



THIRTEENTH PARLIAMENT
THE SENATE
OFFICIAL REPORT



Fourth Session

**Friday, 29th August, 2025 at
9.00 a.m. - Special Sitting**

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Friday, 29th August, 2025

Special Sitting

*(Convened via Kenya Gazette Notice
No.11796 of 21st August, 2025)*

*The House met at the Senate Chamber,
Parliament Buildings at 9.00 a.m.*

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

PRAYER

DETERMINATION OF QUORUM
AT COMMENCEMENT OF SITTING

The Speaker (Hon. Kingi): Clerk, do we have quorum?

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

Serjeant-at-Arms, kindly, ring the Quorum Bell for 10 minutes.

(The Quorum Bell was rung)

Order, hon. Senators, we now have quorum. So, we shall proceed with the day's business.

Clerk, you may call the first Order, please.

COMMUNICATION FROM THE CHAIR

REPORT ON CYBER SECURITY AUDIT OF KERICHO
COUNTY ASSEMBLY ELECTRONIC VOTING SYSTEM

The Speaker (Hon. Kingi): Hon. Senators, as you may recall, at the sitting of the Senate yesterday, Thursday, 28th August, 2025, I allowed the application by Counsel for

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the Governor to admit the affidavit by Mr. Job Okun Oguya and his report on the Cyber Security Audit on the Kericho County Assembly electronic voting system.

This decision was made based on the importance of the question on the voting system and the voting process that was undertaken by the County Assembly and the need for the Senate to receive neutral, impartial and dispassionate advice on this matter away from the witnesses or the parties.

Hon. Senators recall that to facilitate the Senate in making this determination, I directed that the report be submitted by the close of business on Thursday, 28th August, 2025, at 6.00 p.m. However, by the time the Senate rose at 6.43 p.m., the report was not ready for submission to the Senate. The Temporary Speaker, Sen. Veronica Maina, therefore, directed that the report be presented to the Senate today, 29th August, 2025, at 9.00 a.m.

Hon. Senators, the report by the experts from the Information and Communication (ICT) Authority was submitted to the Office of the Clerk of the Senate yesterday, 28th August, 2025 at 9.35 p.m. In this respect, I now direct that the report be made available to all hon. Senators and the parties to this matter. I further direct that the parties be issued with copies of the report for their reference.

The Senate shall continue with the hearing as indicated in the programme appended to today's Order Paper. However, after the close of the evidence by the Governor, including the evidence-in-chief, cross-examination, re-examination and questions requests for clarifications by Senators, I shall then allow the ICT Authority experts to present the report to the Senate before the closing statements by the parties, after which hon. Senators and the parties will be given an opportunity to ask questions or seek clarifications on the report.

The Senate is accordingly guided. Now, we shall pick it from where we left yesterday. Counsel for the Governor, you seem to be itching to say something.

Mr. Peter Wanyama: I would like to know whether I should call my witness. Thank you.

The Speaker (Hon. Kingi): Clerk, read the next Order, please.

HEARING AND DETERMINATION ON THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HON. (DR.) ERIC KIPKOECH MUTAI, GOVERNOR OF KERICHO COUNTY

PRESENTATION OF THE CASE OF THE KERICHO COUNTY GOVERNOR

The Speaker (Hon. Kingi): Now, Counsel for the Governor, you have two hours and 40 minutes to conclude your case.

Mr. Peter Wanyama: Yes, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Counsel for the County Assembly, you have one hour and 30 minutes for cross-examination.

Mr. Peter Wanyama: Mr. Speaker, Sir, we apologize for that, but our witness is just coming in. He had a small stomach problem.

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The Speaker (Hon. Kingi): Yes, you may proceed. He is a fresh witness. Okay, then proceed to swear in the witness.

(The witness for the Governor (Hon. Hillary Kibet Bosuben) took the Oath)

Mr. Katwa Kigen: Good morning, Mr. Bosuben.

Hon. Hillary Kibet Bosuben: Good morning, Counsel.

Mr. Katwa Kigen: Yes, could you confirm that your name is Hilary Bosuben Kibet?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Hon. Senators, the evidence by the witness is at pages 121 to 124 of the bundle, one of the Governor's bundle. Could you confirm which is your ward? You are an elected MCA?

Hon. Hillary Kibet Bosuben: I am an elected Member.

Mr. Katwa Kigen: Yes.

Hon. Hillary Kibet Bosuben: I am a Member of the County Assembly representing Cheplanget Ward.

Mr. Katwa Kigen: You are aware that we are here on the issue of whether or not you voted in favour or against the impeachment of His Excellency, the Governor of Kericho.

Hon. Hillary Kibet Bosuben: I am aware.

Mr. Katwa Kigen: Now, were you in the County Assembly on 15th August, 2025 when the impeachment proceedings were going on and the decision was made?

Hon. Hillary Kibet Bosuben: Yes, I was there.

Mr. Katwa Kigen: Okay. Have you captured the events of that day in your affidavit?

Hon. Hillary Kibet Bosuben: Yes, I did.

Mr. Katwa Kigen: The affidavit is the one which is at pages 121 to 124, is it not?

Hon. Hillary Kibet Bosuben: Correct.

Mr. Katwa Kigen: You would like to rely on it in support of your contentions?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: I would like you to be shown page 109.

Hon. Hillary Kibet Bosuben: Page 109?

Mr. Katwa Kigen: Page 109, bundle one.

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Could you confirm what that is?

Hon. Hillary Kibet Bosuben: It is an OB.

Mr. Katwa Kigen: Could you confirm that is the OB with which you reported a complaint?

Hon. Hillary Kibet Bosuben: Yes, I did.

Mr. Katwa Kigen: What was the nature of your complaint?

Hon. Hillary Kibet Bosuben: That I never voted for the Motion on impeachment of the Governor.

Mr. Katwa Kigen: So what? What was the complaint?

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- Hon. Hillary Kibet Bosuben:** Okay, my name appeared in the list.
- Mr. Katwa Kigen:** Yes.
- Hon. Hillary Kibet Bosuben:** Of the people who voted 'yes' to the Motion.
- Mr. Katwa Kigen:** So, you are complaining to the police about the impersonation of your phone?
- Hon. Hillary Kibet Bosuben:** Impersonation.
- Mr. Katwa Kigen:** Of your phone, okay?
- Hon. Hillary Kibet Bosuben:** Yes, very true.
- Mr. Katwa Kigen:** At page 110, what is it you have raised there?
- Hon. Hillary Kibet Bosuben:** Okay, we reported to the DCI Headquarters in Nairobi.
- Mr. Katwa Kigen:** That is also a letter of complaint to DCI about---
- Hon. Hillary Kibet Bosuben:** We are to investigate into the use of an unauthorised digital voting system in Kericho County Assembly and infringement of our rights.
- Mr. Katwa Kigen:** Okay, *sawa*, that is okay. I would like you to move on to page 113. What have you captured at pages 113 to 116? That is an affidavit, is it not?
- Hon. Hillary Kibet Bosuben:** It is an affidavit, yes.
- Mr. Katwa Kigen:** It is sworn by how many people?
- Hon. Hillary Kibet Bosuben:** Eighteen.
- Mr. Katwa Kigen:** Who are the 18 people?
- Hon. Hillary Kibet Bosuben:** Those who are opposed to the Motion.
- Mr. Katwa Kigen:** They are the MCAs, is it not?
- Hon. Hillary Kibet Bosuben:** The MCAs, yes.
- Mr. Katwa Kigen:** Okay. In just one sentence, what was your complaint?
- Hon. Hillary Kibet Bosuben:** We were protesting against the voting process for the removal of the governor.
- Mr. Katwa Kigen:** Okay. Now, I would like us to look at page 116 of that affidavit.
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Katwa Kigen:** Who prepared that affidavit? It is drawn and filed by who?
- Hon. Hillary Kibet Bosuben:** Katwa Kigen.
- Mr. Katwa Kigen:** Could you look at it, please?
- Hon. Hillary Kibet Bosuben:** No, filed by M/s Mitei & Co. Advocates.
- Mr. Katwa Kigen:** It is drawn by M/s Mitei & Company Advocates?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Katwa Kigen:** I can see Mr. Mutuma is aggrieved that I have asked that question. Who is the commissioner of oaths who has commissioned it?
- Hon. Hillary Kibet Bosuben:** Brian Kiprotich Langat.
- Mr. Katwa Kigen:** Where is he based?
- Hon. Hillary Kibet Bosuben:** Kebo Plaza, Imarisha Building.
- Mr. Katwa Kigen:** Where?
- Hon. Hillary Kibet Bosuben:** In Kericho.
- Mr. Katwa Kigen:** In Kericho. It is sworn by Brian. I would like you to go to your affidavit, page 125. I want you to go particularly to page 127.

- Hon. Hillary Kibet Bosuben:** Pardon, 125?
- Mr. Katwa Kigen:** Page 127. It is commissioned by who?
- Hon. Hillary Kibet Bosuben:** Chebet Ngetich Fancy.
- Mr. Katwa Kigen:** Where is she? Did you appear before her? Did you go to her?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Katwa Kigen:** Where is she based?
- Hon. Hillary Kibet Bosuben:** The same place, Kebo Plaza.
- Mr. Katwa Kigen:** Kebo Plaza?
- Hon. Hillary Kibet Bosuben:** Same floor, different rooms.
- Mr. Katwa Kigen:** The same building, the same floor, but different offices?
- Hon. Hillary Kibet Bosuben:** Different offices, yes.
- Mr. Katwa Kigen:** Okay. This was in Kericho. Let us now discuss the issues relating to the case. Did you cast a vote on the Motion on the impeachment of the Governor on the 15th of August, 2025 at the County Assembly of Kericho?
- Hon. Hillary Kibet Bosuben:** No, not at all.
- Mr. Katwa Kigen:** You did not?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Katwa Kigen:** Okay. So, when the County Assembly brings a list showing your name as one of the people who voted, what is your position?
- Hon. Hillary Kibet Bosuben:** I immediately, together with the four Members---
- Mr. Katwa Kigen:** Your position is that, that is fraud?
- Hon. Hillary Kibet Bosuben:** That is fraud.
- Mr. Katwa Kigen:** Okay. Now, why did you refuse to vote? Oh, sorry. So, did you vote at all or you voted 'no, or you abstained?
- Hon. Hillary Kibet Bosuben:** I abstained. I never voted.
- Mr. Katwa Kigen:** So, the nature of your vote was that you did not cast any vote?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Katwa Kigen:** You completely did not touch any button?
- Hon. Hillary Kibet Bosuben:** I did not touch any button. I had no gadget. I never voted.
- Mr. Katwa Kigen:** Okay. That remains your position as you stand before the Senate today?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Katwa Kigen:** That is captured in your affidavit, your first affidavit, your second affidavit, and the oath you have taken before these Senators?
- Hon. Hillary Kibet Bosuben:** It is captured.
- Mr. Katwa Kigen:** That you did not vote?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Katwa Kigen:** Okay. Now, why did you not vote?
- Hon. Hillary Kibet Bosuben:** I did not vote because I detected fraud. There was a sinister motive, prediction of mischief and introduction of the system at the last minute; system we were never trained on.
- Mr. Katwa Kigen:** So one is, I can hear you clearly saying that it is a system you have not been trained on.

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Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Any other reason why you did not vote? Is there any other reason why you did not vote than the fact that you have not been trained?

Hon. Hillary Kibet Bosuben: I personally had the intention not to support the Motion of impeachment of the Governor.

Mr. Katwa Kigen: Yes, that is a different issue.

Hon. Hillary Kibet Bosuben: Now, because I never trusted the system.

Mr. Katwa Kigen: Okay. So, your other reason is because you did not have faith in the system?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Had you ever used that system previously?

Hon. Hillary Kibet Bosuben: No.

Mr. Katwa Kigen: The decision to use it was made when?

Hon. Hillary Kibet Bosuben: Some few minutes to voting.

Mr. Katwa Kigen: The decision to use it was being made a few minutes to the voting. Did you object to the use of the electronic voting?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Could you tell us how many times did you object?

Hon. Hillary Kibet Bosuben: Many times. When the Speaker put the question, we all rose up for a division.

Mr. Katwa Kigen: Okay. So, when the Speaker - and that is captured in - that you actually objected? Yes. Okay. Hon. Senators, we will play a video of that objection. So, that was the first time. Any other time?

Hon. Hillary Kibet Bosuben: Yourself, being the Counsel for the Governor, the legal team for the Governor, requested us to stand, to declare if we want electronic voting or we do not want electronic voting, and we all stood, the 18 of us.

Mr. Katwa Kigen: You were also ignored. There was a time when the question was being put whether you should use electronic or not and you objected, is that so?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: You also stood up when I asked to confirm that 18 of you are opposed to it?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Any other time you raised your objection?

Hon. Hillary Kibet Bosuben: There was another time when the Speaker called Hon. Paul Bii to go and cast his vote. Hon. Bii moved there and said loudly that he abstains.

Mr. Katwa Kigen: Before we move to another issue, how many were opposed to the electronic voting?

Hon. Hillary Kibet Bosuben: Eighteen.

Mr. Katwa Kigen: If 18 did not vote, what is the total number of votes that would have been cast in the Assembly?

Hon. Hillary Kibet Bosuben: Twenty-nine.

Mr. Katwa Kigen: How many are you in the county?

Hon. Hillary Kibet Bosuben: Forty-seven.

Mr. Katwa Kigen: As a County Assembly, had you passed policies, guidelines and any manual on the use of electronic voting?

Hon. Hillary Kibet Bosuben: No.

Mr. Katwa Kigen: You say that your vote was impersonated. Have you come to learn who impersonated you in the vote?

Hon. Hillary Kibet Bosuben: Not really, but there is a clip by my friend, who is the Mover of the Motion, Hon. Kiprotich Rogony. He called me the following day after he moved the Motion and declared that he had voted for me. I just need to go and sign the affidavit that I voted 'yes.'

Mr. Katwa Kigen: Apart from saying that you go sign the affidavit, what else did he say?

Hon. Hillary Kibet Bosuben: He used a lot of lucrative words.

Mr. Katwa Kigen: He gave you incentives. What were the incentives?

Hon. Hillary Kibet Bosuben: Kshs200,000 and a trip to Rwanda of which I objected because I had already been promised that I would go to Dubai. He said, I will take you to Dubai and I will give you Kshs200,000.

Mr. Katwa Kigen: If the Senators wanted to know whether that conversation took place, do you have anything to support that?

Hon. Hillary Kibet Bosuben: I have it here.

Mr. Katwa Kigen: You have it in your phone, it is part of your exhibit.

Mr. Speaker, Sir, I request for permission to play the first audio we have. We had asked the technical team to get it ready. The audio is on the conversation between Hon. Kibet and Hon. Rogony.

(An audio clip was played)

You remember that Hon. Rogony was here yesterday and he made reference to that audio recording. He said that recording was not true. What is your position on that point that it is not true?

Hon. Hillary Kibet Bosuben: It is true. In fact, Rogony said that he has never called me, but with the permission of the Speaker, I can give my phone to one of the Senators to check.

Mr. Katwa Kigen: Or the Clerk?

Hon. Hillary Kibet Bosuben: To check that Rogony called me. He has been texting me, and on Saturday, he texted me on the Financing Locally-Led Climate Action (FLLoCA).

Mr. Katwa Kigen: So, he has been communicating with you throughout?

Hon. Hillary Kibet Bosuben: On 16th at 12 minutes past 11 he called me with all those stories.

Mr. Katwa Kigen: He has been calling you even as recently as Saturday. Is it the same number he had used to call you when you recorded this?

Hon. Hillary Kibet Bosuben: Yes, it is the same number.

Mr. Katwa Kigen: You remember he said he was a member of the Seventh-Day Adventist (SDA) Church. Is he a member?

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Hon. Hillary Kibet Bosuben: I never listened very well. I thought he said Seventh Day. There is Seventh Day club along the highway on your way to Nakuru. I thought he was referring to that.

Mr. Katwa Kigen: There is a club known as Seventh Day?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: He said he is due to travel to Rwanda. Do you remember that?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Is it true that he is due to travel to Rwanda?

Hon. Hillary Kibet Bosuben: I do not know.

Mr. Katwa Kigen: Did you hear him say that the President is also in support of this impeachment?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Do you know anything about that?

Hon. Hillary Kibet Bosuben: I do not know but I just believe it is blackmail---

Mr. Katwa Kigen: Do you know somebody known as Hesbon?

Hon. Hillary Kibet Bosuben: He is my predecessor.

Mr. Katwa Kigen: The one you took over from as an MCA?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: That is a fact?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: You also said he was the Mover of the Motion in the clip?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Is he, in fact, the Mover of the Motion in this case?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Are you friends with Hon. Rogony?

Hon. Hillary Kibet Bosuben: He is a colleague. He has been a friend, but he has been fighting me in some instances because he is my successor as the Chairperson of the Committee on Finance. I was the Chairperson before the first impeachment of the Governor.

When he moved the Motion, he took my position as an offer just like he had said that he would reward me with the position of the Chairperson to the Committee on Labour.

Mr. Katwa Kigen: So, it is your testimony that when he cooperated with the Speaker to move the first Motion he was rewarded with the chairpersonship of the Committee on Finance. If you had cooperated to swear an affidavit to say that you had voted, you would have been rewarded with the chairmanship of the Committee on Labour.

Hon. Hillary Kibet Bosuben: By next week, I would have been the Chairperson for Labour.

Mr. Katwa Kigen: Let us move to the procedure used in the division on the Motion for the impeachment of the Governor.

It is your testimony that the decision to use electronic voting was made that morning?

Hon. Hillary Kibet Bosuben: It was made some few minutes to the voting.

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Mr. Katwa Kigen: And you raised an objection to that?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: How was that question as to whether to use electronic voting or not taken up?

Hon. Hillary Kibet Bosuben: The Speaker read Standing Order No.79 and explained that we were supposed to use electronic voting. He read to around Subsection 5 and said we could read the others. He then put the question.

When he put the question, the 18 of us stood for a division, but the Speaker did not listen to our voices and proceeded to the vote.

Mr. Katwa Kigen: Is that captured in the video?

Hon. Hillary Kibet Bosuben: Yes, it is.

Mr. Katwa Kigen: Mr. Speaker, Sir, I request to play the video clip relating to that process on the question of division.

(A video clip was played)

I request the technical team to keep that video within reach. Please, play the video up to the point where the 18 were upstanding.

(A video clip was played)

Point it out to the Senators if, indeed, the 18 of you expressed your opposition.

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: How did you express your opposition?

Hon. Hillary Kibet Bosuben: We stood.

Mr. Katwa Kigen: Is that visible in that video?

Hon. Hillary Kibet Bosuben: It is clearly visible.

Mr. Katwa Kigen: From that audio, who were the majority, the 'Nays' or the 'Ayes?'

Hon. Hillary Kibet Bosuben: The Nays.

Mr. Katwa Kigen: I request the video to be played, so that the Senators can make their own judgment as to who had the vote.

(A video clip was played)

So, it is your wish that Senators apply their judgement and determine who were the louder by acclamation.

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: You have demonstrated that 18 of you stood; that the 'Nays' were more. If the clip could be played, hon. Senators, I just want you to apply your minds as to whether a declaration was made by the Speaker as to whether the 'Ayes' or 'Nays' had it.

(A video clip was played)

Did the Speaker determine whether the ‘Nays’ or the ‘Ayes’ had it?

Hon. Hillary Kibet Bosuben: No.

Mr. Katwa Kigen: There was no declaration.

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Is it required that he makes that declaration before the House proceeds?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Why did he decline to make a declaration?

Hon. Hillary Kibet Bosuben: I do not know.

Mr. Katwa Kigen: Is it not because the Nays were more and it was inconvenient for his plan?

Hon. Hillary Kibet Bosuben: I think so.

Mr. Katwa Kigen: Let us move on to a different issue. The voting began after that clip?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Hon. Senators, the capture of those proceedings is at page 255 of volume one of the Governor’s bundle. How long did the Speaker say it would take to conclude the voting?

