director of Public Prosecutions. Also, a copy of the letter annexed as 12A to EACC, and also annexed 12B is to Director of Public Prosecution.

I wish to give this chance to Hon. Kiprotich Rogony to second this Motion. Thank you, Mr. Speaker.

The Speaker (Hon. Dr. Patrick Mutai): Alright, Honourable Kiprotich Rogony!

Hon. Kiprotich Rogony (Member for Sigowet Ward): Thank you, Mr. Speaker. I rise to support the Motion tabled by the Honourable Moses Rotich who was the Chair of the Select Committee on the removal of the County Secretary. I want to believe the mover summed it all. This County Secretary violated all the laws and the constitution and abused his office. He did all manner of transfers without regard to the County Governments Act Section 72 (1) and (II) where some of these staff were supposed to be moved by the Chief Officers. But you know he used up all the powers that were not his to do all the transfers. I sat with the committee and some of the witnesses who appeared before this committee wept because of the pressure and the harassment that this County Secretary meted on them. In simple terms, the County Secretary Dr. Wesley Bor abused office.

This is an individual who did not exercise responsibility as the Head of Public Service and it is unfortunate that one of the witnesses who appeared before us via video link wept saying it took us long for us to act as a County Assembly to protect their interest. I only want to bring to the attention of this house two things: One, we noted there are some staff who were transferred by Dr. Bor and they have never been released to the various departments. They

were not accepted. Case in point is, Engineer Lasoi who was moved from PSM to Water but the chief officer in charge of Water did not sign or receive his letter to release the employee to the Department of Water.

I am in agreement with the committee recommendation that within 30 days the County Public Service Board and the County Human Resource Management Advisory Committee, that is, the CHRMAC and the respective Chief Officer should relook at most of these officers who were transferred. Some of them ought to be retained where they were. We have one Engineer Mitei who does not even know where he is now because he was moved from Water to Administration and the process was flawed which means Engineer Mitei is not an employee at the Department of Water neither is he in the Department of Public Service Management.

Mr. Speaker, Dr. Bor upon submission of the Motion by the member before this House, he hastily resigned. It's unfortunate because he was supposed to account for all the things that he did which were wrong, he opted to leave service and as a House we felt we had to hold him account notice of resignation means within the 30 day period we could still follow this individual for him to account to all the deeds that he did.

Mr. Speaker, lastly Dr. Bor late last night hastily ran to court to try and stop this House from deliberating on this matter. I know one of the things that he is trying to raise is we did not give him time, but during your communication you can look at the chairs before this house, he had been invited according to the law that he ought to have come here and explain himself before this house before we take the final vote whether to have him out or retain him as a County Secretary. Unfortunately, in one of the instances he wrote to the committee that he was not going to appear before this committee. Again, we went further as a committee and even gave him the final copy of this document via E-mail which he never replied. We acted by following the law but unfortunately this individual opted to try and usurp powers that is not his trying even to curtail this House.

Lastly Mr. Speaker, there is a court case in the Employment and Labour Relations Court of Kenya at Kericho, case number ELRCPET 006 /2023; citation Betsy Chebet and Wesley Bor and four others versus Kericho Public Service Board and the County Assembly of Kericho and three others. Mr. Speaker Lady Justice Wasilwa in her ruling number 89 stated that the orders in my view is not in any way also to bar the respondents in proceeding to initiate proper respondents you know that was this County Assembly. It gave us an opportunity to initiate a process again and ensure this individual is removed.

As I end, I want to also draw to your attention the submission of the Report by the Select Committee. This is a communication Mr. Speaker and let me read it to you:

I refer to the above matter and our E-mail of 28 July 2024 please find the attached hard copy of the report of the Select Committee submitted pursuant to Section 43(b) of the County Governments Act of 2012, for your perusal. This is in compliance with Kericho County

Assembly Standing Order number 77 on fair hearing. Please note that the Special Sitting to deliberate on this matter will be on Wednesday 31st July at 9 a.m. pursuant to the County Assembly Standing Order number 76 (9) and read together with the Kericho County Assembly Standing Order number 77(1) (2b), you should be given an opportunity to be heard before the County Assembly.

This Mr. Speaker is what we did as the committee but it is unfortunate Dr. Bor never appeared and as I second this Motion, I want to urge this House that when the time comes to vote, let us vote to impeach this individual. Thank you Mr. Speaker!

The Speaker (Hon. (Dr.) Patrick Mutai): Thank you Hon. Rogony for seconding the Motion. Hon. Members, I now propose the question.

(Question proposed)

So the floor is open for contribution. The Hon. Cheruiyot Bett!

Hon. Cheruiyot Bett (Member for Ainamoi Ward): Thank you Mr. Speaker for giving me this opportunity and of course by extension the great people of Ainamoi. I stand here solemnly behind my chairperson the Honourable Moses Rotich. I am one of the members of the Five-Bench Select Committee who were selected to hear the allegations that were put forward by the Honourable Paul Bii representing the great people of Kapsaos, to determine whether the allegation holds any water.

Today maybe to remind ourselves, I swore in this County Assembly that I will protect, defend and uphold the Constitution of Kenya and any other relevant laws. An individual that we are talking about today is an individual who defied all the available laws of this land. In fact the word 'defied' does not even befit this gentleman. He defiled the Constitution by usurping powers that he doesn't have. You can imagine someone forging minutes! I want to thank the Honourable Member for Kapsaos Ward and I want to tell the people of Kapsaos that I think for the first time, they now have a representative that speaks to the issues that affect his people and those of this County.

I sat through the hearing of all those witnesses. I think this Motion was even supposed to have been brought maybe earliest in 2022 immediately this administration took over. If you heard the witnesses that came before this Honourable Committee, sometimes you even wonder where humanity has gone. This is a person that has always been known to be always going to church. I want to repeat here that our churches also should take time to even vet those that they call pastors. You can imagine you are moving a staff from one office to another just because of favours that she didn't give you and I'm using the word selectively because you know some of these people will moved from one office to another just because of sexual favours. I think that is despicable! When I heard the witnesses that appeared before this committee, then I hated being a Member of County Assembly because we've led these people to defile this county all these other times.

In a nutshell, all the allegations that were put forward by Hon. Paul Bii were substantiated. Beginning with abuse of office, the County Secretary has no powers to move an officer within the department. His powers ends by moving an officer from one department to another department but of course that movement or redeployment must be sanctioned by the Human Resource Management Advisory Committee.

But when minutes were brought before the Select Committee and you can look at the annexure, there's no single minutes that confirms an officer being moved from a department to another department, an accountant coming here, the only mistake the accountant did, was to refuse to validate a payment, that the County Secretary was pushing, like hell, to be paid, and the work was never done. Since the officer is a responsible Civil Servant, he called the Chief Officer of the concerned department and the chief officer did confirm that there is no work of that nature that had been done. That is the only single mistake that an accountant did that gave him a transfer from the Finance Department to go to a certain Health Centre. That is the kind of a County Secretary that we had.

I'm the chair for the Committee on Education and we had a Deputy Director called Hellen Chepkirui, a lady that has served education with zeal. A lady that went for an interview and was interviewed by the County Public Service Board and was promoted to be a Deputy Director of Education, rising up, beating all odds from being a Ward Administrator. But the lady, because of some issues, was transferred to be an Administrator of Deputy Governor's Office. Then you question, where is the humanity? And the person who was brought to act in that capacity is a person that went for the interview together with this lady and the lady became number one and the other person was not taken by merit. Someone is coming to act on your behalf and you are being moved to be an Administrator. You can imagine being an administrator all the way from a Deputy Director. This is the County Secretary that the Kericho County Government had.