Hon. Hillary Kibet Bosuben: Five minutes.

Mr. Katwa Kigen: How many minutes did it actually take?

Hon. Hillary Kibet Bosuben: Eleven minutes.

Mr. Katwa Kigen: Eleven minutes contrary to the Standing Orders?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: After that, you then moved on to voting.

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: What did the 18 of you want? Were you opposed to the voting on that impeachment Motion?

Hon. Hillary Kibet Bosuben: Not really.

Mr. Katwa Kigen: You were not opposed.

Hon. Hillary Kibet Bosuben: Yes, but we wanted the system we were used to, that is, roll call voting, which is transparent.

Mr. Katwa Kigen: You wanted the option to do roll call voting?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Do the County Assembly of Kericho Standing Orders provide for roll call voting?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: What does it require for roll call voting to occur?

Hon. Hillary Kibet Bosuben: If five members stood for a division, then the Speaker could rule that roll call voting be allowed.

Mr. Katwa Kigen: The moment you have five people opposed and insisting on a roll call, you go for roll call, that is your point?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: From the Standing Orders?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Do you recall the Standing Order that you are referring to?

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Hon. Hillary Kibet Bosuben: It is in Standing Order No.77, but I do not remember the sub-section.

Mr. Katwa Kigen: It is Standing Order No.79. Then the voting started, is it?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Do you recall who raised the first objection when the real process started?

Hon. Hillary Kibet Bosuben: Hon. Gabriela stood and asked the Speaker that we have not been trained on this electronic system you are introducing to us now. The Speaker gave her time to make a declaration. However, when Hon. Gabriela raised that question, the Speaker said he had ruled on that.

Mr. Katwa Kigen: And said she will be assisted in using electronic voting?

Hon. Hillary Kibet Bosuben: Correct.

Mr. Katwa Kigen: Okay, apart from Hon. Gabriela, did anybody else raise an objection?

Hon. Hillary Kibet Bosuben: Hon. Paul Bii, whose nickname is Kiptegan, stood and said he abstains.

Mr. Katwa Kigen: So, two people raised objections, Gabriela saying we cannot use it because we have not been trained, and Paul Bii saying that he wants to be on record as abstaining.

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: When the results were eventually declared, which is on page 98, was Paul Bii's abstention captured in that?

Hon. Hillary Kibet Bosuben: No.

Mr. Katwa Kigen: Okay. Hon. Senators, the HANSARD proceedings relating to the complaints by the two honourable MCAs; Paul Bii and Gabriela, are on pages 256 to 257 of volume one of the Governor's Bundle. If you could be shown that. I would like us to go straight to where we are looking at.

Hon. Senators, I am going to the fourth paragraph. The fourth paragraph starts by saying these words, 'You can proceed to vote one by one. Yes, one by one'. The voting was supposed to be in what sequence?

Hon. Hillary Kibet Bosuben: We were never told.

Mr. Katwa Kigen: No. What does it say there?

Hon. Hillary Kibet Bosuben: One by one.

Mr. Katwa Kigen: So, one was to follow the other one, is it not?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: If you voted one by one, would it have been possible to vote within a second?

Hon. Hillary Kibet Bosuben: Not possible.

Mr. Katwa Kigen: Would it have been possible to vote within five minutes?

Hon. Hillary Kibet Bosuben: Not really.

Mr. Katwa Kigen: Okay. Now, let us proceed then with the HANSARD. Then it said, we start from here, one by one. Who does not have a phone or a tablet? Yes, Hon. Francis Terer. We start with Hon. Paul Bii. Is this the Paul Bii you are talking about?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: We start with Hon. Paul Bii. You can proceed. Hon. Gilbert Ng'etich, proceed here, so that you can be assisted to log in. Maybe you can come here. Then Hon. Paul Bii spoke off record. You can see that?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Did he speak off the record?

Hon. Hillary Kibet Bosuben: No.

Mr. Katwa Kigen: What did he say? When the Speaker says, Hon. Paul Bii spoke off record, what was it that he said?

Hon. Hillary Kibet Bosuben: 'I abstain.'

Mr. Katwa Kigen: To the extent to which it says there was off-record comment from Paul Bii, is it a manipulation of this HANSARD, is it not?

Hon. Hillary Kibet Bosuben: It is a manipulation because, indeed, he said he abstains.

Mr. Katwa Kigen: You can support that?

Hon. Hillary Kibet Bosuben: 100 per cent.

Mr. Katwa Kigen: Okay. Then the next sentence is, Hon. Paul Bii, even when you abstain, you press the button. Indeed, the Hon. Speaker is answering the question from Hon. Paul Bii, is it not?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: What is the issue that he is answering to? Abstaining, is it not?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Yet that abstaining is not captured in the HANSARD, is it not?

Hon. Hillary Kibet Bosuben: That is very true.

Mr. Katwa Kigen: Okay. Then he says, 'Press the button', is it not?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Was there any button that you could press in that Assembly on that day?

Hon. Hillary Kibet Bosuben: No, there was none.

Mr. Katwa Kigen: Let us proceed. Then there was loud consultation, then order, order, then the next sentence. There is no shouting, Hon. Members, order!

You know, Hon. Members, you can still refer to your Standing Orders when you are abstaining. Kindly, we are under electronic voting. On page 257, Hon. Gabriela Chepng'eno spoke off record. What did Hon. Gabriella Chepng'eno say?

Hon. Hillary Kibet Bosuben: She was informing the Speaker that we have not been trained on the said system.

Mr. Katwa Kigen: The bit where she is complaining that they have not been trained is what the Speaker has edited to say she spoke off record, is it not?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: So, this HANSARD has also been edited to that extent?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Okay. Then let us go on. "Hon. Paul Bii and Gabriela, I do not know what you want me to do now that you are shouting. Our officers are here to help. You log in with your credentials. Order, Hon. Members. Voting is ongoing. Kindly,

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do not shout.” Then loud consultations. Now, I would like then that we go back to--- I would like the technical team---

The Speaker (Hon. Kingi): Yes, Counsel for the County Assembly.

Mr. Kimutai Bosek: Mr. Speaker, Sir, with a lot of respect to my learned friend, Katwa Kigen, I think he has taken it upon himself to testify in this Senate. All the questions that he is asking are not questions. He is actually asking direct questions, leading the witness. The witness is not being allowed to testify on his own, but Counsel actually wants to testify as though he is a witness himself. We object to this line of leading a witness in examination-in-chief by asking leading questions.

The Speaker (Hon. Kingi): Counsel for the Governor, I have noted the same. In fact, you tend to pronounce the answer and request the witness to confirm it. You have been in this for far longer than I was. You are a senior in this profession. Kindly abide by the rules of evidence-in-chief when you are leading a witness.

Mr. Katwa Kigen: I will, Mr. Speaker, Sir. Although, yesterday, you said it is not necessarily a court process, but I will abide by that.

(Laughter)

Also, thank you for the compliment that I am your senior. I would like the technical team, with your permission, Mr. Speaker, Sir, to play the corresponding video of these proceedings, where Mr. Bii and Hon. Gabriela are raising their concerns.

(A video was played)

Mr. Katwa Kigen: Just pause it there for one moment. Who is that who is walking forward?

Hon. Hillary Kibet Bosuben: Paul Bii.

Mr. Katwa Kigen: Could you look at the transcript, page 256 of the HANSARD?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: I would like you to look at it. You can proceed one by one. We start from here, one by one. Who does not have the phone or tablet? Yes, Hon. Francis Terer. We start with Hon. Paul Bii. Is that the Paul Bii that the Hon. Speaker is referring to?

Hon. Hillary Kibet Bosuben: Yes, that is Paul Bii.

Mr. Katwa Kigen: Is he reacting to this invite by the Speaker?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Okay. Go on. If it could be played, just pull back once by about a second and then play. Yes, please. That is too far. Just play.

(A video was played)

Mr. Katwa Kigen: If you could pause again. What is Paul Bii saying? I have been told not to put words in your mouth.

Hon. Hillary Kibet Bosuben: ‘I abstain.’

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Mr. Katwa Kigen: Could you look at the HANSARD? Does it capture what he said?

Hon. Hillary Kibet Bosuben: No. It says Paul Bii spoke off-record.

Mr. Katwa Kigen: Is that correct?

Hon. Hillary Kibet Bosuben: Not correct.

Mr. Katwa Kigen: Okay. You will have to struggle a little more to say what he said because I have been told not to say it on your behalf. I want us to move on to the next part, page 257. Hon. Gabriela spoke off-record. I would like the video to be played. If we could be taken where Hon. Gabriela is talking. Just play the video.

(A video clip was played)

Okay. Just stop there. Could you confirm if you heard the voice of somebody?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Who is that?

Hon. Hillary Kibet Bosuben: Hon. Gabriela Chemweno.

Mr. Katwa Kigen: The name Hon. Gabriela is specifically mentioned by the Speaker, is it not?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: So, it is definitely her. What was she saying?

Hon. Hillary Kibet Bosuben: That we have not been trained on the said electronic system.

Mr. Katwa Kigen: Now. Look at page 257. Is that point that she raised about training captured?

Hon. Hillary Kibet Bosuben: Not at all.

Mr. Katwa Kigen: What has been done?

Hon. Hillary Kibet Bosuben: Chemweno spoke of record.

Mr. Katwa Kigen: Is that correct?

Hon. Hillary Kibet Bosuben: Not correct.

Mr. Katwa Kigen: Okay. Now, lastly, as we leave that point, Mr. Speaker had advised you that the vote electronic voting would be public or confidential?

Hon. Hillary Kibet Bosuben: Public. Not--- It should be confidential because it has our credentials.

Mr. Katwa Kigen: Okay. Now, I would like you to go back to page 256 for a moment. Are you at page 256? The paragraph immediately before Hon. Paul Bii spoke of record. Are you there?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: I want us to look at the sentence before that. The Hon. Speaker said this-

“We start with Hon. Bii, you can proceed. Hon. Gilbert Ng’etich, proceed here so that you can be assisted to log in. Maybe you can come here.”

You can see the Speaker offered that you would be assisted?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: So, when Hon. Bii was coming, what was he coming for?

Hon. Hillary Kibet Bosuben: To be assisted.

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Mr. Katwa Kigen: To be assisted?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: And he communicated his vote?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: And what was his vote?

Hon. Hillary Kibet Bosuben: 'I abstain'

Mr. Katwa Kigen: And it is not captured. Then he tells the same thing to Hon. Gabriela at page 256. Is it true that in the second sentence at page 256, it says, "Our officers here will help you log in"?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Okay. Would that thought still be confidential if you have been assisted?

Hon. Hillary Kibet Bosuben: Not at all? Not really.

Mr. Katwa Kigen: Okay. I would like us to move on to a different issue. Is it true around the same video that the 18 of you stood to protest?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: If the technical team could go back there to show for the second time when the objection is being raised by the 18.

As the technical team is doing that, I would like to take you back. Before the proceedings of that day when you came from home, were you aware you were going to use electronic voting?

Hon. Hillary Kibet Bosuben: No.

Mr. Katwa Kigen: Had you been asked to come with your phones?

Hon. Hillary Kibet Bosuben: No.

Mr. Katwa Kigen: Had you been asked to come with your laptops?

Hon. Hillary Kibet Bosuben: No.

Mr. Katwa Kigen: Now, the question was put several times yesterday in the honourable Senate as to whether you can go to a place without your tools of trade. A comparison was made with a student going to school without a pen or a book. You remember that?

Hon. Hillary Kibet Bosuben: Yes, I do.

Mr. Katwa Kigen: Okay. Now, my question is: is a phone and a laptop a tool that you need to participate in the debate and voting in the Assembly, prior to this introduction of the electronic voting?

Hon. Hillary Kibet Bosuben: No.

Mr. Katwa Kigen: So, did you need your phone and laptop that day?

Hon. Hillary Kibet Bosuben: No.

Mr. Katwa Kigen: So, you came from home not knowing you would use electronic voting, is it not?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Did you come to learn that there were plans to use electronic voting that day, when you had arrived at the Assembly?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: You are made to understand that?

Hon. Hillary Kibet Bosuben: Yes.

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Mr. Katwa Kigen: Was that issue raised earlier in the proceedings?

Hon. Hillary Kibet Bosuben: Yes, it was raised.

Mr. Katwa Kigen: It was raised by who?

Hon. Hillary Kibet Bosuben: Yourself, as the legal team for the Governor and even the Governor himself.

Mr. Katwa Kigen: So, it was raised by both the Governor and his counsel, saying, “We have been made to understand that there is a scheme to manipulate the votes by using manipulated electronic voting”, is it not?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: I would like the technical team to show the clip where the 18 identify themselves.

(A video clip was played)

If you could move the clip to where the 18 are being asked to stand, please?

(A video clip was played)

That is all. That is okay. So, as it were, you had raised your concerns about the scheme and the plot to use manipulated electronic system long before the process of voting---

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Mr. Speaker, Sir, that is all I have for this witness. I would like to hand him over to Mr. Mutuma.

The Speaker (Hon. Kingi): Counsel for the County Assembly, your witness.

Mr. Elias Mutuma: Thank you, Mr. Speaker, Sir, for this opportunity. I will do the cross-examination to the witness.

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: Good morning, Mr. Witness.

Hon. Hillary Kibet Bosuben: Good morning, Sir.

Mr. Elias Mutuma: For record purposes, my name is Elias Mutuma. You have been brought by the Governor as a key witness in this impeachment proceedings, correct?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: You are aware that the Governor is facing three key grounds for impeachment, correct?

Hon. Hillary Kibet Bosuben: Yes, I do.

Mr. Elias Mutuma: In the course of your testimony, have you in any way tried to respond to any of the three issues that the Governor is accused of?

Hon. Hillary Kibet Bosuben: I have not been asked to.

Mr. Elias Mutuma: You have not been asked to? It was not supposed to be asked. I am asking you now, have you attempted to respond to any of the three charges that the Governor has been accused of?

Hon. Hillary Kibet Bosuben: It was a cross-examination. I have not been asked.

Mr. Elias Mutuma: Answer the question. Have you attempted to respond to any of the three charges the Governor has been accused of?

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Hon. Hillary Kibet Bosuben: No.

Mr. Elias Mutuma: Thank you. Mr. Witness, let us start with the issue of the alleged call between you and the Mover of this Motion.

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: I have looked at your certificate of electronic evidence.

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: Was it you who prepared the same?

Hon. Hillary Kibet Bosuben: Through the DCI.

Mr. Elias Mutuma: Are you the one who prepared that certificate?

Hon. Hillary Kibet Bosuben: Yes, it is in page 261---

Mr. Elias Mutuma: That is not my question. Are you the one who prepared that certificate?

Hon. Hillary Kibet Bosuben: It was the DCI.

Mr. Elias Mutuma: It was not you who prepared it?

Hon. Hillary Kibet Bosuben: I reported the information to the DCI.

Mr. Elias Mutuma: Do you understand my question? I am talking about a document contained at page 261, volume one of the Governor's response. Your name is Kibet Bosuben Hillary, correct?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: There is a document there titled "certificate of electronic evidence." Is that your document?

Hon. Hillary Kibet Bosuben: Yes, that is my document.

Mr. Elias Mutuma: That is your document. Was it you who prepared it or was it prepared by someone else?

Hon. Hillary Kibet Bosuben: It is me.

Mr. Elias Mutuma: It is you, correct?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: Do you confirm that the contents of that document are true and correct?

Hon. Hillary Kibet Bosuben: 100 per cent.

Mr. Elias Mutuma: Every detail of it?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: Thank you. Let us go to paragraph two. Whose number is that? You have stated that number belongs to Hon. Rogony. Whose number is that? Can you read the number?

Hon. Hillary Kibet Bosuben: 0724---

Mr. Elias Mutuma: Page 261 of volume one of the Governor's response. Can you read the number that you have attached there, now that you have owned that document?

Hon. Hillary Kibet Bosuben: 0724290---

Mr. Elias Mutuma: Proceed to read what you have put in the certificate of electronic evidence.

Hon. Hillary Kibet Bosuben: That is it.

Mr. Elias Mutuma: Is that a valid number?

Hon. Hillary Kibet Bosuben: For privacy---

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- Mr. Elias Mutuma:** Is that a valid number?
- Hon. Hillary Kibet Bosuben:** For privacy---
- Mr. Elias Mutuma:** Answer my question. Is that a valid phone number?
- Hon. Hillary Kibet Bosuben:** No.
- Mr. Elias Mutuma:** Have you tried to explain that you truncated the number for security reasons?
- Hon. Hillary Kibet Bosuben:** I failed to---
- Mr. Elias Mutuma:** Is that a valid number?
- Hon. Hillary Kibet Bosuben:** No.
- Mr. Elias Mutuma:** Does that number belong to the Mover of the Motion?
- Hon. Hillary Kibet Bosuben:** There are some three missing digits of which I---
- Mr. Elias Mutuma:** So, this is not his number, correct?
- Hon. Hillary Kibet Bosuben:** It is his number, but with missing digits.
- Mr. Elias Mutuma:** So, it is not his number?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Elias Mutuma:** You have proceeded and given your number at the same paragraph. Were you not concerned about the private issues that you are talking about?
- Hon. Hillary Kibet Bosuben:** For my case, I do not care because he could have sued me for exposing his privacy. For my case, I do not mind.
- Mr. Elias Mutuma:** Then you are aware of data protection, I presume, correct?
- Hon. Hillary Kibet Bosuben:** That is why I never put those digits---
- Mr. Elias Mutuma:** You are then aware of the data protection laws in Kenya, correct?
- Hon. Hillary Kibet Bosuben:** Sometimes.
- Mr. Elias Mutuma:** You are aware?
- Hon. Hillary Kibet Bosuben:** Some sections.
- Mr. Elias Mutuma:** And you were concerned about his security and privacy, correct?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Elias Mutuma:** Did you seek the consent of the person whom you recorded before you recorded them?
- Hon. Hillary Kibet Bosuben:** I could not have done so. How could I do so? He could have hidden some information.
- Mr. Elias Mutuma:** On one hand, you are telling us you wanted to protect the privacy of the person whose number you have put here. Are you aware that it is even more dangerous and more criminal to record someone's private conversation? Does that not violate their right to privacy to conversation?
- Hon. Hillary Kibet Bosuben:** Counsel, it is common sense.
- Mr. Elias Mutuma:** It is not common to everyone. Answer my question. Do you not know that the Data Protection Act, 2019 criminalises recording of private conversations?
- Hon. Hillary Kibet Bosuben:** I do not know.
- Mr. Elias Mutuma:** You do not know?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Elias Mutuma:** I put it to you that it is a criminal offence to do that.

Hon. Hillary Kibet Bosuben: I am getting it now.

Mr. Elias Mutuma: Even then, we have confirmed that this is not Hon. Rogony's number, correct?

Hon. Hillary Kibet Bosuben: But I can prove it is his.

Mr. Elias Mutuma: It is not his number. Is it his number?

Hon. Hillary Kibet Bosuben: But there are some digits missing---

Mr. Elias Mutuma: Is this his number?

Hon. Hillary Kibet Bosuben: No.

Mr. Elias Mutuma: Thank you. Let us go to paragraph 5(c). You have talked of the date and time of recording.

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: Have you provided the date and time of this recording? You have not.

Hon. Hillary Kibet Bosuben: Time of recording is captured. It is six minutes and a few seconds.

Mr. Elias Mutuma: That is the duration of the call. I am talking about the time and date of the recording. Does it appear in your certificate of electronic evidence?

Hon. Hillary Kibet Bosuben: Not actually.

Mr. Elias Mutuma: You have not put it there?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: Mr. Witness, I want to put it to you that this is your imagination. You have manufactured this audio for the purposes of seeking sympathy from this Senate. What will you say?

Hon. Hillary Kibet Bosuben: No. You know, counsel, it is easy providing evidence when you know the truth and these are facts that I can provide.

Mr. Elias Mutuma: So, what was so difficult? You have said it is easy. What was so difficult then for you to produce the actual time, place and the full number of the phone that called you? You have not, is it not?

Hon. Hillary Kibet Bosuben: We are human beings---

Mr. Elias Mutuma: You have not, is it not?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: So, there is no way of verifying that indeed this call came from Hon. Rogony. Is there a way this Senate is able to verify that indeed this phone call came from Hon. Rogony?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: What are the means?

Hon. Hillary Kibet Bosuben: I can provide it now.

Mr. Elias Mutuma: You have the opportunity and the means to do that. Did you do that?

Hon. Hillary Kibet Bosuben: No, but that is why I am here.

Mr. Elias Mutuma: You had the means and the opportunity to do that to reduce it into writing. Did you do that?

Hon. Hillary Kibet Bosuben: I am doing it now. That is why I am here, counsel.

Mr. Elias Mutuma: Thank you. You also confirm that you did not seek the permission of the person you were talking to before recording, correct?

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Hon. Hillary Kibet Bosuben: Yes, because I could not have done so.

Mr. Elias Mutuma: You did not, correct?

Hon. Hillary Kibet Bosuben: Yes, I did not.

Mr. Elias Mutuma: By the way, how many other people do you record when you have conversations with? Is it in your habit to record everyone that you have a conversation with?

Hon. Hillary Kibet Bosuben: No.

Mr. Elias Mutuma: Why was it necessary for you to record this conversation with the person that you were talking to?

Hon. Hillary Kibet Bosuben: It was a suspicious call.

Mr. Elias Mutuma: What was so suspicious about it?

Hon. Hillary Kibet Bosuben: Rogony was the Mover of the Motion while I was on the other side opposing the Motion.

Mr. Elias Mutuma: Is Rogony an enemy to you?

Hon. Hillary Kibet Bosuben: No. Just like I alluded to in the first instance, Rogony is a friend. We are in three committees---

Mr. Elias Mutuma: So, what was so strange if a friend calls you, assuming that the call came from Rogony?

Hon. Hillary Kibet Bosuben: What triggered---

Mr. Elias Mutuma: The question I am asking is: What is so suspicious about a call from a friend?

Hon. Hillary Kibet Bosuben: That is what I am here to explain. Counsel, I said we talked some few minutes with Rogony. What he said suggested that he voted for me and that is why I opted to record. That information triggered.

Mr. Elias Mutuma: Let us interrogate that conversation. Did you believe the content of that conversation from whoever it came from?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: You believed every word that was uttered in that conversation?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: There is a place where the person on the other end says you voted. Do you recall that in your audio?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: Did you believe that fact?

Hon. Hillary Kibet Bosuben: No.

Mr. Elias Mutuma: But you believed that he voted for you?

Hon. Hillary Kibet Bosuben: In the Kalenjin dialect---

Mr. Elias Mutuma: I am not a Kalenjin. So, I do not understand. I am taking the plain and ordinary meaning of that sentence. He said you voted, correct?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: And you have said you believed what he was saying, correct?

Hon. Hillary Kibet Bosuben: Not all the contents because I never voted.

Mr. Elias Mutuma: So, you chose to pick what to believe and what not to believe?

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Hon. Hillary Kibet Bosuben: That is why I brought the whole clip for this House to confirm.

Mr. Elias Mutuma: Clearly, the voice in that audio is a person who is drunk, correct?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: He even confirmed that he is drunk, correct?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: What value would you place in the words of a person who clearly confirms that they are drunk?

Hon. Hillary Kibet Bosuben: You know, counsel---

Mr. Elias Mutuma: He confirms he is drunk, correct?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: What value would you place in the words or utterances of a drunk person?

Hon. Hillary Kibet Bosuben: You know for us---

Mr. Elias Mutuma: I do not know about you. I am asking what value would you give to utterances by a person who confesses that they are actually drunk?

Hon. Hillary Kibet Bosuben: Drunkards are very honest and they can say anything without hiding.

(Laughter)

Mr. Elias Mutuma: Are you an expert in mental assessment?

Hon. Hillary Kibet Bosuben: I am friends with so many people who drink.

Mr. Elias Mutuma: Mr. Witness, there is an instance where the person on that call says "I will take you to Dubai and Rwanda", correct?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: Did you believe that was possible?

Hon. Hillary Kibet Bosuben: It is possible.

Mr. Elias Mutuma: How would it be possible?

Hon. Hillary Kibet Bosuben: I will request later on---

Mr. Elias Mutuma: Let me ask a very straightforward question. Who approves trips in the County Assembly?

Hon. Hillary Kibet Bosuben: The Speaker.

Mr. Elias Mutuma: Were you talking to the Speaker who approves meetings and trips?

Hon. Hillary Kibet Bosuben: Of course, common sense. When you have connection---

Mr. Elias Mutuma: What you are calling common sense is not that common.

Hon. Hillary Kibet Bosuben: I know because I have been in that Assembly more than you know it. I have been there for some time and I know the operations of that Assembly. When you have connections with the Speaker, you can decide anything. That is why he was saying he can give me the position of Labour.

Mr. Elias Mutuma: But you were not talking to the Speaker at the moment, correct?

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Hon. Hillary Kibet Bosuben: I understand the operations of that County Assembly.

Mr. Elias Mutuma: Let us proceed. You have been shown a clip of the proceedings of the House on 15th of August, correct?

Hon. Hillary Kibet Bosuben: Yes, Sir.

Mr. Elias Mutuma: And you allege that the majority of the Members were against electronic voting?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: That the “Noes” had it and not the “Ayes”, correct?

Hon. Hillary Kibet Bosuben: Yes, yes.

Mr. Elias Mutuma: In your assessment, how many people were against?

Hon. Hillary Kibet Bosuben: We were 18.

Mr. Elias Mutuma: And how many were for the electronic voting?

Hon. Hillary Kibet Bosuben: They were 29.

Mr. Elias Mutuma: Simple mathematics, who were the majority, 29 or 18?

Hon. Hillary Kibet Bosuben: Simple mathematics, 29.

Mr. Elias Mutuma: How is it then that the “Noes” were the majority?

Hon. Hillary Kibet Bosuben: You know, the Speaker used the voice vote, not the number, so we were louder---

Mr. Elias Mutuma: Mr. Witness, you have confirmed, arithmetically, that 29 were for the electronic voting and 18 were not. Who are the majority?

Hon. Hillary Kibet Bosuben: 29.

Mr. Elias Mutuma: Thank you. Let us go to the other issue. You obviously came to the Chambers prepared not to vote, correct?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: You knew from the very beginning that you were not going to vote?

Hon. Hillary Kibet Bosuben: No.

Mr. Elias Mutuma: Is it a ‘yes’ or ‘no’?

Hon. Hillary Kibet Bosuben: No.

Mr. Elias Mutuma: The first time was a “yes,” then now it is a “no”.

Hon. Hillary Kibet Bosuben: Okay, you repeat the question in a different fashion. No.

Mr. Elias Mutuma: You came to the Chambers knowing that you are going to vote or you are not going to vote?

Hon. Hillary Kibet Bosuben: I was going to vote.

Mr. Elias Mutuma: Were you aware that Standing Order No.77 provides for electronic voting?

Hon. Hillary Kibet Bosuben: Yes, I do.

Mr. Elias Mutuma: Is that binding upon the Members and also the Speaker?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: How were you prepared to vote electronically, knowing that you were not ready for it?

Hon. Hillary Kibet Bosuben: I knew because if the Speaker was fair, he could have given us the opportunity to vote on a roll call voting, but he refused.

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Mr. Elias Mutuma: The Standing Orders provide for electronic voting. Simply put, you came not prepared to vote electronically, correct?

Hon. Hillary Kibet Bosuben: Electronically, yes, correct.

Mr. Elias Mutuma: Thank you. We have also seen that one Hon. Paul Bii, allegedly protested and abstained from voting, but the HANSARD allegedly captured that he was off-record?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: Explain to these hon. Members, who are also parliamentarians, what an off-record remark means. What does it mean?

Hon. Hillary Kibet Bosuben: It was not captured in the HANSARD.

Mr. Elias Mutuma: What would make a remark to not be captured by the HANSARD?

Hon. Hillary Kibet Bosuben: I do not know.

Mr. Elias Mutuma: You are a parliamentarian. You are a Member of the County Assembly. What would an off-record mean?

Hon. Hillary Kibet Bosuben: In fact, I am surprised because it could not have been off-record.

Mr. Elias Mutuma: Let me educate you. An off-record means that it is a remark made, number one, without the permission of the Speaker or if it is not captured by a microphone where the HANSARD is supposed to capture, correct? Am I right?

Hon. Hillary Kibet Bosuben: You are right.

Mr. Elias Mutuma: Did Hon. Paul Bii, in that video proceed to the clerk's desk, where the microphone is and sought to go on record? Did he?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: We can watch it again. Kindly replay that video. Let us see where Hon. Paul Bii is at the time of making that remark.

Technical team, kindly, let us see Hon. Paul Bii making the alleged protest.

As we wait for the video, as per the structure of the County Assembly of Kericho, the microphone is only available at the clerk's desk, correct?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: That is where all contributions and official communications are made, so that they go on record, correct?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: Thank you. Let us see Hon. Paul Bii.

(A video clip was played)

Is that an off-record or on record? Just pause.

Is that an off-record or on record remark?

Hon. Hillary Kibet Bosuben: There is a microphone there.

Mr. Elias Mutuma: Where? The microphone is in a designated place. Is Paul Bii shouting from the Floor or at the designated place where the microphone is for the purposes of capturing records?

Hon. Hillary Kibet Bosuben: On my observation, he was close to the microphone.

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Mr. Elias Mutuma: We are all observing, so it is not only dependent on your observation, but let us look at the video. Where is he making that remark from? The Floor, shouting, or in a designated place?

Hon. Hillary Kibet Bosuben: Near the clerk's desk.

Mr. Elias Mutuma: Near, but not at the designated place, correct? You do not need to explain, we can see what is happening.

Hon. Hillary Kibet Bosuben: Yeah.

Mr. Elias Mutuma: This is your evidence.

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: He has not gone on record, correct?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: Thank you. So, you cannot then accuse the Speaker of tampering with the records because that is an off-record remark, correct?

Hon. Hillary Kibet Bosuben: I do not think so.

Mr. Elias Mutuma: Let us go to the contents of your affidavit, but before we go there, Counsel Katwa Kigen has also played a video where 18 members stood confirming that they were against the impeachment Motion, and that they were not going to vote electronically, correct?

Hon. Hillary Kibet Bosuben: Yes, Sir.

Mr. Elias Mutuma: At that juncture, had the debate in respect to the Motion been debated?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: At what point was it? We have the HANSARD here.

Hon. Hillary Kibet Bosuben: Okay, he had moved the Motion.

Mr. Elias Mutuma: It was actually at the beginning of the opening remark by Counsel Katwa Kigen.

Hon. Hillary Kibet Bosuben: Very true, very true.

Mr. Elias Mutuma: So, the Members of the County Assembly had not debated the Motion?

Hon. Hillary Kibet Bosuben: Yes, very true.

Mr. Elias Mutuma: So, when Counsel Katwa Kigen asked Members of the County Assembly to stand and be counted, had the question been put by the Speaker for them to be counted?

Hon. Hillary Kibet Bosuben: It was before.

Mr. Elias Mutuma: It was before?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: In your assessment, was that an attempt to take over the proceedings of the House or not; calling Members of the County Assembly to make their stand known before the Motion was debated, is that conduct that is allowed in parliamentary proceedings?

Hon. Hillary Kibet Bosuben: We were building a case.

Mr. Elias Mutuma: You were building a case.

Hon. Hillary Kibet Bosuben: That was a sign of communication.

Mr. Elias Mutuma: Thank you. So, you were building a case?

Hon. Hillary Kibet Bosuben: Yes.

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- Mr. Elias Mutuma:** And this is the case you produced before this Senate?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Elias Mutuma:** Does Counsel Katwa Kigen take charge of the proceedings in the County Assembly?
- Hon. Hillary Kibet Bosuben:** No.
- Mr. Elias Mutuma:** Did he have the powers to ask members of the County Assembly to stand and be counted and a vote be taken before the Motion was debated?
- Hon. Hillary Kibet Bosuben:** Yes, yes, he can do so. Just like you are asking me questions.
- Mr. Elias Mutuma:** Thank you. Luckily, we are speaking to parliamentarians.
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Elias Mutuma:** But you confirm that came way before the Motion was debated?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Elias Mutuma:** To build your case?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Elias Mutuma:** And this is your case before the Senate today?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Elias Mutuma:** Thank you.
- The Speaker (Hon. Kingi):** Are you done, Counsel, for the County Assembly?
- Mr. Elias Mutuma:** Just a minute, Mr. Speaker, Sir. I just have a few more. You have signed an affidavit that you presented before this Senate, correct?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Elias Mutuma:** And in that affidavit, 18 of you appeared before a Commissioner for Oaths and swore an affidavit?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Elias Mutuma:** Explain to me how that affidavit was signed. Were you present when that affidavit was signed by all the Members?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Elias Mutuma:** Where was it signed from?
- Hon. Hillary Kibet Bosuben:** 7th Floor of Kebo Plaza, Imarisha Building.
- Mr. Elias Mutuma:** Page 115 of volume one of the Governor's bundle, do you abide by the contents of that affidavit yourself? You are among the people who signed this affidavit?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Elias Mutuma:** So, we are to take that the contents of that affidavit are true?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Elias Mutuma:** Let us, first, look at page 114, paragraph eight. You said that during the said voting session, electronic voting machines were introduced and used without prior notice. Were there any machines that were introduced and used in the County Assembly of Kericho? You mentioned of machines produced.
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Elias Mutuma:** Were there any voting machines produced?
- Hon. Hillary Kibet Bosuben:** We were told.
- Mr. Elias Mutuma:** You were told?

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Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: You confirmed on oath that machines were produced. Now, you are saying there were no machines. Is that what you are saying?

Hon. Hillary Kibet Bosuben: No.

Mr. Elias Mutuma: Were there machines?

Hon. Hillary Kibet Bosuben: I never took time because I was determined not to press or go to any machine.

Mr. Elias Mutuma: You did not even attempt to log in to find out whether you were able to vote or not?

Hon. Hillary Kibet Bosuben: Never.

Mr. Elias Mutuma: So, you would not even know whether the system was working or simple or not? You would not know. You never bothered, that is what you said?

Hon. Hillary Kibet Bosuben: Like I said before, I know our Assembly. So, I could not have attempted to touch or even see any gadget in the Assembly.

Mr. Elias Mutuma: You, however, confirm that there were no machines introduced, correct?

Hon. Hillary Kibet Bosuben: Pardon?

Mr. Elias Mutuma: Were there any voting machines produced?

Hon. Hillary Kibet Bosuben: I believe so because the Speaker said there are some gadgets---

Mr. Elias Mutuma: It is not an issue of believing, it is an issue of fact. This is something you have deponed on oath. You stated categorically that machines were introduced. Were there any machines introduced in the County Assembly?

Hon. Hillary Kibet Bosuben: Yes, I think so.

Mr. Elias Mutuma: What were those machines?

Hon. Hillary Kibet Bosuben: Laptops, some stuff at the front. I do not even know because I never took time---

Mr. Elias Mutuma: Mr. Witness?

Hon. Hillary Kibet Bosuben: Yes, Sir.

Mr. Elias Mutuma: This is your affidavit?

Hon. Hillary Kibet Bosuben: Yes, Sir.

Mr. Elias Mutuma: What machines were produced?

Hon. Hillary Kibet Bosuben: There were some laptops and some screens mounted on the wall.

Mr. Elias Mutuma: Was the screen mounted on the wall a voting machine? Is that what you want us to believe?

Hon. Hillary Kibet Bosuben: No, it was a displaying the voting patterns.

Mr. Elias Mutuma: My interest is in the machine that was produced and installed.

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: Which machine is that?

Hon. Hillary Kibet Bosuben: The machines we were told to use are our phones.

Mr. Elias Mutuma: Now, your phone is the machine that was introduced?

Hon. Hillary Kibet Bosuben: What I was referring to was my phone.

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Mr. Elias Mutuma: You can distance yourself from this paragraph if you are not comfortable with it.

Hon. Hillary Kibet Bosuben: No.

Mr. Elias Mutuma: I do not understand what no means. Do you want to distance yourself from what you have stated in this affidavit?

Hon. Hillary Kibet Bosuben: No.

Mr. Elias Mutuma: You still abide by it?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: What are the machines that were introduced?

Hon. Hillary Kibet Bosuben: Laptops and our phones.

Mr. Elias Mutuma: Those were the machines that were introduced?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: Mr. Witness, my last question is, are you familiar with the provisions of your Standing Order No.115?

Hon. Hillary Kibet Bosuben: Unless I check.

Mr. Elias Mutuma: Before you check, you confirmed that you did not vote?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: You also came determined not to vote electronically. Correct?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: So, you did not register your abstention in this vote?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: You did not. I want you to read for me Standing Order No.115(1)(j). Read Standing Order No.115(1).

Hon. Hillary Kibet Bosuben: Conduct is disorderly---

Mr. Elias Mutuma: What is the title?

Hon. Hillary Kibet Bosuben: Disorderly Conduct.

Mr. Elias Mutuma: Read (1).

Hon. Hillary Kibet Bosuben: Conduct is disorderly if the Member concerned-
(a) creates actual disorder---

Mr. Elias Mutuma: Go to (j).

Hon. Hillary Kibet Bosuben: (j) Fails to record abstention in a division.

Mr. Elias Mutuma: Fails to record abstention in a Division?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: Which you did, correct? You did not record abstention in a Division, correct? You said you did not vote. You did not even bother.

Hon. Hillary Kibet Bosuben: Yes.

Mr. Elias Mutuma: Thank you.

Hon. Hillary Kibet Bosuben: I, however, recorded abstention in the division by standing.

Mr. Elias Mutuma: There was an opportunity for you to record that by voting, pressing the button abstain. Did you press that button abstain?

Hon. Hillary Kibet Bosuben: No.

Mr. Elias Mutuma: You did not?

Hon. Hillary Kibet Bosuben: No.

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Mr. Elias Mutuma: So, you are asking this Senate to actually confirm that you are guilty of disorderly conduct? You also want this Senate to congratulate and also reward you for disorderly conduct. Is that what you are asking the Senate to do?

Hon. Hillary Kibet Bosuben: It is up to the determination of the Senate to listen to our views.

Mr. Elias Mutuma: Thank you. That is all for this witness.

Hon. Hillary Kibet Bosuben: Thank you.

The Speaker (Hon. Kingi): Counsel for the Governor, any re-examination?

Mr. Katwa Kigen: Yes, Mr. Speaker, Sir. Mr. Witness?

Hon. Hillary Kibet Bosuben: Yes, Sir.

Mr. Katwa Kigen: When you say there were machines, what did you mean? What did you have in mind? What were you referring to?

Hon. Hillary Kibet Bosuben: Our phones and the laptops in the Clerk's desk.

Mr. Katwa Kigen: Apart from your phones and laptops, what else was there? Was there anything else?

Hon. Hillary Kibet Bosuben: The screen monitor.

Mr. Katwa Kigen: There were screens also. Thank you. Now, I would like the technical team to take us to the same clip that was played by my learned friend, Mr. Mutuma, on the comments made by Hon. Paul Bii. As the technical team does that, I wanted to move on to something else. Was the electronic voting the only means of voting that was available?

Hon. Hillary Kibet Bosuben: No, we had other options.

Mr. Katwa Kigen: What were the other options you had?

Hon. Hillary Kibet Bosuben: Second Division and roll call voting.

Mr. Katwa Kigen: There was also an option for roll call voting?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: That is provided for in your Standing Orders?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Did you ask for that roll call voting?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Okay. Now, I would like you to look at the provisions. You have been asked that you misconducted yourselves under Standing Order No.115 by refusing to press a button.

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: I would like you to read out to the Hon. Senators Standing Order No.77(8).

Hon. Hillary Kibet Bosuben: Standing Order No.77(8) of our Standing Orders says-

“ Any Member present in the Assembly but who shall not have voted at the expiry of five minutes or after the announcing of the results, whichever is earlier, shall forfeit the right to vote and shall be deemed to have abstained from voting.”