Finally, how can you forge minutes that I was in a meeting? There are four CECs that never attended the meeting that was dealing with the Londiani accident and those officers came to testify during the Ad-hoc committee. I am privileged because I was a member of the Ad-hoc Committee that looked at the Londiani issue and the Chief Officer and the CECs came, and said that they were not present in the meeting. But when you look at the signatures, they were forged. In fact, one of them was said in the minutes to have prayed during that meeting and he was not there. We have sworn affidavits in this Report. If you get time when you retire, you will see the sworn affidavits of those four witnesses. And it is contained in the Ad-hoc Committee Report of Londiani Accident. So what we are just saying is that as a County Assembly, let's rise to the occasion.

We were debating on whether this guy has resigned or not. You've heard those we've quoted here and I want to thank my Chair and I also want to thank the great people of Tendeno/Sorget again for sending such bright minds to this County Assembly, minds that can never be compromised. I think for the first time they are voting in an individual, who lives by his

ideals. You've heard that we've quoted some Case Laws in this Report on whether the County Secretary has tendered his resignation. Is that a resignation? We've quoted some Case Laws-around three or four-that giving a notice of resignation and yet you are undergoing a disciplinary process, the disciplinary process must proceed. And that is one of the issues that we are asking ourselves. Now that Dr. Bor- my conscience does not even allow me to call him Doctor-because a Doctor cannot even do 0.0009 percent of what this individual has done. I know you are one of the Doctors Mr. Speaker but you are a very sharp Doctor and I know you cannot even do such things. So the question was this guy is still in office. You cannot resign and you've met atrocities to the public service of this County. We will follow you wherever you go and we also want to use this opportunity, that the Constitution is very clear, on separation of powers. The County Assembly is independent. The County Executive is also very independent. Our judiciary is also independent and cannot purport to stop a process that is taking place at the County Assembly. Let them wait for the final Report from this County Assembly so that if there is an issue we go and challenge it in court. The judiciary should also be held accountable and we will call them by their names. We know of one that has always been notorious in this county and we need to call the names of those people. You cannot interfere with the process of the County Assembly. The seat before you was meant for the witness to come and defend himself for two hours but he failed and instead of coming here he is rushing to our courts. So I think, we need to inform even our county officers that the train left the station and is going into the future, I want to assure you.

I swore in this County Assembly. Probably I may not want to say with a lot of certainty, that during this term, because you can never know where God has prepared us to be from 2027 and I say this with a lot of confidence that we will do our part and this should be a warning to the County Executive Committee Members that anyone who will try to, in any way, interfere with the resources that are meant for the great people of this county, he or she will follow this process. I know there are a few of them that are in our radar and I want to tell you there is no way we will back down when the resources of this county are being defiled right, left, and centre.

As I conclude, because the report is self -explanatory, Mr. Speaker, I wish to inform the honourable members here that a time has come that you need to make a decision-a decision that is neither popular nor safe-but your conscience tells you that you need to make such a decision. We represent the people and only the people and I have always said, I am and I will say, without even numbers, that I will only respect God and the people of Ainamoi who elected me. Any other person that comes and crosses my way especially in the remaining two or three years, *nitaanguka nayo*. That is the new word in town!

As I end, I want to promise you that we are prepared. Personally, I am prepared. And some of the few members of the County Assembly, we are prepared to walk this journey. We will fight this course to the last drop of our blood because sitting back and looking at how things are going on, we will never do that again, so help me God. Therefore, I support this Report. The County Secretary should not even leave office, alone. After a year, I think the County

Secretary should even be taken by other investigative agencies. And now the recommendation of this committee we want to inform the County Executive and the appointing authority that whatever we have recommended here has timelines. In the next 30 days, we will follow up with people here. Anyone who is not going to implement any of the resolution that has been passed by this honourable House will be our guest in this County Assembly. Thank you and may God bless Kericho County and I want to thank the members today. These are the warriors and the heroes of this county. I know the rest were called to try to curtail this but I want to thank these people. When history of this county will be written, you will have a chapter or two that you stood with the people of this county when they needed you the most. Thank you, and may God bless you, Mr. Speaker. Thank you very much.

The Speaker (Hon. (Dr.) Patrick Mutai): All right, thank you. The floor is still open. The Honourable Gilbert Ngetich and then I will give to Hon. Vincent Korir.

Hon. Gilbert Ngetich (Member for Kisiara Ward): Thank you, Mr. Speaker, Sir, for giving me this opportunity to also contribute towards this particular process which was undertaken by the Select Committee, which I am member number five. As I speak now, I speak representing the good people of Kisiara who are also employed in this County Government. Out of what has been highlighted here to be the shortcomings of the outgoing County Secretary, I confirm the atrocities he made to the staff of this County Government. I was overwhelmed by emotion at that point when one lady called Jackline Leitich, whom we really had a meeting with virtually. She asked a very, very, touching questions, that, "Where were you? Where was this Assembly when all these atrocities happened until some of them resigned?" Mr. Speaker, we are protecting this County Government, for posterity, and we also strengthen the precedence that whoever acting *ultra vires* in the office offered should face the real rat of the Assembly. I don't actually contradict myself in any way that out of the staff we met in this investigation about 30. Whatever I learned about the County Secretary was really so devastating. I even questioned about the issue of him becoming a Bishop, since I heard he was a Deputy Bishop in some church in this county. I really request the very church to demote him as soon as possible because the implications he has really made in this County is actually so demeaning to our staffs, and also when you are given an office, like the office we are given by the common *mwananchi*, we are supposed to use it wisely. But in this case, the county secretary acted *ultra vires* in all manner of kind of redeployment, demotions, and promotions. He decided to do individually without passing the constituted body, that is, CHRMAC, in this case, which gives the designs and policies that are really being used in terms of employment, the relation between the employee and the employer.

So in this case, Mr. Speaker, the actions taken by the County Secretary was really from his mind and after his sleep. The County Secretary actually said, that he could arrive one morning and if he called you and you failed to receive the call, you will be transferred in the morning, Mr. Speaker. That is an action of inhumanity and we really condemn using all terms. I was perturbed when I was told the Bishop even could call someone's wife, who is a

staff, to come to the office as late at 8 P.m. when we expect all our wives to really be cooking for our children at home. That is inhumanity and we really feel like asking that this guy, and those who are really presenting themselves in the same manner, should follow suit.

I want to really seek that we intervene to all the bosses in this county who are really demeaning our children. We are busy trying to build a nation by encouraging our children to read for them to be given employment, but if it will include such abuses Mr. Speaker, I am very sure we are really proving him to be just an impetus of what will come again.