Thank you.

Mr. Katwa Kigen: So, as it were, from that Standing Order, is it true that you had an option not to vote at all?

Hon. Hillary Kibet Bosuben: Yes.

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Mr. Katwa Kigen: Would that be misconduct?

Hon. Hillary Kibet Bosuben: No.

Mr. Katwa Kigen: What type of a vote would that be?

Hon. Hillary Kibet Bosuben: Abstain.

Mr. Katwa Kigen: It would be abstaining. Thank you.

If the technical team is ready, please, play that video of Hon. Paul Bii walking forward. Just before it is played, I want you to just look out for a number of things both from the HANSARD and the clip. The HANSARD is on pages 256 to 257. I want it to come out to the Hon. Senators through you, Mr. Witness, that Mr. Paul Bii's coming at the invite of the Speaker. Is that correct?

Hon. Hillary Kibet Bosuben: Yes, that is true.

Mr. Katwa Kigen: Number two, that where he goes to make his comments is where the Clerk is pointing him to or with the assistants of the County Assembly. So, I want you to watch out for that.

Lastly, after he spoke, the Speaker acknowledged his comments. We can play the clip now.

(A video clip was played)

From the reading of the HANSARD and the clip we are seeing, Hon. Paul Bii walked there when he was invited by the Speaker, is that not so?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: When he walks near the Clerk's desk, the two assistants are showing him where to stand and talk and he does that. Is that not so?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: So, is it true, as my learned friend put it to you, that the comments were made without the permission of the Speaker?

Hon. Hillary Kibet Bosuben: It is not true.

Mr. Katwa Kigen: The truth is that---

Hon. Hillary Kibet Bosuben: He was directed by the Speaker.

Mr. Katwa Kigen: He was invited, he was shown where to speak and his comments acknowledged? Is that not so?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: In the situation, should it have been in the HANSARD?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Okay. Now, you have been asked several questions in regard to your certificate of electronic voting and the number used. Then ultimately, the question was put to you whether it is possible to verify that audio. The first question I want to ask you is: Is that audio genuine and true?

Hon. Hillary Kibet Bosuben: Very genuine.

Mr. Katwa Kigen: You can put your life on the line for that?

Hon. Hillary Kibet Bosuben: Yes.

Mr. Katwa Kigen: Okay. If the Hon. Senators want to verify, are you in a position to give both the number that called to communicate that audio and the number to which it was sent?

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- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Katwa Kigen:** That can verify the truth of that information?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Katwa Kigen:** Mr. Mutuma took an issue on me saying that I misbehaved in the County Assembly. Do you remember that?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Katwa Kigen:** Did I misbehave?
- Hon. Hillary Kibet Bosuben:** I do not think so.
- Mr. Katwa Kigen:** Okay. More importantly, what made it necessary for the 18 MCAs to stand?
- Hon. Hillary Kibet Bosuben:** We were requesting to do another division---
- Mr. Katwa Kigen:** Had I been asked to substantiate?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Katwa Kigen:** So, it was in reaction to the invitation by the Speaker to substantiate the existence of the 18 people opposed to the impeachment?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Katwa Kigen:** Okay. The last question is: Are you in the habit of recording people?
- Hon. Hillary Kibet Bosuben:** No.
- Mr. Katwa Kigen:** Lastly, you said you are friends with Hon. Rogony, the person who called you, the Mover of the Motion. Is it not?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Katwa Kigen:** I hope I am not crossing the line; I know I have been told not to lead badly, but, at least, that one you have said. Is it not?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Katwa Kigen:** Okay. Did you say that he took over your office after the first impeachment?
- Hon. Hillary Kibet Bosuben:** The first impeachment?
- Mr. Katwa Kigen:** He took over the chairmanship that you held?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Katwa Kigen:** Okay. In the clip, when he offers you the chairmanship of the Labour Committee, could he have delivered it?
- Hon. Hillary Kibet Bosuben:** Yes, I am sure he could have delivered.
- Mr. Katwa Kigen:** Are you sure?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Katwa Kigen:** When you declined this, you knew you were declining something as good as money in the bank?
- Hon. Hillary Kibet Bosuben:** Yes.
- Mr. Katwa Kigen:** Why are you sure that he could deliver it?
- Hon. Hillary Kibet Bosuben:** He is a friend of the Speaker.
- Mr. Katwa Kigen:** Even the Motion he was moving was on behalf of the Speaker?
- Hon. Hillary Kibet Bosuben:** I think so.
- Mr. Katwa Kigen:** That is all, Mr. Speaker, Sir. I thank you for this witness.

The Speaker (Hon. Kingi): Now, Hon. Senators, we shall move to questions and clarifications directed either to the witness or to the parties.

Sen. Eddy Oketch, proceed.

Sen. Oketch Gicheru: Thank you, Mr. Speaker, Sir. One question is to the witness and another is a clarification from the counsel. I will start with the counsel.

Counsel, from what the counsel from the Assembly side has indicated, do you feel that what you did was tantamount to putting a question before the Assembly?

Number two, to the witness, you followed the proceedings in your Assembly and you have also followed the proceedings in this Assembly. There are issues that have emerged. Other than this issue of electronic voting, which we have other avenues of confirming - since the Speaker has ruled that we are going to have an expert - as an MCA, do you feel that the different issues such as the allegations on the misuse of funds and some of the projects not being done well by the Governor are a threshold for impeaching the Governor? You have not responded to any of those issues. I know it is because you were not asked.

Thank you.

The Speaker (Hon. Kingi): Sen. Mungatana.

Sen. Mungatana, MGH: Counsel, clarify to us; when that video, where 18 Hon. Members of the County Assembly stood up was being played, was it before or after the Motion on impeachment was passed?

There are 47 MCAs, the threshold for two-thirds would be 32. If 18 Members stood and said they abstained, it means there are only 29 people who could have voted. By implication, does it mean that the County Assembly processed a Motion that had 29 people who were for it even then, the Speaker knew because 18 people stood up and, therefore, they were processing the wrong Motion to the House.

I thank you.

The Speaker (Hon. Kingi): Sen. Enoch, proceed.

Sen. Wambua: Mr. Speaker, Sir, my question is to counsel Mutuma, who has been here many times. He is not new to the impeachment process or the goings-on in the Houses of Parliament. The only way the outcome of a vote is known to Members is through the declaration of the Speaker. If all of us vote and the Speaker does not declare the vote, there is no way we can determine the outcome of that vote.

My question is; why was it so difficult for the Speaker of the County Assembly to declare the outcome of the voice vote whichever way?

We have seen Speakers - not this one - when what *Mheshimiwa* Kamotho called *kura ya makelele* because even when people were so loud, the Speaker ruled the other way. That was the ruling of the Speaker. Why was it difficult to declare the outcome of the voice vote?

I thank you.

The Speaker (Hon. Kingi): Sen. Cherarkey, proceed.

Sen. Cherarkey: Thank you, Mr. Speaker, Sir. For clarity, I take the witness to paragraph two of page 261 of volume one of the Governor's bundle. You have given us the digits except three numbers; it means; you are not sure. Are you the one who swore this affidavit?

Number two; has your counsel informed you of the consequences of lying under oath both legally and traditionally as a Kipsigis person?

Number three; are you aware of the issue of data protection that it is criminal and illegal? So, are you ready to be arrested after this?

Number four, to Senior Counsel Katwa Kigen, were you taking over the proceedings by requesting a question? You said that you were aware that there will be electronic voting? Who made you aware?

To the witness; you said that the counsel of the Governor directed you to protest. How did he do that?

I thank you.

The Speaker (Hon. Kingi): Sen. Chute, proceed.

Sen. Chute: Thank you, Mr. Speaker, Sir. My question will go to the witness. I am really wondering; if 18 of you had voted that day, would the Governor have been impeached today?

Thank you.

The Speaker (Hon. Kingi): Sen. Tabitha Mutinda, proceed.

Sen. Tabitha Mutinda: Thank you, Mr. Speaker, Sir. My first question goes to counsel Kigen. How many MCAs were present in the Chamber during that day of impeachment?

To Hon. Kibet; you have indicated that you have been colleagues and friends with Hon. Rogony. Have you ever before recorded any of the conversations that you have had with Hon. Rogony?

The date of impeachment was on the 15th. However, you decided to record a statement with the DCI after eight days. Why did you have to wait for one full week? Were you trying to gather some other evidence, so that you could have evidence at the DCI?

Lastly, in this Chamber, if you will be able to have access to our desk, we have three options of voting; Yes, no and abstain. Standing is not an option for making or casting your vote.

Why did you have so much energy to stand up and not concentrate on dialing the correct digits, either yes, no or abstain, so that today you could be able to indicate that this is what you pressed? You have been doing legislation, so you know how to use these gadgets, you know how to do the voting. Why was it so difficult on that day to simply vote yes, no or abstain?

Thank you.

The Speaker (Hon. Kingi): Proceed, Sen. Lomenen.

Sen. Lomenen: Thank you, Mr. Speaker, Sir. I want to ask the witness this: Do you understand the word abstain? What does it mean?

The Speaker (Hon. Kingi): It is okay, he will respond, Senator.

Sen. Lomenen: Okay, the other question is to Counsel Kigen. If they were not satisfied with the outcome of the Motion, why did the 18 Members go to the DCI instead of going to the court to seek conservatory orders? Does the DCI give you conservatory orders?

The Speaker (Hon. Kingi): Proceed, Sen. Okiya Omtatah.

Sen. Okiya Omtatah: Mine is a simple one. From the look of things, especially from the cross-examination, this case is standing on the meaning of words. You said a word here that some of the things we are being told have different meanings in mother tongue. I saw the counsel for the County Assembly pressing you on specifics of English words. I even heard my brother here asking whether you understand the meaning of the word “abstain”.

Are you in any way informing us that some of the information we are consuming may totally mean something different within the context it was being discussed, especially the video that has been played here, so that we get an independent interpreter to let us understand what is being said?

I do not speak the great language of the Kalenjin, but I got concerned about that because it looks like we are trying to turn this case on the meaning of words. I would like to be guided by you on which specific areas of what we have seen do not communicate what is being indicated in English Language.

Thank you.

The Speaker (Hon. Kingi): Proceed, Sen. Mundigi.

Sen. Munyi Mundigi: Thank you, Mr. Speaker, Sir. My question is to the MCA. While communicating with your friend, his voice was that of a drunk man and you were sober. Where were you? Were you communicating with him during daytime or at night?

I know he is your friend because during the communication, he mentioned Rwanda and a bribe of about Kshs200,000. I am sure you know where you were and where he was. It is good that you tell us where he was.

Thank you.

The Speaker (Hon. Kingi): Proceed, Sen. Murgor.

Sen. Murgor: Thank you very much, Mr. Speaker, Sir. My question goes to the MCA or witness. It seems like this whole group was filled with fear of manipulation and rigging of the vote or of using this strange machine that they were not used to.

Where did they get the information that rigging would take place such that thoughts of rigging filled their minds rather than seeking to know how to vote? Was there prior information that somebody spread that there was a plan to rig the votes?

The Speaker (Hon. Kingi): Proceed, Sen. (Prof.) Tom Ojienda.

Sen. (Prof.) Tom Ojienda: Thank you, Mr. Speaker, Sir. My question to the witness - and this one I am sure the advocate will also respond to this - is born out of the affidavit appearing from pages 113 to 116. Witness, please, clarify whether in your view an affidavit can be sworn by numerous persons to conform to the last paragraph of belief, conviction, good faith and that all these Members who are the deponents can swear one affidavit on all issues and agree on all issues.

Question number two is perhaps part of what the previous Senators have asked, at the time of voting, were all these Members who have sworn these affidavits at the same place in the same state of mind, voting and having a similar understanding of the electronic voting system? Did they know they were voting in a similar manner and driven by the same objectives? I need us to address those technical issues because they are important.

Sen. Cherarkey asked about false affidavits and the implications. Is there a possibility that this affidavit would, therefore, be legally unprocedural?

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The Speaker (Hon. Kingi): Proceed, Sen. Kamar.

Sen. (Prof.) Kamar: Thank you, Mr. Speaker, Sir. I have one simple question to the witness. He says he clearly did not want to vote against the Governor. Why did you not vote a strong no?

The Speaker (Hon. Kingi): Proceed, Sen. Boni.

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. Kigen has been in this Senate before over similar proceedings and knowing his good name and reputation, he will come again and again.

Mr. Katwa, the way Parliament works, even the Speaker would have no idea of the number of Members standing; if he were to ask them to stand up and they stood. He would ask the Serjeant-at-Arms to confirm how many Members are standing.

Having taken over the power of the Speaker of Kericho County Assembly illegally, how did you know that 18 MCAs were standing, something which is clearly against the Standing Orders and you want us to make a decision on impeachment based on that misconduct or misunderstanding? Counsel Kigen, is it not the case of garbage in, garbage out? You want the Senate to be known for being an institution that uses garbage to produce garbage decisions?

My second issue is on the witness. When Paul Bii stood in that video and shouted, “I abstain”, we agree; but that only obtains during Division on manual voting. That is when you stand and shout one way or the other. So, how do you want that shouting to count during electronic voting where the voting is not by shouting the way Hon. Paul Bii was shouting?

The Speaker (Hon. Kingi): Witness, you may now proceed to respond to those concerns.

Hon. Hillary Kibet Bosuben: Thank you, Mr. Speaker, Sir. I will start responding to what Sen. Oketch Eddy has asked me; why I did not want to vote yes to impeach the Governor on allegations of the laid grounds. I contributed on the Floor of the House and we dispensed the matter. I personally negated the impeachment Motion on one ground; that Hon. Rogony, the Mover of the Motion, lied. He lied on something I knew. That is why I said; all these other things will be negated because you have said something I personally knew.

Number two, we discussed about these things. I am lucky to have been a member of the FLLoCA Committee. I am a member of the Committee on Environment. So, it was a sub-committee between that of Environment and Water. We visited all the projects initiated by FLLoCA. Before the Motion, reports on FLLoCA and NFCDP were tabled before the House. The notice of the impeachment Motion was already brought. It contained allegations in the FLLoCA report and NFCDP report, which had not yet been tabled on before the House. It is captured in the Motion. So, I personally saw some kind of malice in that Assembly. Just like I said before. I knew the operations of that Assembly. Therefore, I understood that the vote was predetermined and that the system was even preset. So, I hope I have answered my good friend, Eddy; my neighbour, sorry.

Hon. Danson Mungatana asked a question, but it was directed to the counsel. Mr. Speaker, Sir, you can allow me to touch on this. I would like to talk about the chronology of events and what has happened before in our Assembly. All the Members knew about

this thing. It has happened before. So, we know. You can allow me to say this. It will explain these questions that I will answer.

When we were elected to the Assembly, we had election of the leadership; majority leader, chief whip and we had wrangles. We appeared on Television every now and then because of poor leadership in the House. In fact, it reached a point where we came to Harambee House, Office of the Deputy President to discuss about the numbers since the Speaker announced that the Majority Leader, Hon. Paul Chirchir Tarimbo, was elected unanimously yet the Members who elected him were seven out of 43. So, 36 never elected him.

We came to Nairobi and I am lucky that Hon. Veronica Maina is seated here in this House. She was the presiding officer who did the head count to confirm whether that vote was true or false. So, we know our Assembly.

Later in November last year, the Speaker was impeached on the Floor of the House by less than 30 Members; 29 Members. So, we understand the dynamics in that House. We know the history. We opted not to press any button so that we build our case so that you, the 'upper' House; the House we respect so much, could help us determine this case.

Hon. Cherarkey, my neighbour, I am a Kipsigis and I have noted that Okiya Omtatah is a Catholic by faith. I am a staunch Catholic believer and I do not speak lies. I am a secretary in my local church. When I took the oath - in fact, I was afraid when some hon. Members or the witnesses here speak lies without blinking their eyes. I was wondering if a person can stand here and take oath and continue to claim that they are Seventh Day Adventists; of which I confirmed now. If the Senate could forgive that person, even if the voters could forgive that person, if the public could forgive that person, I do not know. Is that not blasphemy? I do not want to speak lies. I am speaking the truth. Hon. Cherarkey, for avoidance of doubt, I am speaking the truth.

To Sen. Tabitha, I hope I have answered your question because we did not vote. We never touched anything. If the full video clip can be displayed, it can show that I had no phone. In fact, I raised my hands. For avoidance of doubt, they can play the video clip. However, my vote was captured that I voted, yes. So, it beats logic. Suppose I had gone to the gadget and pressed yes on already manipulated votes, I do not know what would have happened. We intentionally avoided voting because we understood the malice in the House.

I am sorry I have forgotten the name of the Senator. On the issue of many people signing an affidavit, I have this to say; it is in order. This is the second time I am signing an affidavit with many persons in it. We have an affidavit concerning land case issue. It was signed by more than four family members. So, I do not know whether this is illegal when it comes to the impeachment of the Governor. I signed that one. We signed it as a team. Regarding this one, we had a common cause, which is the introduction of a new voting system, which is electronic voting.

Sen. Murgor Recha said that it is as if I was prepared and that I was filled with fear. In our County Assembly, we have people who are active on social media. When they post anything, we do not take it for granted. You can allow me to say this; somebody once said - I am sorry about this - but when a blind person tells you that he or she will

throw a stone to you, do not ignore that because he or she will not get time to look for the stone, he must be stepping on the stone.

(Laughter)

Now when the hon. Member; Tarimbo Paul Chirchir said on the Floor of the House that out of the 18 Members who were in the Governor's camp will vote 'yes' to this impeachment; then we knew these are cooked results. It is already rigged. In fact, he had a determination even before we started voting. So, we know our House. There are people who give us information even before it is brought to the Floor of the House.

I do not know if there is another question which I have not responded to.

(An hon. Senator spoke off record)

Pardon?

The Speaker (Hon. Kingi): Yes, proceed witness.

(An hon. Senator spoke off record)

Hon. Senators, do not engage the witness directly. If your issue has not been addressed, you capture the attention of the Chair.

Okay, witness if you are done, we can make progress

Hon. Hillary Kibet Bosuben: Okay, thank you. That day, we were 47 Members in the House, all of us, but 18 of us never voted.

The Speaker (Hon. Kingi): I will take two, Sen. Crystal Asige?

Hon. Hillary Bosuben: Mr. Speaker, Sir, with your indulgence-

The Speaker (Hon. Kingi): Hold on and take these, so that you add to whatever you want to say. Who is that engaging the witness directly?

(A Senator spoke off record with the witness)

Hon. Senators, you know the Rules here.

Proceed, Sen. Asige.

Sen. Crystal Asige: Thank you, Mr. Speaker, Sir. My question is to the witness. The sitting in question today is on 15th of this month. I would like to know from the witness if the County Assembly has sat for any other sittings. Have there been any votes taken and if there have been other sessions after the 15th?

The reason I am asking is, if the answer is yes, then are we to believe all of the proceedings, sittings and voting that have happened through this electronic voting system should be put into focus as something to be reviewed? If they were manipulatable on 15th, then they are still manipulatable thereafter. Therefore, should we as a Senate believe that, if it was manipulatable on 15th, then anything after that should also be reviewed as manipulatable, preset or predetermined as he put it in his words?

The Speaker (Hon. Kingi): Sen. Beatrice Ogola?

Sen. Ogola: Thank you, Mr. Speaker, Sir. Back to this issue of not voting. The hon. Member is a representative of the people and he overlooks on their behalf. Why would you as a representative of your people not take a position on a topical issue that affects them? After this, are you still comfortable representing them?

The Speaker (Hon. Kingi): Sen. Veronica?

Sen. Veronica Maina: Thank you, Mr. Speaker, Sir. For clarity because I was mentioned, but not in bad light, the incident of the reconciliation of the county happened long before these proceedings.

I would like to know from the witness how the impeachment process ended. Was there any commotion because there is a trending video on social media showing a lady, maybe, an hon. MCA woman representative, floored down. She was in a navy-blue dress. Did the impeachment and the voting process end peacefully?