Mr. Speaker, Sir, as I speak this time, I overheard of that the County Secretary is alleging that he has not been given a fair time to come to defend himself. We did, as a committee but he refused and even wrote a letter indicating that he will not make to the committee because he had resigned. As a Human Resource person, Mr. Speaker, speaking now, a Notice of resignation is not a resignation. When you give a notice of resignation, you are still in office and you can even transact business whenever you are required. But when you really want to be seen out of that particular office, you just pay one month to the employer in lieu of notice and exit as soon as possible and it could have rendered us useless as a committee, Mr. Speaker. So for the committee, Mr. Speaker, we were investigating an officer who gave a Notice of resignation. We had a Notice of one month and so as we continue, we are really within the law and I presume that he must get it right today, that we also know what happens. And if he was actually not ready to come to the committee and defend himself, Mr. Speaker, why is he going around these courts trying to defend a position in which he exited? It seems that he was to revoke the notice and also be an officer for the children of this county, Mr. Speaker, who have suffered. Some were crying here, Mr. Speaker, and we could end up crying even with them. So I really pray that this County Assembly confirms the impeachment of one Dr. Wesley Bor and I also pray that what we really agree in this world, Mr. Speaker, will happen in heaven. If it happens, I go to heaven, Mr. Speaker, and I find Dr. Bor, I will know that is not heaven. Thank you, Mr. Speaker, Sir.

(Laughter and loud consultations)

The Speaker (Hon. (Dr.) Patrick Mutai): Order! The Honourable Vincent Korir! And then I give to Honourable Amos Birir, and then Honourable Maritim from Chepseon.

Hon. Vincent Korir (Member for Londiani Ward): Thank you very much, Mr. Speaker, for giving me this opportunity to contribute on this Motion. And, Mr. Speaker, I want to commend the Select Committee that did this Report. I confirm that they did a very good job and the report that we have been read to in this House I do confirm that the findings are true and actually Dr. Wesley Bor must go.

Mr. Speaker, Sir, when I look at the issues that happened either before or during this process, actually Dr. Wesley Bor resigned this month when we impeached him, temporarily in the Motion that was presented by Honourable Bii. Now, I was asking myself, Mr. Speaker, that why did Mr. Wesley Bor not resign in January or in the other months? There is a reason! This

guy was trying to evade the process because he knew that, as an Assembly, we had followed the right procedures under the law to actually impeach him and he knew that he was not going to escape this. So, this issue of resigning was avoiding investigation and getting justice to the victims that maybe he has meted a lot of injustice to, like the workers and all those people who have been working under him.

Mr. Speaker, Sir, during the process, as even read in the report, Dr. Wesley Bor failed to appear. As far as the Assembly is concerned, the process was followed very well as per the law. But this guy is trying to support the process itself by not appearing, so that he can try to blame either the Assembly or trying to throw blame to someone that maybe was not given a fair hearing. I can assure you that this House is fair. We are a fair House. The Select Committee was objective and I know they were doing a very good job. But because he is used to shortcuts and maybe even using excess powers Mr. Speaker, Sir, even using the courts, because sometimes if we had done something that is not good and it goes to court, we could have accepted if there is a process that we didn't follow as the Assembly. But in this process, I know the Select Committee and the Assembly did the right thing and he knew that he is not going to escape. But what I can confirm is that he is not going to escape. The guy is now in our hands and we are going to impeach him today and he must go.

Mr. Speaker, Sir, I was looking at the 40 minutes during the Londiani accident and here we have an annexure 9D, which I have read. And there is an affidavit from one Alphonse Kipkirui Rotich, a teacher, and he swore the affidavit, stating that there was no meeting that happened during that time. And actually, Honourable Chirchir Judy, Honourable Edna Tanui, Honourable Daniel Rop, was not in the meeting. When we say forgery, then what is it? This is a forgery because there is an affidavit. How does he want us to prove? Or even, this is just something that is so verifiable? Mr. Speaker, Sir, I don't want to take much time because all this is summarized in these few words, that Mr. Bor must go!

The Speaker (Hon. (Dr.) Patrick Mutai): Alright, the Honourable Amos Birir, and then I give to the Honourable Maritim. And then I give to Honourable Fancy.

Hon. Amos Birir (Member for Kapkaket Ward): Thank you, Mr. Speaker, for giving me this chance. I am here to stand for my people of Kapkatet and I have to talk on behalf of them. Actually, I want to support a point. This house is a house of making rules and laws. But last time we talked about County Secretary, Mr. Bor. but still, we have a problem. We continue repeating the same points. Why is Mr. Bor resisting? But he is still resisting in the office. This office belongs to the *wananchi* of Kericho. Why somebody has been mentioned by Honourable Members to move away, is still resisting? This means, he is laughing at us and seeing that honourable Members are not united. What I am requesting is that Honourable Members, we are here because we were sent by the people and we are here to defend the properties of the people. I am really surprised when some Honourable Members run away as if they are not members of this House. Why are some Honourable Members running away and they were sent to defend the properties of the people?

I don't know the reason why, when it is the time of defending this house, people run away. We need to know those members who are running away from their office and we want to repeat again, Bor must go!

(Loud consultations)

He's still resisting. Why did he today run to the courts trying to defend himself? And he's still resisting. I want to support those people who have investigated and we have found that he has done a lot in this county and still he doesn't want to go peacefully. This man moves peacefully to your place; look for another place because these people have rejected you. Please attend another place where we can make a lot of mistakes. Not this county of Kericho. We are here and we are standing firm. I represent the great people of Kapkatet. I am not going back. What I have said is that I have to stay firm with the way I have said. Thank you, Mr. Speaker!

The Speaker (Hon. (Dr.) Patrick Mutai): Thank you! The honourable Maritim!

Hon. David Maritim (Member for Chepseon Ward): Thank you, Mr. Speaker, Sir, for giving me this opportunity also to contribute on this Motion. Mr. Speaker, Sir, as much as I don't have much to say, I can summarize this report as a good Report. And as per the report, Mr. Speaker, Sir, this character called Dr. Bor, Mr. Speaker, Sir, is an adulterer, is a liar, is a lawbreaker, is a rapist and a thief. So this guy, Mr. Speaker, Sir, should not live near the human race. He should be thrown away, not to work with the human race, Mr. Speaker. Otherwise, thank you, I support the Motion.

(Laughter and loud consultations)

The Speaker (Hon. (Dr.) Patrick Mutai): Order, Honourable Members! The honourable Fancy! And then I'll give to the honourable Phillip Mutai. If you will allow me, we can then call upon the mover of the Motion to reply. Proceed, please!

Hon. Fancy Korir (Nominated Member Representing Women): Okay, thank you, Mr. Speaker, Sir, for giving me this chance. I'm a nominated member for gender top up and I've been sitting here listening to the Motion from the very good committee which was selected and headed by Honourable Moses Rotich that Dr. Bor must go home. And I've really searched, Mr. Speaker, Sir, if we really have the Sexual Offences Act in Kericho County. And I got one, and I should read, "The Sexual Offense Act, Number 3 of 2006. Section 23 (1) says:

'Any person who is being in a position of authority or holding a public office who persistently make any sexual advance or any request, which he or she knows or has a

reasonable ground to know or unwelcome, is guilty of an offense of sexual harassment and shall be liable to imprisonment for terms of not less than three years or to a fine of not less than 100,000 shillings or both.'

Mr. Speaker, Sir, I'm reading this because in Kericho County, we've been talking about sexual harassment which is very rampant. I thought it was rampant in the villages alone and I'm really shocked today to know that even in our offices-the public offices-which we are holding, is also very rampant. One Jackeline Leitich is my neighbour at home and she never even mentioned to me that there was such sexual abuse in the office. I really pity these women and all these officers because for sure, where is the Code of Conduct to this said person? Did he even sign the Code of Conduct? Did he even read it? This is because he is overstepping his mandate in the office by transferring people anyhow, redeploying the staff anyhow and false information from persons, no minutes, not even disciplinary action to the said staff that were transferred. Mr. Speaker, Sir, this report is watertight. This report is very elaborate and one Dr. Bor must go home, like yesterday. We should not even waste time talking about the said person because all this amounts to abuse of office. So, Mr. Speaker, Sir, without wasting time, we want Dr. Bor to go home today, not even tomorrow. We really wanted to do justice to all, justice to the staff and justice even to him, but now he really overstepped his mandate. Mr. Speaker, Sir, one Dr. Bor must go home. He really abused his office. Thank you, Mr. Speaker, Sir. I support the Motion.

The Speaker (Hon. (Dr.) Patrick Mutai): Thank you, the Honourable Fancy. The Honourable Philip Mutai!

Hon. Philip Mutai (Member for Kipchimchim Ward): Thank you, Mr. Speaker, Sir, for giving me this opportunity and by extension, the great people of Kipchimchim. Mr. Speaker, Sir, I just want to, first, take this opportunity to congratulate the Select Committee led by my good friend, Honourable Moses Rotich for at least elevating this House to a very high standard because of the good work that they did to this report. Mr. Speaker, Sir, one Dr. Wesley Bor had the opportunity to come and vindicate himself, but he failed to do so. So, this is just but a confirmation of an earlier impeachment to him. And I think this house is fair enough because we had invited him to come and vindicate himself before this house.

Lastly, Mr. Speaker, Sir, it's just to tell my colleagues, who are very notorious in absenting themselves whenever we are deliberating very serious issues in this House. Mr. Speaker, Sir, we will be doing a lot of justice to the Kericho County workers and women of Kericho County by confirming the impeachment of one Dr. Wesley Bor. I think Dr. Bor must go without even blinking an eye.

Mr. Speaker, Sir, I think at one point during my working within the Ward, I encountered Dr. Bor preaching in a certain church and then I wondered what kind of Christian he is when in the Ten Commandments, which is well -written in a very simple language, that "thou shall not bear false witness" and then "Thou shall not steal" and then he calls himself "Pastor of

African Gospel Church". So Mr. Speaker, Sir, I just want to write a letter to the headquarters of African Gospel Church, if he is a licensed preacher; to be expelled with immediate effect. Thank you, Mr. Speaker, Sir.

The Speaker (Hon. (Dr.) Patrick Mutai): All right, thank you, the Honourable Philip Mutai. The Honourable Paul Bii!

Hon. Paul Bii (Member for Kapsaos Ward): Thank you very much, Honourable Speaker for the opportunity you've given me and the great people of Kapsaos. Allow me, Honourable Speaker, first to thank the Honourable Members, especially the Select Committee, on a well - detailed report that they've tabled in this House, led by my good friend, Honourable Moses, from Tendeno. Honourable Speaker, mine, as a mover of the Motion, I really want to thank the Office of the Clerk, because when I gave a Notice, they did forward it to your office, and indeed the House Business Committee committed the same to this floor.

Honourable Speaker, I really want to thank these members for allowing my Motion to be tabled here and they deliberated on the same. Now that all the allegations which were made against one Dr. Wesley Bor have been confirmed, Honourable Speaker, I had an opportunity of one appearing before them and indeed, I saw the kind of work they were doing. They were very smart in some way. Honourable Speaker, this one man, Dr. Wesley Bor, must go, and he must go. It's not about dilly dallying. When I came in the morning, Honourable Speaker, and I heard that the said man went to the courts to block the process, indeed my heart was down because when I saw the staff who appeared before the panel crying, when I saw one saying that the said man wanted to, you know, feast on her, Honourable Speaker... he's a rapist! He should not even have the name of being a Christian.

I want to echo what my good friend Honourable Cheruiyot Bett said. This one man, I know, maybe on the way, he might repent, but if I'll get the said man in heaven, I'll ask God to bring me back to this world because these are the kind of people we don't want to see them in heaven. Honourable Speaker, we want to save the face of this great county, and we want to send a message to the County Executive, that they need to be professionals in handling matters when it comes to staff. So, Honourable Speaker, I know we've said a lot concerning this man, but wherever he is, he should have left the office, like yesterday. Otherwise, I want to thank everybody, I want to thank the Select Committee for working extra hard to bring such a wonderful Report. Otherwise, thank you and may God bless. Thank you.

The Speaker (Hon. (Dr.) Patrick Mutai): Alright, thank you Honourable Paul Bii! The Honourable Hezron Ngetich, I give you an opportunity so that you allow that I give to the mover of the Motion to reply.

Hon. Hezron Ngetich (Member for Chilchila Ward): Thank you, Honourable Speaker, Sir, for the opportunity you have granted me so that I can rise to support a Motion by the Chairman, Select Committee, Honourable Moses. Indeed, this is a reckoning moment in this

Third Assembly, Mr. Speaker. In the First Assembly, Mr. Speaker; they made a history of impeaching one CEC who was in charge of Water for Gross Violation of the Constitution and abuse of office, Mr. Speaker. Those were men and women of substance, Mr. Speaker, who, when they decided to do something, they did, Mr. Speaker.

Came to the Second Assembly, Mr. Speaker, we tried several attempts, Mr. Speaker, despite challenges, Mr. Speaker. There were some of the CECs who had abused their offices, Mr. Speaker. They violated the Constitution, Mr. Speaker but because most of the members were not objective and they were led by their stomachs and not by their heads we failed several times even to impeach even the smallest person.

Coming to this Third Assembly, Mr. Speaker, and I want to echo this County Assembly, although people think that they are jokers, Mr. Speaker, but when they mean something, they mean it. Mr. Speaker, like what they have meant today, I think we'll be going down in the annals of history as the Third Assembly, who mean business when they decide to.

While I was contributing on the Motion of impeachment, Mr. Speaker, I once said that this is a warning we are sending to all the public offices, Mr. Speaker because, if they try to abuse their offices, the Third Assembly will be on their necks because, we swore to defend and to protect the Constitution and it is the supreme law of the land, Mr. Speaker, and it cannot be supreme to others and not to all of us, Mr. Speaker. We are governed by the supreme law and all the time, we should protect it and live according to the laws of the land, Mr. Speaker. So, if anyone either in the Executive Mr. Speaker, who is trying to play monkey games and not to protect and to do what they are mandated to do, we want to warn them and tell them that we are not joking.

I want to echo the Select Committee and the Secretariat, Mr. Speaker. I think this is one of the watertight reports, Mr. Speaker. And working and doing research, to ensure that the allegations which were highlighted by the mover of the Motion have been substantiated. All the counts which were highlighted, Mr. Speaker, have been fully substantiated beyond any reasonable doubt.

I was contemplating, Mr. Speaker, when we received a Notice of Resignation, and we were at a cross road whether to proceed with the impeachment or not. But, Mr. Speaker, when you go to annexure number seven, there was an acceptance letter by the Governor for the notice of resignation, Mr. Speaker. A notice, Mr. Speaker, is not a resignation. It is an intention. If he was serious to resign, he could have downed the tools. On this acceptance letter by His Excellency, the Governor, Mr. Speaker, and I want to read so that it can be captured well, on our HANSARD:

'Reference is made to your letter dated 8th July 2024, in which you tendered your resignation as the County Secretary and Head of Public Service. I wish to inform you that your request has been accepted and shall take effect on 7th August 2024.