The Speaker (Hon. Kingi): Sen. Olekina.

Sen. Olekina: Thank you, Mr. Speaker, Sir. My question to the MCA is simple. Do you sit in the Kericho County Assembly and approve budgets? I wonder how much was spent in purchasing the electronic voting system, if indeed, it was introduced there by the Speaker.

I was scanning through the ICT report and saw that it was procured and hosted outside the country. Simply by getting the .co.ke domain, there is money that has to be spent. How much was spent to purchase that electronic voting system?

The Speaker (Hon. Kingi): Sen. Wambua?

Sen. Wambua: Mr. Speaker, Sir, I request the witness to look at me straight me in the eye. They call me Bishop in this House and I have heard you say that you are a staunch Catholic, you brought the name of the God here. In the name of God and in the name of people of this country, did you vote or you did not vote?

The Speaker (Hon. Kingi): Sen. Abass?

Sen. Abass: Mr. Speaker, Sir, I would like to ask the witness, why did the 18 Members abstain to vote? What forced them to abstain? Why were you in the Assembly? Were you not expected to vote by saying nay or ayes? Was there any obstruction to not vote? Were you forced not to vote?

According to the records we have on the voting, the 33 Members who were there voted yes, but you say you abstained. It does not show abstain or nays. Can you justify why the records are only showing that the 33 voted yes? You were in the Chamber and you did not abstain or say nay. Tell the House what the problem was.

The Speaker (Hon. Kingi): The witness may proceed to respond. You have five minutes to do so.

Hon. Hillary Kibet Bosuben: Responding to Hon. Asige, there were no votes after the closure of the voting time as per the Standing Orders.

The question by Hon. Ogola asking me whether I am comfortable working as a representative of the people, yes, 100 percent. I would not have voted for the impeachment of the Governor because I wanted our people to get services. In that County Assembly, we have never had the opportunity to work for the people. Every other time, wrangles and fights.

This time, the first quarter of the financial year when we are rolling out work. In my budget, I had allocated money for our people to get water and other services.

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Unfortunately, when impeachment comes like this, it affects and derails the functions of the Governor.

As a representative, and I want to make it clear here on the Floor of the House, the powers we were given is to work for the people. If at all, there are amendments to the Constitution, that the section on impeachment can be scrapped from the county assemblies because it is becoming blackmail for hon. Members. If you are not going to give us this, we will impeach you. I am passionate with my work. I want work done for our people.

Hon. Veronica Maina, I have explained about the video that is going viral. I wish we had time, but I hope it gets shared. It showing Hon. Edinah, whom we signed the affidavit together, trying to get the HANSARD from a hon. Member because they knew that if they took it, they would manipulate it and put their own things. Some people were even hospitalised like Hon. Broka after the commotion.

My good Senator asked how much was spent in procuring the system. That was the question we were asking. We never got the opportunity to question the operations of the County Assembly. They procure and do things. We have asked and written submissions asking them to give us reports.

Hon. Wambua asked if I ever or never voted. As a staunch Catholic believer who does not speak lies, I never voted. I never voted.

For Hon. Abass, I have already answered that question that we did not believe in the system that was introduced on the Floor of the House. It was my democratic right to abstain because I knew it would be captured in the abstain column.

Thank you, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): Hon. Senators, we are done with this witness.

Sen. Asige: Mr. Speaker, Sir, I am rising and I appreciate the opportunity to do so because my question was not answered. Can I restate it?

The Speaker (Hon. Kingi): You can do so.

Sen. Asige: Thank you. Sometimes I think I should speak a bit slower and a bit more dramatised, so that I can be heard correctly.

The Speaker (Hon. Kingi): Hon. Crystal Asige, whichever way you choose, as long as you remain within our Standing Orders.

Sen. Asige: Thank you. Perfect! My question was a three-part-

(a) Since the 15th of the month when this sitting in question was held, have there been any other sittings in the County Assembly of Kericho?

(b) If yes, have there been any votes taken in the County Assembly of Kericho using this electronic voting system whereby Members have used this electronic voting system?

(c) If the answer to those questions are yes, then why have you trusted the system post the 15th of the month when you have said in your evidence, that this system can be manipulated, predetermined and preset?

Why then, if yes, have you decided to use this system?

[The Speaker (Hon. Kingi) left the Chair]

[The Temporary Speaker (Sen. Veronica Maina) in the Chair]

Sen. Kibwana: Thank you, Madam Temporary Speaker. I was wondering, did you personally take a head count on the MCAs present? If so, I realize that additionally Standing Orders provide that any errors that can be raised by any Member and upon verification, the Speaker can cause another vote to be taken. Did you take that route?

Sen. Seki: Witness, Hon. MCA, after the decision had been arrived to vote electronically and there was the Ayes, Noes and abstention, why did you decide to vote physically by abstaining on your own choice? It was not a choice that had been arrived at the County Assembly. Why did you opt to go that direction?

Sen. Okenyuri: Thank you, Madam Temporary Speaker. My clarification would be just to understand what the intention of the MCA was when he called the alleged drunk Adventist colleague. What was his intention in doing so? Did he have something he knew? Is he aware of the data protection we have in this country?

Sen. (Dr.) Lelegwe: Hon. Kibet, you have just told the Senate that you signed an affidavit as a group. However, yesterday, when Hon. Martin took that stand, he said that he signed an affidavit individually and walked away. So, which is which?

Secondly, what is your general view or conduct of the Kericho County Assembly Speaker given your allegations that he has removed the Deputy Speaker of the Kericho County Assembly unprocedurally?

Do you wish the Speaker to be brought and put on oath?

Sen. Mwaruma: Thank you, Madam Temporary Speaker. *Mheshimiwa*, you recorded one of your colleagues. I want to know if you sought his consent because if you want to record somebody in an interview, then there must be an informed consent which means written consent.

Did you have that informed consent? If that audio recording is here unprocedurally, do you still wish to use it as part of evidence knowing that you had committed an illegality by recording somebody without his consent?

Sen. Kinyua: Thank you, Madam Temporary Speaker. *Mheshimiwa*, kwanza nataka kukuamini kwa sababu wewe ni Mkatoliki.

Pili, kwa nini ninyi Waheshimiwa 18 hamkupiga kura ya kukataa. Hatungekuwa tumefika kiwango hiki kwa sababu wewe kama Mkatoliki unajua sheria ambazo zinatumika kanisani. Vilevile, mngefuata sheria na kanuni za kudumu za Bunge la Kaunti ya Kericho hatungekuwa hapa kwa sababu wale Waheshimiwa 18 wangepiga kura kusema la.

Sasa unafanya kazi hii iwe ngumu sisi kuja hapa kujaribu kung'amua ni nani alipiga au kutopiga kura. Ninakuamini kama Mkatoliki lakini nikikuangalia kwa macho ninaona kama unafaa kufuata kanuni za Bunge jinsi unavyofuata za kanisa.

Sen. Beth Syengo: Thank you, Madam Temporary Speaker. I had two questions and partly they have been raised by some of my colleagues. Witness, you indicated that when the Speaker called for the nays and ayes, it indicated that the nays had it. Did you raise any objection after that when he ruled that you are supposed to vote electronically?

Secondly, it is about the 18 of you who did not vote. How would we have any record to know if you did not vote and what you are saying is true?

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Sen. Wafula: Asante, Mheshimiwa, Bi. Spika wa Muda. Shahidi aliye kizimbani, nataraji unajua vita dhidi ya ufisadi umetia kasi sasa.

Tukichunguza na tupate kwamba mlikula mlungula na kwamba umechukua nafasi ya popo ambaye siyo ndege wala mnyama, uko tayari kubeba msalaba wako kwa sababu hatutaruhusu kumsulibisha Kristo na tumwachilie Barnabas?

The Temporary Speaker (Sen. Veronica Maina): Sen. Mundigi what did you want to restate because you had already asked a question?

Sen. Munyi Mundigi: Bi. Spika wa Muda, swali langu halikuwa limejibiwa. Ningetaka nimulize tena ajibu kwa njia ifaayo kwa sababu ni swali muhimu.

The Temporary Speaker (Sen. Veronica Maina): Please, proceed to ask very briefly.

Sen. Munyi Mundigi: Shahidi, tumeona video kuhusu yaliyotokea kabla hamjapiga kura. Mlipokuwa mnazungumza kwa sababu yule aliyezungumza alikuwa anaongea kuhusu Shilingi 200,000. Pia hapo akasema mambo ya kwenda Rwanda. Seneti hii inataka kujua mlikuwa mnaongea usiku au mchana? Pia, wakati mlikuwa mnazungumza, alikuwa anaongea kama mlevi. Nawe unasema ni Mkatoliki. Ulikuwa upande gani kwa sababu ninyi mlikuwa mnajuaana ni vile tu mlikosana wakati wa siasa.

Hayo ndiyo maswali yangu.

The Temporary Speaker (Sen. Veronica Maina): Sen. (Dr.) Murango, have you abandoned your question? It will be---

Sen. (Dr.) Murango: Asante sana, Bi Spika wa Muda. Swali langu ni moja. Tungetaka tujue kama wewe ndiye ulinakili mawasiliano ambayo yamechezwa kwenye Bunge hili. Kama ni wewe ndiye ulinakili yale mawasiliano ambayo ulikuwa unapigiwa na mwenzako, ni vizuri pia kuelezea kama ni tabia yako kurekodi watu kila wakati unapigiwa simu. Kama sivyo, ni nini ilikufanya siku hiyo iwe spesheli ama ni sadfa gani ilikufanya siku hiyo ulipopigiwa simu na mwenzako uweze kunakili mazungumzo hayo? Tunataka kujua kama ulikuwa na mpango kabla ama ni baada ya Gavana kung'atuliwa.

Asante sana.

The Temporary Speaker (Sen. Veronica Maina): Witness, I will give you a chance, maybe five minutes to respond to all those queries because some have been repeated. Give direct answers, so that we can move on after five minutes.

Hon. Hillary Kibet Bosuben: On the question from Sen. Mwaruma. I personally never sought his consent. If I could have taken that route or permission, he could not have given me that information. I could not be here today. I never sought his permission or consent. However, I have obtained a certificate of electronic evidence. It is attached in the Governor's volume on pages 261 and 262.

Sen. Kinyua, thank you so much for the trust you have in me as a Catholic. We were allowed to vote. However, like I said before, we knew the mischief in that system, so we avoided it. As I explained earlier, if I never voted, but still my vote is counted in the list of those who voted, what would have happened if I had pressed the button? Whether to abstain or vote no, it could have been a different story. I could not have had the opportunity to explain myself to the public, to the Senators and to the people out there who believe in our story.

Sen. Beth, the Speaker never declared that nays or ayes have it. However, as proof, we have the affidavits, videos and evidence. If we could be allowed to come to this

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Floor of the House, the 17 of us - because I think Edinah took her mother to hospital, so she is not around - but if 17 of us could be allowed to come here, so that what Hon. Speaker did the other time, the head count, you can still do the head count here to confirm that we are the 17 who never voted. That is proof and living proof.

Sen. Wafula talked about corruption and whether I know of its repercussions. Definitely, I would not have taken any bribe. If I were a person of bribes or corruption, I could have accepted the offers of Hon. Rogony. For your information, for the last year, since the impeachment of the Governor, I was removed as the Chairman of Finance Committee. I have no responsibilities, but I am surviving with my own businesses. I am lucky that my wife is working here in Nairobi. At least, she can provide for the family. We were denied all those rights; we do not get privileges or allowances. If I were to take the bribe, it was this time I could have alluded to the fact that Hon. Rogony gave me the offers and I could have fallen into the trap. I do not take bribes.

Sen. Mundigi, you repeated your question. When the clip was being played, I said clearly that I was in my house with my children. It was past 9.00 p.m. I was watching the news with my children and relaxing. He himself confirmed in the clip, in the recording, that he was drunk. I did not even know that he was drunk, but he said so.

Sen. (Dr.) Murango asked me if it is my habit to record conversations with other people. No, not at all. It was just a suspicion. I predicted something. Since he was the Mover of the Motion and I was on the other hand opposing it, what were we discussing at that time, just immediately after the Motion? I was suspecting that something could have been happening.

I am done.

The Temporary Speaker (Sen. Veronica Maina): Sen. (Dr.) Lelegwe Ltumbesi, what is your intervention?

Sen. (Dr.) Lelegwe Ltumbesi: Hon. Temporary Speaker, the witness has not responded to my two questions.

Hon. Hillary Kibet Bosuben: Oh, sorry, I have another sheet. I am really sorry.

The Temporary Speaker (Sen. Veronica Maina): Can you proceed and respond to Sen. (Dr.) Lelegwe Ltumbesi's question?

Hon. Hillary Kibet Bosuben: Sen. (Dr.) Lelegwe Ltumbesi asked me about the affidavits. The first witness, Hon. Martin Cheruiyot, said that he signed and left the office for other Members to come and sign. We have two affidavits here. We have an affidavit of 18 Members; deponents, in which we all signed. However, the individual affidavit where we were dealing with the DCI on the allegations, that we never voted was each of us, individually. We have two affidavits.

You asked me again about the general conduct of the Speaker. I would not have wished to say here, because he has no right of reply, but to be frank and to say it as it is - that is why I was suggesting that if at all you could have the opportunity to remove this Motion of impeachment from MCAs or from the county assemblies.

Mr. Speaker, Sir, if that can be done, I would suggest that you remove the Deputy Governor and the Governor as a whole instead of removing the Governor and leaving behind the Deputy Governor. If we are going to remove, we remove the Office of the Governor as a whole because these people are malicious. In fact, the Deputy Governor is praying that the Governor will die, so that they can take that position. We need to pray.

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Secondly, you know there is that order---

The Temporary Speaker (Sen. Veronica Maina): We hope not.

Hon. Hillary Kibet Bosuben: Okay, let us pray so.

The Temporary Speaker (Sen. Veronica Maina): There is no such prayer.

Hon. Hillary Bosuben: Number three, if at all, the Deputy Governor could take the position, I would suggest that even if the Deputy Governor could be impeached, the Speaker should not be given an opportunity to run the government because the Speaker himself, on many occasions, even on his Facebook page, has said he is a man on a mission, and he wants to be the Governor of the great County of Kericho. He is a man on a mission. He wants to finish Dr. Erick Mutai, then he comes for Fred again. In the clip, you could hear, "We will impeach the Deputy Governor." That is Eng. Fred. He said, "We will remove Eng. Fred." He is a man on a mission. That is the general conduct of the Speaker. If I am asked to provide the details, I would do so.

The Temporary Speaker (Sen. Veronica Maina): Thank you, witness. I hope you are done. We want to discharge you now, so that we can proceed to the next witness.

(Mr. Elias Mutuma spoke off the record)

Can you give counsel the mic, please?

Mr. Elias Mutuma: Thank you, Hon. Temporary Speaker. One question from me from Sen. Wambua. I have confirmed from the video that there seems to be no declaration of that specific question, but I have yet to confirm from the HANSARD. If you could kindly allow me to go through the thousands of pages. Once I get that specific capture, I will let you know.

Thank you.

The Temporary Speaker (Sen. Veronica Maina): Thank you. The witness is discharged.

(Hon. Hillary Bosuben was stepped down)

Mr. Katwa Kigen: Madam Temporary Speaker, I was also asked a couple of questions.

The Temporary Speaker (Sen. Veronica Maina): Yes, Mr. Katwa Kigen.

Mr. Katwa Kigen: Thank you, Madam Temporary Speaker. The first one is the propriety of having asked the 18 MCAs to stand. It was a very direct invite by both the Speaker and an MCA called I think, Tarimbo, asking me to substantiate my contention that there were 18 MCAs in support of the Governor and in opposition of the Motion. I was very directly invited to substantiate that. That was the only way I could substantiate, by identifying the 18 of them.

The other question I was asked is why I took up the complaint about the use of electronic voting, even before the MCAs had discussed the impeachment Motion. My answer is that number one, I had been informed by my client that there was a scheme that had been hatched to use electronic voting and that a system had been in the process of being set up in the Assembly the night before the date of the voting.

Indeed, the MCAs discussed that. The MCAs who were opposed to the impeachment were saying, “We do not want to use electronic voting.” The MCAs who were supporting the impeachment were saying, “We will use electronic voting.” The Speaker himself was saying, “I do not know whether there is a system and whether we will use electronic voting.” Then the last minute towards the voting is when the electronic voting was rolled out.

Mr. Speaker, Sir, if you were to ask me, the Speaker was pretending that he did not know when he had already set it up. The last question I was asked was, why did we go to the DCI rather than go for court conservatory orders? It was an informed choice because the issue is whether or not there was impersonation in the process of voting. We wanted the DCI to use the Department responsible for cybercrimes to determine that issue. We also came from the position that as a general proposition, the Senate prefers to conduct their hearings to the end and they tend to deem court orders directed as staying the process, or rather, they treat it with a lot of circumspection and many times, they disobey them. For that reason, we thought we just go through the whole process up to the end.

Lastly, was the question of whether the joint affidavit was regular. It is our position that the joint affidavit was regular. The position of all the 18 MCAs was the same. Their wishes were the same and when at the bottom of the affidavit, they say it is a joint position of what they jointly believe and is verily true. It is a true statement.

Thank you.

Madam Temporary Speaker, with your permission, I can call the next witness.

The Temporary Speaker (Sen. Veronica Maina): Yes. Before you do that, I just want to remind you, you have one hour and 49 minutes to dispense with all your witnesses. How many more witnesses are you remaining with?

Mr. Katwa Kigen: They should be 17. Apart from the list of the witnesses I have in my list, I have the expert who I got the permission to call yesterday. My plan is to call the next witness whose case is that his vote was impersonated. After him, I will call the technical expert and then I will call the other witnesses in my list, within the space of the time remaining.

The Temporary Speaker (Sen. Veronica Maina): Okay. You may then proceed to call your next witness.

Mr. Katwa Kigen: Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, as we wait for the next witnesses; if there are 18 witnesses, the two prime witnesses will be the ones that will be producing a lot of evidence. I will allow the interrogation of the two witnesses first before the 18, the MCAs. I think they are 17. I propose that maybe we will let the 17 give evidence together. Then, if you have a specific question to any of them, we will have a limited time slot for those questions to be done because there will not be any other way of finishing before the close of day today.

You will direct the question and I also request the House that we should be not repetitive. If a question has been answered from another Senator, do not repeat the same question to the same MCA. That will help us cover the 17 witnesses who are still awaiting to be heard. That would be the direction I would give to the House.

Counsel for the Governor, please, hurry up and present your next witness.

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*[The witness for the Governor (Hon. Amos Kimutai Birir),
MCA, Kapkatet Ward) was ushered into the Chamber]*

May the witness be sworn.

*(The witness for the Governor (Hon. Amos Kimutai Birir),
MCA, Kapkatet Ward) took the Oath)*

Mr. Katwa Kigen: Could you tell the Senate your full name, please?
The witness I have called is called Amos Birir and his affidavit is on pages 125 to 127.
Mheshimiwa, do you prefer to use English or Kiswahili?

Hon. Amos Birir: May I use English?

Mr. Katwa Kigen: Sorry?

Hon. Amos Birir: I can use English.

Mr. Katwa Kigen: If you could move closer to the microphone.

The Temporary Speaker (Sen. Veronica Maina): Witness, can you stand near the microphone? We want you to be loud enough for the Senators to hear you.

Mr. Katwa Kigen: May I request you to indicate your name? Say your name in full.

Hon. Amos Birir: My name is Amos Kimutai Birir, MCA representing the great people of Kapkatet Ward in Kericho County.

Mr. Katwa Kigen: You are here on the case of the issue of the impeachment of the Governor.

Hon. Amos Birir: Yes.

Mr. Katwa Kigen: You swore an affidavit. I would like you to be shown an affidavit at pages 125 to 127. Could you confirm that is your affidavit?

Hon. Amos Birir: Yes.

Mr. Katwa Kigen: It was commissioned by who? I want you to look at page 127.

Hon. Amos Birir: I swore an affidavit. The name is Chebet Ng'etich.

Mr. Katwa Kigen: Where is she based?

Hon. Amos Birir: Imarisha Building in Kericho.

Mr. Katwa Kigen: You swore that affidavit and you would like to rely on it in support of your case?

Hon. Amos Birir: Yes.

Mr. Katwa Kigen: Okay. I would also like you to be shown pages 113 to 116. That is an affidavit sworn by how many people?

Hon. Amos Birir: 18.

Mr. Katwa Kigen: Are you among the 18?

Hon. Amos Birir: I was among the 18.

Mr. Katwa Kigen: You signed that affidavit?

Hon. Amos Birir: Yes.

Mr. Katwa Kigen: Was it commissioned by a commissioner of oaths?

Hon. Amos Birir: Brian Kiprotich.

Mr. Katwa Kigen: Where is he based?

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Hon. Amos Birir: The same building.
Mr. Katwa Kigen: In which town?
Hon. Amos Birir: In Kericho.
Mr. Katwa Kigen: Okay. Were you in the County Assembly on 15th August, 2025?
Hon. Amos Birir: I was in.
Mr. Katwa Kigen: In the County Assembly?
Hon. Amos Birir: In the County Assembly.
Mr. Katwa Kigen: What was the issue in the Assembly on that day?
Hon. Amos Birir: On 15th?
Mr. Katwa Kigen: Yes.
Hon. Amos Birir: It was a Special Sitting.
Mr. Katwa Kigen: For?
Hon. Amos Birir: It was a Special Sitting for Impeachment Motion which was brought by Hon. Rogony.
Mr. Katwa Kigen: So, it was discussion on the Impeachment of the Governor brought by Hon. Rogony?
Hon. Amos Birir: Yes.
Mr. Katwa Kigen: Okay. Then at a certain point, there was voting, is it not?
Hon. Amos Birir: Yes. On that day, after the discussion, there was voting.
Mr. Katwa Kigen: Okay. Did you vote?
Hon. Amos Birir: I never voted.
Mr. Katwa Kigen: What did you do?
Hon. Amos Birir: What I did, because already I was suspicious about the machine--- When we discussed about using machines, I thought we were doing it manually. But before that day, on 14th, I got a message that my name was already in the system. Somebody wrote saying that Amos Birir is among--- You know I was on the other side, but they said I am on the side of yes. That is why I was suspicious---
Mr. Katwa Kigen: On the side of doing what?
Hon. Amos Birir: Voting.
Mr. Katwa Kigen: In support of the impeachment?
Hon. Amos Birir: Yes.
Mr. Katwa Kigen: Okay.
I want us to stick to 15th of August, *Mheshimiwa*. You say you did not vote?
Hon. Amos Birir: I never voted. I am an old man and I say the truth. That is why I raised the Bible.
May I request, Hon. Speaker, if you can allow me to say in vernacular, I can give my people advice because raising a Bible in front of these Senators and saying something which is not true--- I request if you can allow me to give advice to people of Kericho Assembly to know you cannot stay longer if you say all these.

(Laughter)

The Temporary Speaker (Sen. Veronica Maina): Witness, I encourage you to speak in the parliamentary language because you represent the great people of your ward

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and I am sure business in Kericho County Assembly is transacted either in Kiswahili or English. Therefore, I encourage you.

(Loud consultations)

For now, we will proceed in the parliamentary language until we have a translator. We do not have an official translator right now.

Hon. Amos Birir: It is good to give advice. Maybe they do not understand, but it is good to give advice to the young people. I am 63 years old. I am an old man and I know---

Mr. Katwa Kigen: With your permission, Madam Temporary Speaker, may I plead with you? If you prefer Kiswahili, let us use Kiswahili because we are struggling with time. Kindly, please.

Hon. Amos Birir: Okay.

The Temporary Speaker (Sen. Veronica Maina): Proceed in the parliamentary language that you choose, either Kiswahili or English for now because of time.

Mr. Katwa Kigen: Would you like to use Kiswahili?

Hon. Amos Birir: May I use English?

Mr. Katwa Kigen: English, okay, thank you. However, Senators have taken seriously your comments.

I was asking you, you did not vote. What did you do? Please just answer that question.

Hon. Amos Birir: When we were inside--- These people, I honour this House.

Mr. Katwa Kigen: Okay, just, Mr. Witness.

Hon. Amos Birir: I honour this House.

Mr. Katwa Kigen: Mr. Witness, just listen to me. Your position is that you did not vote, is it not?

Hon. Amos Birir: I did not vote. I can even repeat to raise the Bible.

Mr. Katwa Kigen: Okay.

I want to move on to the next issue. The County Assembly came with data suggesting that you voted. What do you have to say about that indication that you voted? Please just answer because time is really not on our side.

Hon. Amos Birir: Without wasting time, I want to give something which is---

Mr. Katwa Kigen: No, just answer my question. The County Assembly came with a list of people who voted in support of the impeachment and you are one of them. I just want you to comment before the hon. Senators and the Speaker whether that information is correct, that Amos is among the people who voted in favour of the impeachment.

Hon. Amos Birir: That is why I was asking, but I speak in English because---

Mr. Katwa Kigen: Just answer the question directly, please.

Hon. Amos Birir: I never voted. I am still repeating, I never voted.

Mr. Katwa Kigen: So, is that information correct or wrong?

Hon. Amos Birir: It is wrong because I was surprised when I heard my name had already voted.

Mr. Katwa Kigen: So, it is not?

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- Hon. Amos Birir:** That is why I was asking---
- Mr. Katwa Kigen:** Just a minute, it is not correct?
- Hon. Amos Birir:** It is not correct.
- Mr. Katwa Kigen:** Okay, let us move on.
- Hon. Amos Birir:** If it is a Member who gave my document to be used, they have to apologise because I was not---
- Mr. Katwa Kigen:** Okay.
- Hon. Amos Birir:** Hon. Speaker, give me---
- Mr. Katwa Kigen:** Okay. The next question I want to ask you is; had you been trained to use this system?
- Hon. Amos Birir:** No, it was my first time. I have never seen.
- Mr. Katwa Kigen:** You have never seen that?
- Hon. Amos Birir:** I thought it was manual.
- Mr. Katwa Kigen:** You had expected it to be manual?
- Hon. Amos Birir:** Yes.
- Mr. Katwa Kigen:** Did you ask for it to be manual?
- Hon. Amos Birir:** We asked. All of us stood up.
- Mr. Katwa Kigen:** How many were you?
- Hon. Amos Birir:** We were 18.
- Mr. Katwa Kigen:** And what happened when you requested?
- Hon. Amos Birir:** We were not given even the chance to talk.
- Mr. Katwa Kigen:** Okay. You will be asked a few questions by the County Assembly and then we see from there.
- Madam Temporary Speaker, in terms of leading the witness-in-chief, I want to leave it there.
- The Temporary Speaker** (Sen. Veronica Maina): Counsel for the County Assembly can proceed.
- Mr. Elias Mutuma:** Thank you, Madam Temporary Speaker.
- Good morning, Mr. Amos Birir?
- Hon. Amos Birir:** Good morning.
- Mr. Elias Mutuma:** You have portrayed yourself as an extremely honest person who cannot lie under oath or after lifting the Bible, correct?
- Hon. Amos Birir:** Yes.
- Mr. Elias Mutuma:** You have repeated that.
- Hon. Amos Birir:** I am not a liar.
- Mr. Elias Mutuma:** You are not a liar, correct?
- Hon. Amos Birir:** I am not a liar.
- Mr. Elias Mutuma:** Should we then, in the course of these investigations, find that you are a liar, what should this House do to you?
- Hon. Amos Birir:** You can give evidence.
- Mr. Elias Mutuma:** I am asking a question. What should this House do to you if, in the course of these investigations, it is found out that, indeed, you have lied under oath and after lifting the Bible? What should we do?
- Hon. Amos Birir:** I am saying something which I am sure, unless I was dreaming.

Mr. Elias Mutuma: There are two issues then that would arise if we find that you are a liar. One is that your evidence will be thrown out. Number two, you risk being charged with an offence called perjury. Are you willing to take that responsibility?

Hon. Amos Birir: What? You just repeat.

Mr. Elias Mutuma: I am telling you this. Should we find out that you have lied under oath and after lifting the Bible, there are two consequences. One is that your evidence will be thrown out because it is not credible and number two, you risk facing criminal charges for lying under oath. Are you ready to take that responsibility before I ask you those questions? Are you ready or not?

Hon. Amos Birir: Why? If I am sure that I have never made a mistake, I am ready to answer.

Mr. Elias Mutuma: Thank you. I am also informed that you are fondly referred to as Trump, correct?

Hon. Amos Birir: Huh?

Mr. Elias Mutuma: You are referred to as Trump. Your nickname is Trump, correct?

Hon. Amos Birir: My political name is Trump.

Mr. Elias Mutuma: Your political name is Trump?

Hon. Amos Birir: Yes.

Mr. Elias Mutuma: Okay, thank you. Now, there is an affidavit you have sworn that is contained at page 113 of volume one of the Governor's documents. Do you confirm that that is your affidavit?

Hon. Amos Birir: Mhmm.

Mr. Elias Mutuma: You are among the people who swore that affidavit, correct?

Hon. Amos Birir: I am among them.

Mr. Elias Mutuma: You are among them?

Hon. Amos Birir: Yes.

Mr. Elias Mutuma: And you have confirmed that that affidavit was sworn before a lawyer called Brian Kiprotich Langat, correct?

Hon. Amos Birir: Yes.

Mr. Elias Mutuma: My simple question is, what time of the day was this affidavit sworn?

Hon. Amos Birir: Mm-mmm, the date of the affidavit?

Mr. Elias Mutuma: Yes.

Hon. Amos Birir: It was 15th.

Mr. Elias Mutuma: I am asking about the time. The affidavit sworn by 18 people, what time of the day was it sworn?

Hon. Amos Birir: I have forgotten the time, but we met on 15th.

Mr. Elias Mutuma: What time? You can approximate.

Hon. Amos Birir: I have just forgotten the time, but we made it on the 15th.

Mr. Elias Mutuma: You can remember morning, afternoon, what time? You went to an office, correct?

Hon. Amos Birir: I went to an office.

Mr. Elias Mutuma: What time did you go to that office to swear that affidavit? You are man of extreme honesty.

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- Hon. Amos Birir:** I have forgotten the time, but it was on 15th.
- Mr. Elias Mutuma:** Okay, which period of the day?
- Hon. Amos Birir:** Huh?
- Mr. Elias Mutuma:** Which period of the day?
- Hon. Amos Birir:** 15th was a Friday.
- Mr. Elias Mutuma:** I am not asking about that day. I am asking about the time. You are a very honest person. Surely, these are events that you recall vividly, they are very personal to you.
- Hon. Amos Birir:** Yes.
- Mr. Elias Mutuma:** What time of the day did you go to swear this affidavit?
- Hon. Amos Birir:** I have forgotten that one, otherwise, I am saying something which is the truth.
- Mr. Elias Mutuma:** You do not want to answer?
- Hon. Amos Birir:** Time---
- Mr. Elias Mutuma:** You do not want to answer? Time is not a complicated issue, surely. You remember everything about the events of this day?
- Hon. Amos Birir:** Yes.
- Mr. Elias Mutuma:** I am asking you, what time of the day did you go to sign this affidavit? Was it during the day or during the night? During the day or during the night?
- Hon. Amos Birir:** After----
- Mr. Elias Mutuma:** During the day or during the night?
- Hon. Amos Birir:** After lunch.
- Mr. Elias Mutuma:** After lunch?
- Hon. Amos Birir:** Yes.
- Mr. Elias Mutuma:** Afternoon hours.
- Hon. Amos Birir:** Afternoon hours. It was almost night.
- Mr. Elias Mutuma:** Thank you. A very honest person.
- Hon. Amos Birir:** Yes.
- Mr. Elias Mutuma:** After lunch, you went to swear this affidavit. What time were the proceedings terminated at the County Assembly? What time did you finish the Impeachment Motion?
- Hon. Amos Birir:** We started at 6.30 p.m.
- Mr. Elias Mutuma:** So, you finished at around 8.00 p.m.?
- Hon. Amos Birir:** Around 8.00 p.m. or 8.30 p.m.
- Mr. Elias Mutuma:** But you went somehow to swear this affidavit after lunch on the same day, 15th of August, 2025, Mr. Honest?
- Hon. Amos Birir:** That is why I was telling you time was---
- Mr. Elias Mutuma:** That is why you wanted to avoid answering this question.

(Laughter)

- Hon. Amos Birir:** Mm-hmm. Continue.
- Mr. Elias Mutuma:** You wanted this Senate to bank on your credibility as a mature person and a Christian, someone who cannot lie on oath. That is your first lie.
- Hon. Amos Birir:** Mm-hmm.

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Mr. Elias Mutuma: Remember the consequences, Mr. Trump?

Hon. Amos Birir: Mm-hmm.

Mr. Elias Mutuma: Let us go to the second one. You have also confirmed that 18 of you did not vote, correct?

Hon. Amos Birir: Yes.

Mr. Elias Mutuma: And that 18 of you even protested before the Motion was debated, correct?

Hon. Amos Birir: We protested. All of us stood up.

Mr. Elias Mutuma: And counsel for the Governor, Mr. Katwa Kigen, my senior, made that declaration on the Floor of the House, correct?

Hon. Amos Birir: Yes, he made it.

Mr. Elias Mutuma: Counsel Katwa Kigen was not your lawyer, he was the lawyer representing the Governor, correct?

Hon. Amos Birir: Yes.

Mr. Elias Mutuma: How would Mr. Katwa Kigen know that there were 18 people who were not going to support this Motion and---

Hon. Amos Birir: He was in.

Mr. Elias Mutuma: How would he know that you are not going to support this Motion?

Hon. Amos Birir: He was in when the discussion was---

Mr. Elias Mutuma: Oh, he was part of the discussion?

Hon. Amos Birir: No, he was in, on behalf of the Governor.

Mr. Elias Mutuma: On behalf of the Governor?

Hon. Amos Birir: Yes.

Mr. Elias Mutuma: Had you met the Governor and his lawyer before you went to Chambers to discuss your position and promised him that you would not vote for this Motion?

Hon. Amos Birir: On that day, it was a special sitting when we were discussing.

Mr. Elias Mutuma: That is not my question, Mr. Witness, Mr. Honest. Had you met the Governor and his lawyer and pledged your loyalty and promised him that you would not support the Impeachment Motion before you went to the House?

Hon. Amos Birir: First of all, we were asking which way we can---

Mr. Elias Mutuma: You are not answering my question. Had you met the Governor and his lawyer before you went to the County Assembly and promised him that you would not vote for it and therefore the lawyer was confident that he had 18 people? My question is: Had you met the Governor or the lawyer in advance before you went to the Assembly?

Hon. Amos Birir: Yes, he was aware that we were not voting.

Mr. Elias Mutuma: You had met him?

Hon. Amos Birir: Yes, we were not voting.

Mr. Elias Mutuma: Oh, and you pledged your loyalty?

Hon. Amos Birir: Yes.

(Laughter)

- Mr. Elias Mutuma:** Okay. Thank you. I believe that is a very honest statement.
- Mr. Witness,** I also looked at your affidavit. I am looking at your affidavit at page 125, volume one of the Governor's response. That is your affidavit at page 125, correct?
- Hon. Amos Birir:** Mm-hmm.
- Mr. Elias Mutuma:** Correct? I need to hear you confirm. Is that your affidavit?
- Hon. Amos Birir:** Yes.
- Mr. Elias Mutuma:** That is your affidavit and you confirm that the contents of this affidavit are true and correct, right?
- Hon. Amos Birir:** It is true because I am the one saying.
- Mr. Elias Mutuma:** You are the one saying?
- Hon. Amos Birir:** Yes.
- Mr. Elias Mutuma:** The contents are correct, right? Every part of it?
- Hon. Amos Birir:** Every part of it is true.
- Mr. Elias Mutuma:** So, should we find again that you have lied under oath, are you still ready to bear the consequences? You already have one consequence to bear.
- Hon. Amos Birir:** Mm-hmm.
- Mr. Elias Mutuma:** Do you still wish to bear the consequences of lying under oath?
- Hon. Amos Birir:** Mm-hmm.
- Mr. Elias Mutuma:** I want to ask you specifically---
- The Temporary Speaker (Sen. Veronica Maina):** Counsel, he had answered that question. You have to advance to the next question.
- Mr. Elias Mutuma:** Thank you. Mr. Trump, you have alluded at paragraph 10, page 127, all right---
- Hon. Amos Birir:** The only mistake which I made---
- Mr. Elias Mutuma:** I have not asked you a question.
- Hon. Amos Birir:** Yes.
- Mr. Elias Mutuma:** You have alluded at paragraph 10, page 127 that your phone does not have internet. Is that still your statement? "My phone is not internet-enabled. It is not GPS-enabled."
- Hon. Amos Birir:** Yes, no internet.
- Mr. Elias Mutuma:** You have gone ahead at page 138 to attach a *mulika mwizi*, confirming that this is your phone that is not internet-enabled. Do you still want to confirm?
- Hon. Amos Birir:** Yes, I have it here.
- Mr. Elias Mutuma:** Oh, you have it right here?
- Hon. Amos Birir:** Yes, this one.

(Laughter)

- Mr. Elias Mutuma:** Thank you. That is the only phone you have---
- Hon. Amos Birir:** Another phone---
- Mr. Elias Mutuma:** I am asking you, is that the only phone you have?
- Hon. Amos Birir:** I have two, but my Personal Assistant (PA) is using one for operating the work in my ward.

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Mr. Elias Mutuma: Oh, your PA?

Hon. Amos Birir: I have another big one.

Mr. Elias Mutuma: You have another one?

Hon. Amos Birir: Eh, but my secretary and PA are using it---

Mr. Elias Mutuma: But in your affidavit, you confirm that your phone is not internet-enabled.

Hon. Amos Birir: This one.

Mr. Elias Mutuma: Are you saying that you have another phone that is internet-enabled?

Hon. Amos Birir: The most which I am using is this one. Even the payroll is using this one.

Mr. Elias Mutuma: Thank you. That is okay, Mr. Trump. You might be having too many phones but you have one number, correct?

Hon. Amos Birir: Yes.

Mr. Elias Mutuma: Your main number is one? Your personal number is one?

Hon. Amos Birir: I have two, my Personal Assistant (PA) is using one, when I am working.

Mr. Elias Mutuma: What is the number in the phone that you are holding, your phone number? 0720 382136, correct?

Hon. Amos Birir: Yes, even this one is for the payroll.

Mr. Elias Mutuma: No, I have not asked you a question. Your number is 0720 382136, correct?

Hon. Amos Birir: It is correct.

Mr. Elias Mutuma: That is the number that is not internet-enabled that you are using?

Hon. Amos Birir: Yes, it has no internet.

Mr. Elias Mutuma: It is not internet enabled?

Hon. Amos Birir: Yes.

Mr. Elias Mutuma: I am doing a very simple exercise here. I took time to save this number. Mr. Trump, this is a WhatsApp of you with the same number. Confirm whether this is your image. If it is not, just say, that is not my WhatsApp number. Is the profile picture your image?

Hon. Amos Birir: This is my picture.

Mr. Elias Mutuma: Okay. Can an internet-not-enabled phone be registered on WhatsApp?

Hon. Amos Birir: To most---

Mr. Elias Mutuma: Answer the question. If your phone is not internet-enabled, can you be registered on WhatsApp?

Hon. Amos Birir: What I have said---

Mr. Elias Mutuma: It is a yes or no.

Hon. Amos Birir: I have two numbers---

Mr. Elias Mutuma: Can a phone---

The Temporary Speaker (Sen. Veronica Maina): Counsel, can you allow him to answer?

Hon. Amos Birir: I have two numbers. You have two numbers. 0111 40398. This one is operating on WhatsApp and Facebook. Those operating it are my Personal Assistant and Secretary.

Mr. Elias Mutuma: Did you state that under oath that you have other phones with internet---

Hon. Amos Birir: I have another phone. I have two phones.