What does that mean, Mr. Speaker? He's still in office. Until when? 7th August 2024 after the expiry of the notice period and his salary shall be paid up to 7th August. Our intention was to remove this man from office, Mr. Speaker. You cannot tell us you have given us a notice for resignation and you are still drawing salary, Mr. Speaker. In fact that is, I don't want to use the term which honourable Paul Bii used, Mr. Speaker, but I think the guy is trying to urinate on our heads because, if he was serious, he could have downed his tools. So he's still in office until 7th August 2024, Mr. Speaker. So, when now these allegations have been substantiated, Mr. Speaker, it is with immediate effect that he should be removed from office.

I want to echo the case laws highlighted by the committee, and to justify the reason why this Select Committee must continue, maybe because of the intention of us moving the Motion, he just gave us a notice of 30 days, bearing in mind that the life of the Select Committee was Ten days. How do we know if we will have left this process without continuing? By the time ten days elapses, he may have rescinded the resignation letter and say that he was under duress or was acting upon fear. The counts which were highlighted by the first mover of the Motion have been substantiated fully with facts by the Select Committee and I want to say thank you to the committee. I think this is the way to go, honourable members. We need to be objective always. It should not be about what I used to term as "primitive loyalty". Irrespective of that, we should move forward and work because at the end of the day, when the time comes, everybody will carry his cross. Like some of us, we are being clapped on here and there, but when it comes to the time of campaign and election, it is only you, your God, and what you have done. And we don't want whatever we were planning to do to be hijacked by people. Some of the services which were interrupted in our county health facilities, Mr. Speaker, when there were transfers of medics, by this Dr. Bor, services were interrupted. The morale of our County staff and the entire Human Resources fraternity went down. When the morale went down, what is the effect? The effect is it will affect adversely the members because their services are interrupted, and when the services are interrupted, there is nothing going on. So, anybody who will cross our way or try to be a stumbling block on our way, there are two things: either *Anguka Nayo* or we say *Mongetu Chito*. Otherwise, let me end and support the Motion. Thank you!

(Loud consultations)

The Speaker (Hon. (Dr.) Patrick Mutai): Order! Honourable Members, I now give to the mover of the Motion to reply.

Hon. Moses Rotich (Member for Tendeno/ Sorget Ward): Thank you so much Mr. Speaker for giving me this opportunity to once more reply to this Motion that is before us. I will not remain silent when there are lamentations, there are cries, there are atrocities being committed to our people. The most integral part in the County is the public service. We have several devolved functions. Top on this line is a health sector, the most essential service. Anytime you disrupt the good working cohesion and environment of our service delivery by

transferring someone who handles life. Yes, the person or the patient who seeks such service may at one point be denied by transferring the service provider.

This committee acted in a manner anchored in law with a lot of objectivity. The mover of the Motion honourable Paul Bii, if he can bear as witness that we stripped him honourable member status that day, and branded him a witness number one. If he can testify and come... he finished three bottles of water trying to justify that indeed he was the owner of the Motion. What am I saying Mr. Speaker? Abundant of caution guided us throughout the delivery of this report. If we are silent, we took an oath, as a house and today I wish to applaud the honourable members who are here today. You are indeed true heroes and heroines who are standing for what is just, what is fair, what is verifiable and what is accountable. If we live, we live for justice. Equally the same if we die, we die for justice. So whether we live or die justice remains a common denominator. Our staff deserves the best of justice. Before us here, are two seats, guided by the procedures and laws. Equally, the same abundance of caution, that we didn't in any case want to skip any procedure. We gave the person that is before us today for impeachment the one Dr. Wesley Bor a chance to defend himself but he decided to run away. Yes he will run away but he will never hide. He cannot run away, he can seek as many injunctions as possible. We have separation of powers; that the Legislative Arm of Government, the Executive Arm of Government and the Judicial Arm of Government. Its processes that are midway cannot be altered in any case whatsoever. I want to urge the honourable members that are here before us today that I seek concurrence and total support in approving and supporting this Motion in totality Mr. Speaker. To restore dignity in this County Dr. Bor must be out! To restore the morale of our people Dr. Bor must honourably step aside! Mr. Speaker, as to whether Dr. Bor is still in office or not, Case Laws that were properly researched; and I want to thank our Secretariat and our brilliant legal team Mr. Speaker for providing Case Laws that guided the committee sufficiently to come up with a tight case. We remained as objective through service to the people that we took an oath to defend, to uphold and to respect at all times. On behalf of the great people of Tendo/Sorget whom I represent, I say today that dignity must stand at all times.

(Loud consultations)

Mr. Speaker as I end... Protect me from honourable members so that I conclude.

The Speaker Hon. (Dr.) Patrick Mutai): Order! Order! Honourable Members!

Hon. Moses Rotich (Member for Tendo/ Sorget Ward): So that I conclude Mr. Speaker...

The Speaker Hon. (Dr.) Patrick Mutai): As you conclude *Daktari*.

Hon. Moses Rotich (Member for Tendo/Sorget Ward): As I conclude, we love people of this great County so much. Yes, our people's suffering will be unfair. Being silent in times of suffering is applauding the oppressor and for this case the oppressor that has made our people and our county suffer must be out of office. Thank you so much Mr. Speaker.

The Speaker Hon. (Dr.) Patrick Mutai): Alright, thank you the honourable Dr. Moses Rotich for replying to your Motion. Honourable Members, I have heard that the leadership is not here...

(Loud consultations)

But we have our Deputy Majority Leader who should assume the seat of the Leader of Majority because when the Leader of Majority...

(Loud consultations and applause)

Order Honourable Members! And the honourable Fancy, of course you need to deputize your majority. So, if the Leader of Majority is not here, you are the Leader of Majority in this House and therefore you should assume your seat. Honourable Members, now we must bring this matter to conclusion and honourable members I want to take you...

(Loud consultations)

Order Honourable Members! Order! Honourable Members, let me remind you that you have the powers in your Standing Orders to remove leaders and therefore the Standing Orders are very clear and that can be another meeting that you can maybe call outside this sitting. So honourable members, let us proceed and let us have order. I want to refer you to Standing Order number 76 section of course from 7, where in our case the County Secretary who is one Dr. Wesley Bor has the right to appear and be represented before the Select Committee during this investigation. I'll read subsection 8: '*No further proceeding shall be taken on the matter if the Select Committee finds the allegations unsubstantiated.*' Number 9 says: '*if the Select Committee reports that it finds the allegations substantiated, the Assembly shall afford the member in question, here is Dr. Wesley Bor, an opportunity to be heard and vote whether to approve the resolution requiring the member to be dismissed.*' In this case the County Assembly was ready as I had earlier indicated that there is a table before you on my left with a green tablecloth and we expected the County Secretary to be here to defend himself on delegations.

Therefore Honourable Members, I now rise to put the Question.

(Question put and agreed to)

Honourable Members, now as per our Standing Order, a resolution has been adopted requiring the Governor of Kericho County to dismiss Wesley K Bor as the County Secretary. I now declare that Dr. Wesley K Bor, the County Secretary stands impeached and the communication shall be sent to the Executive, specifically to the Governor to implement. So honourable members, we now proceed with the next Order.

Clerk, Next Order!