Mr. Elias Mutuma: Kindly read---Let me read for you. I do not want to take you through the trouble. Paragraph 10 states-

“I wish to also explain. My phone is not internet-enabled. It is not GPRS-enabled. I could therefore neither receive the link nor vote. Hence, I did not. My telephone handset, which I have always had and which is in public domain, is TECNO T528. I have annexed a screenshot of my phone make a model.”

Hon. Amos Birir: I do not want to speak lies.

Mr. Elias Mutuma: There is always a line that is in a phone. You cannot use a phone without a line. Correct?

Hon. Amos Birir: There is.

Mr. Elias Mutuma: Can you use a phone without a mobile line?

Hon. Amos Birir: The two phones, one is operating Facebook and WhatsApp.

Mr. Elias Mutuma: WhatsApp is a number-linked service. The number that I have just shown you is the line in the phone that you are holding, which is on WhatsApp. I put it to you, before you walk into these Chambers, Mr. Honest, you changed your number from your smartphone to the *mulika mwizi* with the aim of hoodwinking the Senators. What would you say?

Hon. Amos Birir: I am ready to speak the truth.

Mr. Elias Mutuma: Why is that same number on WhatsApp?

Hon. Amos Birir: It is not this one. I am now repeating. It is not this one.

Mr. Elias Mutuma: Mr. Witness, look at page 21 of volume 6A of the County Assembly's document. There is a screenshot of your WhatsApp that has been extracted from three WhatsApp groups that you are in in the County Assembly of Kericho. Are you in any WhatsApp group in Kericho County Assembly? Are you in any of the three? Are you in any of the groups?

Hon. Amos Birir: Yes.

Mr. Elias Mutuma: Oh, you are in WhatsApp groups with a phone that is not internet-enabled.

Hon. Amos Birir: I am included in the group of the Members of the Assembly.

Mr. Elias Mutuma: Thank you. Mr. Birir, I put it to you that in this country we have dishonest people, then we have liars and then we have you. What would you say?

Hon. Amos Birir: What I am telling you is the truth. This phone is not internet-enabled. If you want to proof, this is the phone which was sent the message, which they say I voted yes.

Mr. Elias Mutuma: My last question, Mr. Birir, is that you have lied on oath in an affidavit. You have also lied on oath after raising the Bible before the Senators. Why would these Senators believe you when you say that you did not vote on that fateful day?

Hon. Amos Birir: I never voted. I am saying the truth, I never voted.

Mr. Elias Mutuma: That is all for this witness.

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Hon. Amos Birir: If you want me to repeat holding the Bible, I can do so. I never voted. That is why I was requesting the Hon. Speaker to give me a chance to advise young people not to use lies.

The Temporary Speaker (Sen. Veronica Maina): Thank you, witness. Counsel Katwa Kigen, do you have any re-examination for this witness?

Mr. Katwa Kigen: *Mheshimiwa*, do you admit that you operate a WhatsApp platform? Do you have a WhatsApp contact?

Hon. Amos Birir: I have, but the one operating is my PA. I do not know how to use it.

Mr. Katwa Kigen: Just a minute, *Mheshimiwa*. Just listen to the question. So, you actually have it?

Hon. Amos Birir: I have it.

Mr. Katwa Kigen: Okay. Who is operating it?

Hon. Amos Birir: The PA and the Secretary.

Mr. Katwa Kigen: Do you know how to operate it yourself?

Hon. Amos Birir: I do not know, even if you give it to me now. I am doing the writing.

Mr. Katwa Kigen: Okay. Do you have a Facebook account?

Hon. Amos Birir: That one I might be---

Mr. Katwa Kigen: Please, just answer the question. Do you have a Facebook account?

Hon. Amos Birir: I have.

Mr. Katwa Kigen: Okay. Who is operating it?

Hon. Amos Birir: The PA and the Secretary.

Mr. Katwa Kigen: Do you know how to operate it?

Hon. Amos Birir: I do not know. I am saying the truth.

Mr. Katwa Kigen: Okay. You have the phone that you say you always have?

Hon. Amos Birir: This is the one without internet.

Mr. Katwa Kigen: This is the phone you have always had?

Hon. Amos Birir: Even in the office.

Mr. Katwa Kigen: In the office, in the Constituency and at the Assembly?

Hon. Amos Birir: Yes.

Mr. Katwa Kigen: Does it have internet?

Hon. Amos Birir: No internet.

Mr. Katwa Kigen: It has no internet and you are saying the truth?

Hon. Amos Birir: Yes.

Mr. Katwa Kigen: Okay. I am sure the Senate will call you another day to give the explanation of why we should say the truth.

Madam Temporary Speaker, I would like to leave the questions there. I do not have any more.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Counsel Katwa Kigen. I will give the Senators a few minutes to ask questions to this witness and to the next. Make it direct and very short.

(Sen. Oketch Gicheru spoke off record)

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What is your point of order, Sen. Eddy?

Sen. Oketch Gicheru: I do not know how we can get your attention.

The Temporary Speaker (Sen. Veronica Maina): Can the Clerk assist Sen. Eddy? That is a special problem on his desk. The rest, I can read your request on the board. So, you will be assisted in a little while by the Clerks Assistants.

Sen. (Prof.) Tom Ojienda, do you have a question?

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Yes, I do. Mr. Witness, I hope you now confirm that you can communicate in English. I want you to confirm, you said you do not operate any of your gadgets, correct?

Hon. Amos Birir: I am operating this one, but when working in my ward, I walk with my PA and Secretary to assist me.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Is it possible that your PA or secretary voted for you?

Hon. Amos Birir: No, they did not vote.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Have they sworn affidavits to confirm that they did not use your gadgets to vote for you?

Hon. Amos Birir: The voting link came through this phone.

The Temporary Speaker (Sen. Veronica Maina): Do not cross-examine the witness. Pose the questions through the Chair and then let the witness proceed.

(Loud consultations)

Order, Senators.

Use simple English, Professor, please. Proceed.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: You saw a joint affidavit of 18 people.

Hon. Amos Birir: Yes.

Sen. (Prof.) Tom Odhiambo Ojienda, SC: Were you all together at the time? Did you all believe in the same thing? Did you agree not to vote?

Hon. Amos Birir: We agreed on one thing.

(Sen. Methu spoke off record)

The Temporary Speaker (Sen. Veronica Maina): He is in order. Sen. Methu, the Chair is in charge. Can you allow the Chair to run the House?

Hon. Amos Birir: We were all 18.

The Temporary Speaker (Sen. Veronica Maina): Professor, those are enough questions from you. Let us have the next Senator, Sen. George Mungai.

Sen. Mbugua: Thank you, Madam Temporary Speaker. Hon. Trump, let me refer you to your affidavit on page 125, number seven, where you are saying that the Speaker of the County Assembly forced voting using electronic voting. Can you tell this House how the forcefulness was used?

Thank you.

Hon. Amos Birir: On that day of the special sitting, we discussed first. We never agreed. We tried to ask which way to use. The Speaker insisted that we have to use electronic voting. Some of us were already suspicious that the machine was not good. We refused. We stood up and said, we are not voting because we are suspecting that the machine is not good. It was the first time. We have never seen that machine. It was on that particular day that we were told that we have to use electronic way of voting. We disputed. We never agreed with the Speaker. We never agreed to use that machine. We were not given time.

The Temporary Speaker (Sen. Veronica Maina): Thank you. Let us have Sen. Cherarkey. Ask direct questions. We are spending about five minutes on this session.

Sen. Cherarkey: Thank you, Madam Temporary Speaker. Just for clarity, *Mheshimiwa* Trump.

Hon. Amos Kimutai: Yes.

Sen. Cherarkey: Is your number 0720382136? No, just clarity.

The Temporary Speaker (Sen. Veronica Maina): Sen. Cherarkey, pose the questions to him, and then he will answer them.

Sen. Cherarkey: Through the Chair, is this ---

(Sen. Methu spoke off record)

Chair, can you protect us? Sen. Methu is not the Speaker.

The Temporary Speaker (Sen. Veronica Maina): Read out the number to him, but do not cross-examine him. Let him just answer your question---

Sen. Cherarkey: Can he be assisted to write it down, so that I ask him? So, *Mheshimiwa* through the Temporary Speaker, is this your number 0720382136?

Hon. Amos Birir: Yes.

Sen. Cherarkey: The second clarification I will be requesting, finally is on affidavit number 10. In these Facebook and WhatsApp accounts, who controls them, and is there a possibility, as my colleagues have asked on clarity, do you trust your Secretary and your Personal Assistant (PA) not to have voted on your behalf?

I yield, Temporary Madam Speaker.

The Temporary Speaker (Sen. Veronica Maina): Thank you. You can proceed to answer, witness.

Sen. Methu and Sen. John Nderitu will follow.

Hon. Amos Birir: Sen. Cherarkey, you asked a question. The PA and Secretary cannot vote on my behalf because the phone which I use is this one. The message which came on the voting day is on this *mulika mwizi* phone. I was given the message through this one. The message is here. I am ready to show you the evidence of the link. It is here. I work with it all day. During functions when I am assisting people in my ward, I walk with my PA to assist me to operate it. I do not know how to use it. I am not saying something which is not true. I have never operated it. The PA and the Secretary operate it. This is the phone that I use to talk to my friends and hon. Members.

The Temporary Speaker (Sen. Veronica Maina): Thank you. Sen. Methu, proceed.

Sen. Methu: Thank you very much, Madam Speaker. May I quote Article 159(2)(d). It states-

“Justice shall be administered without undue regard to procedural technicalities.”

This being a key witness, I would have wished that you allow him to speak in a language that he is most comfortable, including, putting the Leader of Majority on oath, so that he can interpret to us, but now, since that is already overtaken by events ---

The Temporary Speaker (Sen. Veronica Maina): It is already passed. Concentrate on the questions.

Sen. Methu: Yes, I am just saying, you can see and you can hear that part of what he is saying is extremely important. You actually have seen that he is struggling.

I have two questions I would like to ask Hon. Triumph. This link that was sent to you to vote, was it sent to the phone that you have there?

Hon. Amos Birir: Yes, it is here.

Sen. Methu: Or it is the phone with the PA?

Hon. Amos Birir: No.

(Laughter)

I was given by the ICT people in the office where there were elections.

The Temporary Speaker (Sen. Veronica Maina): Next question. That one has been answered.

Hon. Amos Birir: I was not voting at home, I was voting at the Assembly.

Sen. Methu: My second question, that link or message that was sent to that phone, did you attempt to open it?

Hon. Amos Birir: When I was in the Assembly, I had left my phone in the car. This one. I found after that the message--- That message is still there up to now.

Sen. Methu: I do believe you are telling the truth. Finally, which church do you go to?

The Temporary Speaker (Sen. Veronica Maina): Your time is up, Sen. Methu.

(Sen. Methu spoke off record)

Sen. Methu, resume your seat.

Hon. Amos Birir: You want to know my church? I am a Christian; Wonders Church.

(Laughter)

He has the right to ask.

The Temporary Speaker (Sen. Veronica Maina): Sen. Kinyua.

Sen. Kinyua: Asante, Bi. Spika wa Muda. Shahidi, ulipoanza kuongea, ulisema ya kwamba, tarehe 14, kuna mtu alikujulisha ya kwamba uchaguzi utakaofanywa, utakuwa tayari na nukshi. Kwa hivyo, haukuamini ya kwamba, hivyo vifaa vingetumika kwa njia inayofaa. Ningependa kujua ni nani aliyekujulisha tarehe 14 kabla hamjaenda katika uchaguzi?

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Jambo la pili, ni vizuri huyu shahidi angekubaliwa aongee kwa lugha ambayo anaifahamu na anaimenya ili tuweze kuelewa kwa sababu, ninaona ana shida. Akijaribu kujieleza, anakasirika kwa sababu hasemi maneno. Unapoongea kwa Kiingereza unatumia akili yako lakini ukiongea kwa lugha ya mama, unatumia roho. Ninaona yeye angetaka kutumia roho ndio tuweze kumuelewa vizuri.

Mkalimani pia yuko hapa kwa sababu, Kiongozi wa Walio Wengi amesomea mambo ya lugha na angetafsiri.

The Temporary Speaker (Sen. Veronica Maina): Sen. Kinyua, you are risking running out of order now because I have given direction on that issue and the witness has proceed, finished, has been cross-examined and re-examined and now, it is just clarifications.

Sen. Eddy? The witness will answer together with these questions that are coming.

Sen. Oketch Gicheru: Hon. Amos, you have said before this House that you have a Facebook account that is being run by your PA and your secretary. Can you give this House the exact name of that Facebook account?

If you did not vote, can you tell us who voted for you? Is there a way you can verify that that person voted for you? Who do you think voted for you? Can you tell us, as a Senate, so that we can verify that person?

The Temporary Speaker (Sen. Veronica Maina): Sen. Beatrice Akinyi Ogola? Write down those questions and answer them together.

Hon. Amos Birir: Yes, I am noting them.

Sen. Ogola: Thank you, Madam Temporary Speaker. Hon. Member, as an elder, there seems to have been a problem in your county for some time. What Alternative Dispute Resolution (ADR) methods have you initiated as an elder to solve some of these problems that you have in the county?

Secondly, is there any time the County Assembly has initiated something like an impeachment for the CECMs you have because it is the County Assembly that vets them? It seems as if there are problems in those sectors.

Sen. Wambua: Thank you, Madam Temporary Speaker. I have one observation and one question. It would appear true that many people fear technology. It is not new, it happens all over.

I wish to know from the witness and any of the lawyers can respond to this is whether this electronic system of voting had ever been used before the vote against the Governor or after.

It would appear as if this could have been a special purpose vehicle whose aim was just to prosecute the impeachment and disappear after that.

The Temporary Speaker (Sen. Veronica Maina): Witness, you can respond to those questions.

Hon. Amos Birir: As an elder, we have been facing many problems especially impeachment. At one time, there were impeachments in the Committee and CECMs.

According to me, being as elder--- instead of us working all time, we have impeachments. I remember at one time we came up to the former Deputy President and we voted to maturity. Which means we are only fighting for seats, not working for the people.

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I am requesting honourable Senators to pray for us because we are now--- It is not good to make it our work to come and bring things which are not true. Our people will suffer. The whole world is now staring at us here.

This is the second time. Last time we came over here and never made anything. I was among them. Last time, I had rejected the impeachment Motion against the Governor because I was not sent to come and impeach the Governor. We were coming to work together because the County Assembly cannot work alone. We were coming to work for the people, not to conduct impeachments every time. We can go back home and call some elders to come and guide us because if we do impeachments all the time, we cannot work for the people.

There is a Member who asked me if my Personal Assistant (PA) voted on my behalf. He could not because he has no title or link to the County Assembly. How can my PA have a stamp which shows County Assembly? The message is there.

If my PA voted for me, it could have sent me a message which says the PA has voted for you.

(Laughter)

The title is Kericho County Assembly, which might be a stamp for Kericho County Assembly. Do you know the reason I was requesting to talk in particular, because we have many people who understand? Even Sen. Cherarkey is here, I was trying to tell Members of the County Assembly, let us not make things that are not true, to be true. An old man like me coming and lying here is not good. I have children. It is not good for me to come here and lie. I stand firm and say no, and I remain with no. If I were given a chance, a good chance to vote, I would vote. However, because we were under pressure and people were shouting inside the Assembly, there was no security and people were fighting. Was it a normal voting? The people were fighting and shouting in the House. I am saying the truth.

The Temporary Speaker (Sen. Veronica Maina): Have you finished the answers to the questions?

Hon. Amos Birir: Yes. Somebody was asking me, "Is this a habit of problems you face in the Assembly?" Actually, it is true. Senator, you asked a question *kama hii imekuwa* exercise all the time. Impeachment, committee, removal of the Majority Leader, removal of the Speaker, removal of the Chairman of Finance, it is not normal.

The Temporary Speaker (Sen. Veronica Maina): Sen. Seki ole Lenku.

Sen. Seki: Thank you, Hon. Temporary Speaker. Hon. Birir, we have understood that, yes, it is true you have not voted because the gadget you have is not internet-enabled. Then, the one that you have that enables internet was with the secretary and the personal assistant. How do you convince this House that the personal assistant is not the one who voted for you, now that they are the ones operating that machine for you?

Hon. Amos Birir: Yes, I am ready to answer that. I agree with my personal assistant, he did not vote for me. This is the second time I am answering this question, because you asked a similar question. Yes, no, stamp, which is the County Assembly of Kericho was voted on by somebody who was inside. That is why I was asking, to advise in particular, our young people to know, when you do something wrong, you can be

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answered by God. You cannot say an old man like me voted, and then he refused to answer. This thing was made by somebody. I was asking if it is one of my children. Yesterday I was here. And all of us---

The Temporary Speaker (Sen. Veronica Maina): Witness, you have already answered that question. Hon. Senators, we had about a five-minute segment on this witness. I can see that the dashboard is full. At this pace, we might never finish before the close of today. I want to urge the Senators to ask questions that have not been asked. Those are the only people I will give a chance. Maybe two people, then we close the segment. A question that has not been asked. If you ask a question that has been asked, I will overrule you from asking it. So, I will give Sen. Beth and Sen. Tabitha.

Sen. Beth Syengo: Thank you, Madam Temporary Speaker.

(Loud consultations)

The Temporary Speaker (Sen. Veronica Maina): Let her be heard in silence. Hon. Senators, order.

(An hon. Senator spoke off record)

A question that has not been asked.

Sen. Beth Syengo: Yes. Madam Temporary Speaker, I think the witness might be lying to this House. He said that he does not stay with his smartphone and indicated that it stays with the PA. From the ground through networks, I have got a photo of the witness holding a smartphone and I can hand it over here.

(Loud consultations)

I think---

The Temporary Speaker (Sen. Veronica Maina): Sen. Beth, are you introducing new evidence to the House?

Sen. Beth Syengo: Not evidence, but I want to prove that he is lying because he said he does not stay with the phone and it is here.

The Temporary Speaker (Sen. Veronica Maina): Sen. Beth, you should ask questions based on the evidence he has adduced in the House; what is put on the Table of Senate. You cannot introduce evidence from the Senate.

Sen. Beth Syengo: Madam Temporary Speaker, I am not introducing evidence. I only wanted to prove that he is holding a smartphone. Whether it is him in the photo and he can prove---

The Temporary Speaker (Sen. Veronica Maina): I have already overruled. You cannot introduce new evidence.

Sen. Beth Syengo: Finally, Madam Temporary Speaker, please allow me. He has repeatedly said that he is an elder and he wants to advise the young people. My question is, when he witnessed that there were wrangles within the county, how many times has he done it, to advise from the County Assembly of Kericho?

The Temporary Speaker (Sen. Veronica Maina): We will have Sen. Tabitha and then you will respond.

Sen. Tabitha Keroche: Mr. Witness, Mheshimiwa. when Kapkatet Ward elected you, I am sure kuna kitu waliona kwako. Lakini sasa ukiangalia vile unajibu hayo maswali na kusema kuwa huku-vote na simu yako inaonekana ilifanya hiyo kazi,--- Kwa hivyo mimi ninaona watu wa Kapkatet wakikuangalia, at least jaribu wasione kama yule walichagua si mtu wa ukweli. Asante.

The Temporary Speaker (Sen. Veronica Maina): Can you proceed and respond to those issues, witness?

Hon. Amos Birir: Yes. I did not say---

The Temporary Speaker (Sen. Veronica Maina): Proceed and answer those comments and questions.

Hon. Amos Birir: I did not say the phone is not mine. The phone is mine. The one which is used for Facebook and WhatsApp is mine. I do not deny. However, to say that I voted, I never voted and my PA never voted. I have said the message is here. I can give the evidence by showing the message. An MCA has no stamp which says County Assembly of Kericho. This one is showing Kericho County Assembly. The message was sent inside. Even yesterday, you were here.

The Temporary Speaker (Sen. Veronica Maina): Thank you, witness.

Hon. Amos Birir: The ICT will show us that he knows more about these things.