MOTION

REPORT OF THE AD-HOC COMMITTEE ON INSECURITY IN URBAN AREAS OF KERICHO COUNTY

The Speaker Hon. (Dr.) Patrick Mutai: In that manner, Honourable Philip Mutai, you can now table your Motion and honourable members we need to look at our time and we have had a discussion that we need to finalize in a few minutes. So Honourable Philip Mutai, you may necessarily need to take us to your recommendations probably you go through the observations and recommendations so that we can proceed in that manner Honourable Vincent Koskei please! Honourable Philip Mutai, proceed!

(Hon. Vincent Koskei took the Chair)

Hon. Philip Mutai (Member for Kipchimchim Ward): Thank you, Mr. Speaker, Sir, for this opportunity to table the report on the Ad-hoc Committee on Insecurity within Kericho County. As you have guided, Mr. Speaker, Sir, that I go to recommendations and observations, I will go straight to 8 .0.

The *Ad hoc* Committee made the following observations:-

- i. That the County Government of Kericho though improvement of trade and use of enforcement officers in urban areas of the county could help promote security of its citizen despite security being a national function;
- ii. That there is need to improve on collaboration with the National Government and its organs in service delivery to the citizens of Kericho;
- iii. That all the suspects involved in crime within Kericho County are common and are known to the residents;
- iv. The administrative boundaries between Belgut Sub-County and Ainamoi Sub-County has not been established;
- v. The street lights in most urban Centers are not functional and have contributed to the rampant security cases within Kericho County;
- vi. The Trade and Markets Act of 2014 has not been fully operationalized
- vii. The Kericho County inspectorate Act of 2014 has not been fully implemented;
- viii. The various witnesses who appeared before the County Assembly Ad-hoc Committee on insecurity pointed out that there are criminal elements within the ranks of national police service;
- ix. That most of the killings executed by the criminal gang have been donning police uniform;
- x. That some *bodaboda* riders have been linked to criminal activities within Kericho County;

- xi. That the Kericho County *bodaboda* association has tried to put in place measures geared towards reducing criminal activities within the county through registration and issuance of stickers;
- xii. That the Judiciary and specifically Kericho law Court (Court 2) was adversely mentioned by the witnesses who appeared before the Committee as aiding the criminal to get away with their crimes;
- xiii. That Justice to the victims and Victims' families has not been served since cases have been interfered with and have dragged on for long.

COMMITTEE RECOMMENDATIONS

After gathering information through field visits, scrutiny of evidence and conducting research, the committee makes the following recommendations:-

- i. That the County should streamline use of enforcement officers in our market centers within a period of 30 days;
- ii. That the Department of Roads develop a plan to install and manage street light and report to the County Assembly within 90 days;
- iii. That trained enforcement officers be employed for the municipalities by the County Public Service Board;
- iv. That the CECM Trade operationalize the market committees for effective operations of the market and improved security with immediate effect;
- v. That all the suspects involved in crime be apprehended and justice be served to the families who have lost their loved ones;
- vi. That the Municipalities be made autonomous and all the roles for the municipalities be transferred to them with immediate effect including their budgets for ease of operations of the markets;
- vii. Increase the funding to facilitate functions of the municipality;
- viii. The National Government entities, KURA, KERRA perform their roles and be accountable to the relevant oversight committees of the National Assembly and Senate;
- ix. The County Head of Revenue liaise with *bodaboda* Association Chairperson with regards to collection of revenue;
- x. That a Budget for the *bodaboda* riders be factored in the FY 2025-2026 as grant to support the training of *bodaboda* Riders;
- xi. That the County Assembly drafts a petition the Senate Committee in charge of Security on matters insecurity of Kericho County;

- xii. That the County Government of Kericho through Intergovernmental Relations Act, 2012 and other relevant legislation pursue collaborations and ensure that each level of Government performs its roles as stipulated in the Constitution of Kenya 2010.

Mr. Speaker, Sir, allow me to take this opportunity to thank all members of the *Ad-hoc* committee on insecurity for their valuable input during the investigations and deliberations.

Mr. Speaker, Sir, on behalf of the Ad-hoc Committee and pursuant to Section 14 of the County Government Act, 2012 & Kericho County Assembly Standing Order No. 205, it is my pleasant duty to present to this House the Ad-hoc Committee's report on insecurity for consideration by this House. The Report is signed by me, the Chair of the Ad-hoc Committee on Insecurity.

I think there are some three annexes on the report. One is that we did a letter to the National Police Service, of which they didn't respond to. And I think that was one of the major annexure that we had. Thank you, Mr. Speaker, Sir.

The Temporary Deputy Speaker (Hon. Vincent Koskei): Thank you Hon. Philip Mutai. Please name your seconder.

Hon. Philip Mutai (Member for Kipchimchim Ward): Thank you Mr. Speaker, Sir, for this opportunity to call upon my seconder. Let me call upon Honourable Moses Rotich to second the Report.

The Temporary Deputy Speaker (Hon. Vincent Koskei): Yes, Honourable Moses Rotich, proceed!

Hon. Moses Rotich (Member for Tendeno/Sorget Ward): Thank you so much, Mr. Speaker. I stand to second this Ad-hoc Committee Report on Insecurity in Kericho County. Mr. Speaker, security is a collective responsibility lying between the County Government of Kericho and National Government. Security, Mr. Speaker, is an *ex-parte*, that is, Mr. Speaker we need support from the stakeholders that are responsible for the security of Kericho County. We had several meetings with the stakeholders that were responsible for the security of Kericho County.

During our time, as we were sitting, Mr. Speaker, as I conclude, as a matter of security is solely handled at national level. Mr. Speaker, we invited the security team, the County Police Commander and the rest, Mr. Speaker, to come and shed light on matters that were affecting our people in our county. But it is unfortunate, Mr. Speaker, as the Chair put it, that they failed to respond.

We sought several advancements, Mr. Speaker, that one of our recommendations is that we do a petition as a County Assembly to the Senate and the National Assembly so that this matter is addressed. What we are supposed to address as a county, Mr. Speaker, we address like the issue of security lights, the issue of operationalization of our municipalities, Mr. Speaker, we do as a county. What involves matters of lives of our people and the injuries that they have suffered, Mr. Speaker be taken up at the Senate.

Mr. Speaker, we also realize the nature and the intensity of this report. It was counter-accuse, counter-accuse, Mr. Speaker. The *bodaboda* guys need to be protected and they have, at all times, given an equal space that is anchored in security, Mr. Speaker. They are stakeholders of our county. They do business. They play a very crucial role, Mr. Speaker and they have, at all times, given an equal space that is anchored in security, Mr. Speaker. So, Mr. Speaker, I stand to second this report. Thank you so much, Mr. Speaker.

The Speaker (Hon. (Dr.) Patrick Mutai): Alright, thank you Hon. Dr. Moses Rotich. Honourable Members, I now propose the question.

(Question proposed)

The floor is open for debate. Honourable Cheruiyot Bett! I would like to thank you for your attention.

Hon. Cheruiyot Bett (Member for Ainamoi Ward): Thank you, Mr. Speaker, for giving me this opportunity, Mr. Speaker. While I was rising up, Mr. Speaker, because you gave me an opportunity, I had one of the members saying that we should be very brief. Mr. Speaker, security should never be taken very lightly. Mr. Speaker, sometimes the honourable member, who have just said that, I normally provide him security within this town because he is new in this town. Mr. Speaker. However, Mr. Speaker all said and done, I want to thank the committee led by the Honourable Phillip Mutai, the Member of the County Assembly representing Kipchimchim Ward.

Mr. Speaker, this is a report that is well researched. Mr. Speaker, my eyes were drawn to the challenges that this committee went through because the mover of this Motion began from observations and recommendations but my eyes were drawn to the challenges that these people went through. One of the challenges, Mr. Speaker, was that the National Police Service failed to appear before this committee. Number two, Mr. Speaker is non-appearance of the County Commissioner before the committee. What are we saying, Mr. Speaker? If the people that are charged with providing security in our county are the ones who are failing to give information that will even assist them because majorly this is their major work; if the police, Mr. Speaker, are not cooperating, if the County Commandant, for example, does not send his people or himself to appear before this committee, Mr. Speaker, if the County Commissioner who chairs the security in this county fails to appear before this Ad-hoc Committee, Mr. Speaker, then what are we saying?

When you look at, Mr. Speaker, the observation, the committee were able to observe that some of the perpetrators of these crimes were donning police uniforms, Mr. Speaker. Some of these perpetrators were in full police uniforms, Mr. Speaker. The County Commissioner fails to appear before this committee and he chairs the security committee, Mr. Speaker. That means that the people that are supposed to provide security to our people are the people that make our county insecure, Mr. Speaker. So I think the recommendation that the County Assembly should petition the Senate to take up this matter is, in my view, one of the best recommendations, Mr. Speaker.

Mr. Speaker, one of the former CECM for trade, the Hon. Birech was attacked, not more than a month ago in a place called Kisumu Road and his belongings-his vehicle was ransacked and all the belongings were taken away by these people, Mr. Speaker and he told me that the attackers were wearing police uniforms. So what we need to do, Mr. Speaker, I think one of the recommendations if the County Commissioner that we have is not able to chair security committee, I think the recommendation here should have been that the County Commissioner and the County Commander should pack like yesterday and go back to where they come from because they cannot provide security to our people.

Mr. Speaker, secondly, I have never seen any Member of Parliament bring up this issue in the National Assembly, Mr. Speaker. The six members of parliament that we have are sleeping on their job. I have never heard a single Member of Parliament raising issues of insecurity in our county. I think I had the Senator raising the issues of insecurity some time back but not members of parliament, Mr. Speaker and that is why some of us are agitated because they are not representing the interest of the people of this county. The six of them, Mr. Speaker, including... let me not even mention the Women Representative, let me deal with these Members of Parliament, Mr. Speaker. So we want to tell them, Mr. Speaker, if the police will not be able to provide security and a classic example, Mr. Speaker, where I come from, there is a police station called Ainamoi. These guys, Mr. Speaker, are erecting roadblocks from 6.00 to 8.00 in the evening, Mr. Speaker, just to collect 50 shillings from *Bodaboda* riders plying that route, Mr. Speaker. If you ask yourself, is there any crime that is being committed during that time, Mr. Speaker? Crimes are being committed beyond 11 p.m. Mr. Speaker. The Hon. Birech was attacked around 1.00 am. Mr. Speaker. That is the time when these people attack our people, Mr. Speaker. But you find a full police officer erecting a roadblock just to collect 50 shillings in Ainamoi Police Station, Mr. Speaker. But I want to thank the County Commandant because when I raised these issues with him he called the insensitive Officer Commanding Station (OCS) of that place, Mr. Speaker and we told him there are only two options: they either provide security or they leave Ainamoi Police Station. We will take care of our security, Mr. Speaker. Thank you and may God bless this committee.

The Speaker (Hon. (Dr.) Patrick Mutai): Okay, thank you. Is that Hon. Eric Bii? Yes, the honourable Eric Bii!

Hon. Erick Bii (Member for Kaplelartet Ward): Thank you, honourable speaker, for giving me this opportunity just to give my comments on the Report of the Ad-hoc Committee on Insecurity within Kericho County. Mr. Speaker, first of all, allow me also to thank the mover of the Motion honourable Philip Mutai. Mr. Speaker, this is a person who took his time, burnt the midnight oil to come up with this report. So I think within the time frame you had given, they were supposed to come up with a Report, Mr. Speaker.

Mr. Speaker, the issue of insecurity as per the Constitution, all the people have a right to be secured and to be provided security. So I believe, Mr. Speaker, within Kericho County, we have had rampant cases of insecurity. I want to mention a case in our area, that is, Soin/Sigowet where two young men were killed under unclear circumstances. Mr. Speaker, from the observations and the findings of this committee, Mr. Speaker, I want to thank them. They came up with very pertinent issues whereby you find that the urban centres, street lights have never been sufficient. We find that all those areas where our people have been killed is because of lack of street lights and the recommendation made by this committee, Mr. Speaker, is that we ensure...

(Loud consultations)

The Speaker (Hon. (Dr.) Patrick Mutai): Let's consult in low tones Hon. Members!

Hon. Erick Bii (Member for Kaplelartet Ward): They ensure that each and every time, within the urban centres, the street lighting should be efficient to ensure that when a person tries to attack you, Mr. Speaker, you are able to identify and of course, Mr. Speaker, the security team within the county should be enhanced. Mr. Speaker, I want to believe that the recommendation of the training enforcement officers should be employed within the municipality. Of course, Mr. Speaker, if we have these enforcement officers riding around or moving around our town the people who want to attempt crime will fear because of that. They will see these gentlemen moving around and they will be scared and they will not attempt to engage in such vices, Mr. Speaker. So I want to say that by implementing training of enforcement officer and for them to be deployed within the municipality, I want to believe that it is this house that is going to enjoy because we have constraints in terms of budget. It is very clear that this House, Mr. Speaker is going to budget the money for the enforcement officers so that they can be able to run or to move around during the night.

Mr. Speaker, the third comment is that we need the security team to apprehend criminals and justice to be served to the families, Mr. Speaker. Of course, we've heard from the mover of the Motion that when the suspects have been taken to court they are being released on bond. They are coming out on bond because of an inefficient security team in the courts whereby they are allowing these people to be released on bond. When you release them on bond, they are going to affect the issue of justice to our people. So, we need justice and we allow the court to do their part, Mr. Speaker, and of course in collaboration with the security team.

Lastly, Mr. Speaker, I also want to agree with the Honourable Member who has just spoken, on drafting the petition to the Senate. You see when you draft the petition of course we are the county government and we also have the upper hand of the National Government. So, when we petition, and we are going to follow it keenly, so that we take the matter to the Senate so that they can improve and allow the national security team to come on board so that they can ensure that all these issues of insecurity is determined, Mr. Speaker. So, I support this Report and I want us, honourable members that we approve this Report so that people get justice and security in our county is properly implemented. Thank you, Mr. Speaker.

The Speaker (Hon. (Dr.) Patrick Mutai): All right, thank you! The Honourable Beatrice!

Hon. Beatrice Chepkemai (Nominated Member Representing Women): Thank you, Mr. Speaker, for allowing me to come and support the Ad-hoc Committee Report on Security. Mr. Speaker, Sir, the security in Kericho is very wanting. The matter of security in Kericho is not a joke. Mr. Speaker, Sir, allow me to support this Ad-hoc Committee for the following two reasons. The families still live in fear because of the suspects; they are still at large. Number two, Mr. Speaker, even our former CECM was attacked and still no one has been arrested and charged in court of law. Mr. Speaker, Sir, I want to say this: if our security is not good, as Members of County Assembly, what about the other people in the village? Mr. Speaker, Sir, I support the Ad-hoc Committee recommendation on writing a petition to the Senate. You did a very good thing, I support. Thank you, Mr. Speaker.

The Speaker (Hon. (Dr.) Patrick Mutai): All right! Thank you so much, the honourable Beatrice. The Honourable Diplo! I was almost tempted to say that honourable Beatrice has summarised. Sorry, Hon. Peter Kemoi, there is no Diplo in the House, that is a stranger.

Hon. Peter Kemoi (Member for Kapsuser Ward): Thank you, Mr. Speaker, Sir, for giving me this opportunity. Let me echo this Ad-hoc Committee on insecurity in our county. They have done a good job and I am in support of this report and even their recommendation. Mr. Speaker, Sir, some few weeks ago, there was an attack of a teacher who was going to school for his duties and two gentlemen appeared in his house around 6.30 in the morning and they ordered him to take them to his house, demanding for some money and when these people insisted to be taken to his house he realized that if they went to the house, they might shoot him and the wife. So he decided to face these people outside. Eventually, they shot him on his leg. And that was 6.30 in the morning! You see that our families are at risk and we need a solution through the Senate. I think they have to take it seriously, it is a serious matter. If these people have approached families even in the morning, you can see where we are. And they were fully armed with an AK-47 rifle. So we thank God because the life of the teacher is in safe hands. He was shot on his left leg and we rushed him to the hospital. So we are not supposed to take this matter for granted; it is a serious issue. We lost a young boy in Cheptingting that is, in Waldai, also through these gangs and several other injuries they have inflicted to our people especially in this side of Kapsoit and Belgut towards also Kaplelartet where Honourable Eric Bii comes from.

So we demand for total security and also if the County Commander and those who are in charge of security in this county, they have to be taken away from this county and we be given other security personnel to take care of the lives of our people. Thank you, Mr. Speaker.

The Speaker (Hon. (Dr.) Patrick Mutai): Thank you, Honourable Peter Kemoi. I now give to the mover of the Motion to reply. The Honourable Philip Mutai!

Hon. Philip Mutai (Member for Kipchimchim Ward): Thank you Mr. Speaker again for an opportunity to reply on the Motion before us. I just want to say that that there are a few areas that most of the members pointed out that needs to be taken seriously like security lights have been cited as one of the many contributing factors to this rampant crime within our urban centres. I just want to request the Roads Department to come up with a very comprehensive policy...

Hon. Paul Bii (Member for Kapsaos Ward): Point of Information Mr. Speaker, Sir!

The Speaker (Hon. (Dr.) Patrick Mutai): Yes the Honourable Kiptoo Bii.

Hon. Paul Bii (Member for Kapsaos Ward): Thank you, Honourable Speaker. I don't believe it was an oversight because I had raised my hand. I just want to inform my good friend, Honourable Philip, that even though the Report is well detailed, I expected that when we first came into this assembly, Honourable Speaker, there was a lot of insecurity; there were a lot of weapons that were brought to this is honourable House and I wanted the head of security in this assembly to clarify, and maybe my good chair, my good friend, could have even captured, right from when we came in. How secure are we as honourable Members? That is the point where we could have even started. How secure are these honourable Members? How secure is this House? How secure are the members within this facility?

Recently, Honourable Speaker, when I was in Nairobi, I saw some boys moving around this town with some weapons and I really asked myself a lot of questions like are we secure with the commanders and the head of security in this County?

(An Honourable Member consulted loudly)

The Speaker (Hon. (Dr.) Patrick Mutai): Order!

Hon. Paul Bii (Member for Kapsaos Ward): Thank you, Honourable Speaker. So that is just what I wanted to inform my friend that he could have started with the security for this honourable house and security for these honourable members. Otherwise, the report itself is good and maybe, moving forward, we'll ask the County Executive to do what is right. Thank

you, and may God bless you.

The Speaker (Hon. (Dr.) Patrick Mutai): Thank you! Honourable Members, we had finalized. Already the mover of the Motion was replying. It's only that the Honourable Paul Bii wanted to inform the House. I guess the Honourable Paul Bii must have been concerned with the recent insecurities in the County more so, even meted against the Honourable Members of this County Assembly and someone even whispered asking whether the Speaker is safe. I guess he must have wanted a clarification on that matter. However, the mover of the Motion, finalise your reply.

Hon. Philip Mutai (Member for Kipchinchim Ward): Thank you, Mr. Speaker. I want to concur with my good friend, Honourable Bii that security really starts with us and I think that was a very important point from him. Mr. Speaker, Sir, I say one of the areas that we cited was about the security lights and then I was making a contribution on the same that the roads department through our Committee of Roads within this Assembly, come up with a very comprehensive policy on matters to do with security lights.

Mr. Speaker, Sir, we also visited victims in those areas even though when you look at our report, we didn't really name the areas that we visited and the names of the victims because of the sensitivity of the issue. We used coded language. I was not fortunate enough because we visited victims who had lost their loved ones and when we reached their houses, they were still mourning and when they saw us, they saw hope in us, they saw hope in the County Government of Kericho, that we will really act on their issues. We visited another victim who has been maimed by this gang masquerading as police officers around our villages. One of them lost his eye. So Mr. Speaker, Sir, can you imagine visiting somebody to ask about security matters who last month, probably had his eye in place but when we were talking with him, his eye is not there. So you see the kind of very emotional issues that we really underwent as a committee.

So Mr. Speaker, Sir, I want to request this House, more so the members who are here, not to discard this report because I think by the provisions of the law, this House will allow me to bring this Report in six months' time, so that we can go through it line by line because I think I mentioned earlier on that I will petition the Senate and as agreed by my good friend Hon. Cheruiyot Bett who had said that we need to petition the National Assembly and the Senate. So finally, I want to thank this House for allowing us time to table the Report and ventilating on it because we took time and took a lot of government resources when we were doing our findings. So Mr. Speaker, Sir, I just say "Thank you".

The Speaker (Hon. (Dr.) Patrick Mutai): Okay, thank you, the Honourable Philip Mutai. I concur with you as well as the Honourable Members that matters of security or insecurity is of great concern not only in our towns or villages but even in the whole Republic. I want to sincerely thank the committee for doing a good job because Honourable Members, just to remind you, the result of, or the reason why this report is in this House was as a result of a

petition by the people who have been affected and they were seeking help from their representatives who are the members of this County Assembly. So I want to sincerely thank the Honourable Chairman the Honourable Philip Mutai and the team for the good work that they have done. It's quite disturbing that when the key people who are in charge of security were summoned or even requested to appear before the committee just to give information and to propose a way forward on how our people should be protected, they failed even to appear before the committee. It is a concern and we need to make it public. We write to the respective authorities that even though the report is out, we must express our concern for lack of collaboration between the County Government and the National Government as we all know that security largely is not devolved. So Honourable Members, I now rise to put the question.

(Question put and agreed to)

ADJOURNMENT

The Speaker (Hon. (Dr.) Patrick Mutai): Honourable Members, looking at our Order of Business, we are done with the agenda that we had for this Special Sitting, but I must sincerely thank the Honourable Members who are here and who have executed their mandate this evening by staying until late to ensure that all the agenda in the Order of Business has been adopted in the House. So Honourable Members, there being no other Order of Business, this House stands adjourned.

[The House rose at 7.50 p.m.]