The Temporary Speaker (Sen. Veronica Maina): Thank you, Senators. I think I want to get your consensus now, we discharge this witness. We have 17 more waiting to come in. You will find a chance to ask questions within the 17 more. They have sworn the same affidavit. So, the contents are the same that will be produced before this House by the 17.

Witness, you will be discharged. Counsel, I do not know whether there are any questions directed to you? You are discharged. You can take your seat, witness.

Mr. Katwa Kigen: Madam Temporary Speaker, with your permission, I had intended to call the expert. However, with the comments you had made, I wanted to request for your directions. I wanted to request to call the other remaining 16 we deal with them as a group and then we close with the expert witness.

The Temporary Speaker (Sen. Veronica Maina): That is okay Counsel Katwa. How you organise your case is within your discretion.

Mr. Katwa Kigen: Thank you.

The Temporary Speaker (Sen. Veronica Maina): Sen. Sifuna, what is your intervention? Give Sen. Sifuna the microphone.

Sen. Sifuna: Madam Temporary Speaker, I am just wondering. This is something Counsel Katwa Kigen has to address himself to. What is the probative value of 16 people coming to say the same thing? If somebody is coming to introduce a different angle, it helps your case, counsel. If they are coming to say things that the other witnesses have said, I think the House has taken a view.

Madam Temporary Speaker, I would want him to address his mind to that. However, if he insists, it is his case and we cannot force him. If he insists, we are ready to proceed.

The Temporary Speaker (Sen. Veronica Maina): Maybe by way of guidance, it is their case and they have a time limitation. They should keep within the time limit they have been given by the Senate. How he chooses to direct or prosecute his case, that is upon him. We will only require him to keep within his time limit.

Senior Counsel Kigen, you have been put to task to consider how you deal with your case but it is up to you.

Mr. Katwa Kigen: I have considered and I prefer to do it the way I had judged.

The Temporary Speaker (Sen. Veronica Maina): Proceed, but keep it within the time limit we have given you as the Senate.

Mr. Katwa Kigen: Thank you, Madam Temporary Speaker.

Mr. Elisha Ongoya: Can I say something, Madam Temporary Speaker? It is related to that issue.

The Temporary Speaker (Sen. Veronica Maina): Proceed.

Mr. Elisha Ongoya: Thank you, Madam Temporary Speaker. One of the things my team has to prepare for is to cross-examine these witnesses. In my two decades of practice, I have never cross-examined 16 people at ago, because cross-examination means you deal with one person at a time, then tie the notes together.

I would also like to know the methodology of dealing with a group of 16 people at ago. To us, it looks to be a practical impossibility, at least from the trial procedure as we know from this House and other trial forums elsewhere.

The Temporary Speaker (Sen. Veronica Maina): To give a guide to that issue, so that you are reasonable and fair to your colleagues, Counsel Katwa Kigen, you will require to present your evidence in such a manner that the other counsel are able to interrogate, but you still keep within your timeline if you choose to call in the 16.

Mr. Katwa Kigen: Thank you, Madam Temporary Speaker. They are not 16, but 14.

The Temporary Speaker (Sen. Veronica Maina): Then do not call in a group of 16 and expect them to interrogate the witnesses. Whichever way you prosecute it, allow them to interrogate each of the witnesses.

Mr. Katwa Kigen: Is that change of the directions? You had allowed us to call---

The Temporary Speaker (Sen. Veronica Maina): I have not changed. You are still prosecuting your case, but you must allow them to interrogate each of them because it is their right.

Mr. Katwa Kigen: That is okay, Madam Temporary Speaker.

The Temporary Speaker (Sen. Veronica Maina): Counsel Katwa Kigen, are you ready?

We will ask the clerks to be very fast in administration of the oath.

Please, proceed.

Mr. Katwa Kigen: Hon. Senators and Madam Temporary Speaker, the joint affidavit is at pages 113 to 116---

The Temporary Speaker (Sen. Veronica Maina): Counsel Kigen, can you use the microphone? We cannot hear you.

[The witnesses for the Governor (Hon. Paul Kiptoo Bii, Hon. Gabriela Chepngeno, Hon. Anita Cheron Mibey, Hon. Naaman Kipsigei Rop, Hon. Bavina Chepkurui Serem, Hon. Irine Chebet Langat, Hon. Dominic Mutai, Hon. Fancy Chepkorir Korir, Hon. Vincent Kirui, Hon. Winny Chepkoech Langat, Hon. Francis Kiplangat Terer, Hon. Opile Noela Omollo, Hon. Kimweno Kirui and Hon. Gilbert Kiprop Ng'etich were ushered into the Chamber]

Mr. Katwa Kigen: My apologies, Madam Temporary Speaker. The joint affidavit by the 14 who are coming in is from pages 113 to 116. It is a joint common position affidavit.

The following witnesses for the Governor took the oath-

- (1) Hon. Paul Kiptoo Bii, MCA
- (2) Hon. Gabriela Chepng'eno, MCA
- (3) Hon. Anita Cheron Mibey, MCA
- (4) Hon. Naaman Kipsigei Rop, MCA
- (5) Hon. Bavina Chepkurui Serem, MCA
- (6) Hon. Irine Chebet Langat, MCA
- (7) Hon. Dominic Mutai, MCA
- (8) Hon. Fancy Chepkorir Korir, MCA
- (9) Hon. Vincent Kirui, MCA

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, I will extend the sitting by 15 minutes to allow the swearing in to finalise.

The following witnesses for the Governor took the oath-

- (1) Hon. Winny Chepkoech Langat, MCA
- (2) Hon. Francis Kiplangat Terer, MCA
- (3) Hon. Opile Noela Omollo, MCA
- (4) Hon. Kimweno Kirui, MCA
- (5) Hon. Gilbert Kiprop Ng'etich, MCA

The Temporary Speaker (Sen. Veronica Maina): Are you done with the witnesses taking Oath? Counsel Katwa, you can call the first witness for the remaining 15 minutes?

Mr. Katwa Kigen: I would like to start with *Mheshimiwa* Naaman Rop. Where is he?

Hon. Naaman Rop: Yes.

Mr. Katwa Kigen: Could you just tell this honourable Senate what are your full names again?

Hon. Naaman Rop: My name is Naaman Kipsigei Rop.

Mr. Katwa Kigen: You represent which ward?

Hon. Naaman Rop: Soin Ward.

Mr. Katwa Kigen: By way of evidence, you co-signed the affidavit that was signed by 18 people on the 15th August, 2025?

Hon. Naaman Rop: Yes.

Mr. Katwa Kigen: In it, what was the main point you are making?

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Hon. Naaman Rop: The main point we were making is that I did not vote in the voting process that was there in the Assembly, because of ---

Mr. Katwa Kigen: So apart from not voting, was there another issue?

Hon. Naaman Rop: Yes, there was an issue that resulted on why we did not vote, because of the introduction of the voting system that was abrupt; a voting system that was not very viable, a voting system that had not been procured, a voting system that, in my own perception and judgement, lacked all the merits in which to transact the impeachment Motion that was on the floor of the House.

Mr. Katwa Kigen: You would like these hon. Senators to take your position into account in considering whether or not there was legitimate voting in this process?

Hon. Naaman Rop: Yes.

Mr. Katwa Kigen: Thank you very much. You could step aside. I would like to call Hon. Amos Birir.

Mr. Elisha Ongoya: My apologies, Madam Speaker. I am entitled to cross-examine that witness.

The Temporary Speaker (Sen. Veronica Maina): Yes, Counsel Katwa, allow your colleague to cross-examine that witness.

Mr. Katwa Kigen: Okay, Madam Temporary Speaker.

Mr. Elisha Ongoya: Hon. Naaman Rop, I have very few questions for you. Number one, you have not sworn any individual affidavit before the Senate, have you?

Hon. Naaman Rop: I did swear a summative affidavit.

Mr. Elisha Ongoya: There is nothing in law called summative affidavit. Is there any affidavit in your name individually?

Hon. Naaman Rop: Yes.

Mr. Elisha Ongoya: As a person?

Hon. Naaman Rop: Yes.

Mr. Elisha Ongoya: Please, let your lawyer show it to you. Let your lawyer show you that affidavit. We must begin saying the truth from the very beginning.

Hon. Naaman Rop: That is the affidavit I signed.

Mr. Elisha Ongoya: Let your lawyer show your individual, your own individual affidavit.

Hon. Naaman Rop: We have an enjoined affidavit.

Mr. Elisha Ongoya: Can I ask whether you have sworn any individual affidavit?

Hon. Naaman Rop: No, I do not.

Mr. Elisha Ongoya: You do not? So, to that extent, you have lied. To that limited extent, you have already lied?

Hon. Naaman Rop: No, because I bear full responsibility for the affidavit that I have here.

Mr. Elisha Ongoya: Next, did you vote in respect of this Motion?

Hon. Naaman Rop: I did not vote.

Mr. Elisha Ongoya: Do the results suggest that you voted?

Hon. Naaman Rop: No.

Mr. Elisha Ongoya: So, the results capture your position accurately? The results capture your choice not to vote accurately?

Hon. Naaman Rop: No.

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- Mr. Elisha Ongoya:** The results say you voted?
- Hon. Naaman Rop:** The results say that 33 voted.
- Mr. Elisha Ongoya:** Do the results say you, Naaman Rop, voted?
- Hon. Naaman Rop:** No.
- Mr. Elisha Ongoya:** And you did not vote?
- Hon. Naaman Rop:** Yes.
- Mr. Elisha Ongoya:** That is correct. Thank you so much.
- Mr. Katwa Kigen:** In re-examination, Professor Naaman, the columns for the votes shows that 33 voted, is it not?
- Hon. Naaman Rop:** Yes.
- Mr. Katwa Kigen:** Then it provides for other columns. Could you tell the honourable Senators what the other columns say?
- Hon. Naaman Rop:** The other two columns - for voting no is zero and for abstaining is zero. So, it did not capture the position that I took.
- Mr. Katwa Kigen:** Which is?
- Hon. Naaman Rop:** Which is I abstained.
- Mr. Katwa Kigen:** Thank you very much. If you could step aside.
- The Temporary Speaker (Sen. Veronica Maina):** Proceed with the next witness.
- Mr. Katwa Kigen:** Okay, let us have *Mheshimiwa* Paul Bii. Could you tell the hon. Senators your full name?
- Hon. Paul Bii:** Thank you very much, counsel. My full name is Kiptoo Paul Bii representing the great people of Kapsaos, that is in Ainamoi Sub-County, Kericho County, as an MCA.
- Mr. Katwa Kigen:** Were you in the County Assembly on 15th August, 2025?
- Hon. Paul Bii:** Indeed, I was there.
- Mr. Katwa Kigen:** What was the business on that day?
- Hon. Paul Bii:** There was a special sitting on the Motion that was tabled by one Hon. Kiprotich Rogony on the impeachment of the county governor, Dr. Eric Mutai.
- Mr. Katwa Kigen:** Did you vote in that impeachment proceedings?
- Hon. Paul Bii:** No.
- Mr. Katwa Kigen:** What kind of voting was adopted?
- Hon. Paul Bii:** Prior to that day---
- Mr. Katwa Kigen:** Let us just save time. What kind of voting was adopted on that day?
- Hon. Paul Bii:** Electronic voting.
- Mr. Katwa Kigen:** Let me ask you again, did you vote?
- Hon. Paul Bii:** No.
- Mr. Katwa Kigen:** Could you tell the honourable Senators why you did not vote?
- Hon. Paul Bii:** The reason I did not vote is that, prior to that day, we were away. We overheard that there were some electronic gadgets which were introduced in the Assembly on the day to the voting day. That raised a lot of concern, especially to me because in the social media, I was seeing my good friend, Hon. Paul Chirchir, shouting that they already had 34 votes.
- Mr. Katwa Kigen:** Why did you not participate in the electronic voting?

Hon. Paul Bii: I did not participate because I suspected that there was malice in it and we were new to the gadgets that were introduced.

Mr. Katwa Kigen: Did you have faith in the electronic voting?

Hon. Paul Bii: I did not.

Mr. Katwa Kigen: The results do not show your name among the people who voted, is that so?

Hon. Paul Bii: Yes.

Mr. Katwa Kigen: What was the nature of your vote having not your vote?

Hon. Paul Bii: The nature of my vote was abstain.

Mr. Katwa Kigen: According to Kericho County Standing Orders?

Hon. Paul Bii: Yes.

Mr. Katwa Kigen: Is it captured?

Hon. Paul Bii: It is not captured.

Mr. Katwa Kigen: Thank you. My colleague will ask a question or two.

Mr. Kimutai Bosek: For the record, I am Kimutai Bosek. I have few questions for you, Hon. Bii.

There was an argument in the Assembly on the method of voting. Is it not true that electronic voting is captured in Standing Order No.77?

Hon. Paul Bii: It is.

Mr. Kimutai Bosek: Was there any other option other than the Speaker to follow the Standing Orders?

Hon. Paul Bii: Absolutely, there was.

Mr. Kimutai Bosek: Which other option? I want you to read Standing Order No.77.

Hon. Paul Bii: Standing Order No.77(8).

Mr. Kimutai Bosek: Read No.(1).

Hon. Paul Bii: Why do you want to force me to read No.(1) and yet I have the clause?

Mr. Kimutai Bosek: I am asking you questions. Do what I am asking you to do. Read it.

Hon. Paul Bii: It says: "Unless the Speaker for the convenience of the Assembly otherwise directs, voting on division in the Assembly shall be by electronic voting."

Mr. Kimutai Bosek: Thank you. So, the Speaker did not have any other way, but to comply with the Standing Orders. Is that so?

Hon. Paul Bii: No.

Mr. Kimutai Bosek: The answer is written "shall".

Hon. Paul Bii: No. When five Members rise and object?

Mr. Kimutai Bosek: Secondly, did you vote abstain?

Hon. Paul Bii: Indeed, I did. It is captured. I even went in front.

Mr. Kimutai Bosek: Did you press the button on your phone 'abstain'?

Hon. Paul Bii: There was no gadget to press abstain.

Mr. Kimutai Bosek: You had your phone, but you did not press it and you could have sought assistance, so that you press abstain. So, you opted not to vote.

Hon. Paul Bii: Why are you saying I had my phone? Are you sure that I had my phone on that day?

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The Temporary Speaker (Sen. Veronica Maina): Witness, you will respond to the questions. Do not ask the Counsel any questions. You are the one being interrogated.

Mr. Kimutai Bosek: According to the results, is your name captured to have voted?

Hon. Paul Bii: No.

Mr. Kimutai Bosek: It is a true reflection on the fact that you did not vote. Is that true?

Hon. Paul Bii: I did not vote.

The Temporary Speaker (Sen. Veronica Maina): You can proceed.

Mr. Katwa Kigen: *Mheshimiwa*, did you indicate what your vote was the kind of vote you were casting in the Assembly on that day?

Hon. Paul Bii: Yes.

Mr. Katwa Kigen: How did you do that?

Hon. Paul Bii: I was trying to explain to the hon. Speaker, but he objected.

Mr. Katwa Kigen: What did you tell the Speaker? You told him what your vote was?

Hon. Paul Bii: Abstain, yes.

Mr. Katwa Kigen: Before you went forward to say abstain, what had happened? Had he called you?

Hon. Paul Bii: He did call me.

Mr. Katwa Kigen: He called you forward and then you said abstain?

Hon. Paul Bii: He called me to be assisted by the staff.

Mr. Katwa Kigen: In the record, is your vote of abstain captured in the data shown?

Hon. Paul Bii: No.

Mr. Katwa Kigen: My colleague has told you that Standing Order No.77 says; the Speaker shall engage in electronic voting. I would like you to look at Standing order No.79 and read it to the honorable Senators.

Hon. Paul Bii: Standing Order 79 (1) says-

“The Speaker shall direct a roll call vote to be taken if a Member claims a division.”

(a) The Speaker considers that there is a reasonable doubt as to the outcome of the vote in question or,

(b) if on a question other than a question of procedure, five or more Members rise in their places to support the Member claiming the roll call division.”

Mr. Katwa Kigen: So Standing Order 79 gives an MCA the right to insist on a roll call. Is that not so?

Hon. Paul Bii: Yes.

Mr. Katwa Kigen: And requires how many people to support him?

Hon. Paul Bii: Five.

Mr. Katwa Kigen: How many were you insisting on a roll call vote?

Hon. Paul Bii: Eighteen.

Mr. Katwa Kigen: Did the Speaker cede ground to allow you do to do a roll call vote?

Hon. Paul Bii: No.

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Mr. Katwa Kigen: Was there any crisis that needed that you had to use electronic and not roll call method?

Hon. Paul Bii: No.

Mr. Katwa Kigen: I would like you, lastly, to look at Standing Order No.77(8). What does it say?

Hon. Paul Bii: “Any Member present in the Assembly but who shall not have voted at the expiry of five minutes or after the announcing of the results, whichever is earlier, shall forfeit the right to vote and shall be deemed to have abstained from voting.”

Mr. Katwa Kigen: Even your choice not to vote is a vote in itself according to your Standing Orders?

Hon. Paul Bii: Yes.

Mr. Katwa Kigen: What is that vote?

Hon. Paul Bii: Abstain.

Mr. Katwa Kigen: Thank you. If you could step aside, I request for Hon. Fancy Korir. Fancy. Tell us your full name.

Hon. Fancy Korir: My name is Fancy Chepkorir Korir.

Mr. Katwa Kigen: Could you confirm if you are an MCA and your Ward?

Hon. Fancy Korir: I am a Nominated Member representing the good women of Kericho County.

Mr. Katwa Kigen: There is an affidavit sworn on the 15th of August, 2025 at pages 113 to 116. Did you sign that joint affidavit?

Hon. Fancy Korir: Yes, I did.

Mr. Katwa Kigen: What was the main point you were you making in that affidavit?

Hon. Fancy Korir: We had a compliant on the voting system.

Mr. Katwa Kigen: What was the nature of your complaint?

Hon. Fancy Korir: We really wanted to vote on that day, but we were given the electronic system. We said we were going to vote manually because the Standing Order provides the three.

Mr. Katwa Kigen: So you preferred roll call voting rather than electronic voting?

Hon. Fancy Korir: Yes, because all of us were present. We said we were going to tell the Speaker maybe to consider us voting manually---

Mr. Katwa Kigen: Okay. What problem did you have with electronic voting?

Hon. Fancy Korir: That was the first time I saw it.

Mr. Katwa Kigen: Was that the only reason you did not use it?

Hon. Fancy Korir: Again, I was suspicious because in the last impeachment of the Deputy Speaker, Hon. Bett, my signature was forged. So I said I was not going to use it because, obviously, they were going to vote “yes” for me.

Mr. Katwa Kigen: You chose not to vote because you had suspicions about the system?

Hon. Fancy Korir: Yes.

Mr. Katwa Kigen: In the results that were brought to the County Assembly and eventually signed off by the Speaker and which are in this Senate, is your vote captured?

Hon. Fancy Korir: No.

Mr. Katwa Kigen: Where should it have been captured?

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Hon. Fancy Korir: Abstain.

Mr. Katwa Kigen: According to the Standing Orders?

Hon. Fancy Korir: Yes. You will be asked a few questions by my colleagues.

Mr. Elisha Ongoya: Once, again, Hon. Fancy, we have very few questions for you. Apart from that group affidavit, do you have an individual affidavit before this Senate?

Hon. Fancy Korir: I do not have.

Mr. Elisha Ongoya: Did you vote on that day?

Hon. Fancy Korir: I abstained.

Mr. Elisha Ongoya: Did you vote on that day?

Hon. Fancy Korir: I abstained.

Mr. Elisha Ongoya: I have asked whether you voted.

Hon. Fancy Korir: I am thinking that abstaining is a vote---

Mr. Elisha Ongoya: Please, answer my question directly. Did you vote on that day?

Hon. Fancy Korir: I abstained.

Mr. Elisha Ongoya: Did you press the abstain button in the system?

Hon. Fancy Korir: There was not button to press.

Mr. Elisha Ongoya: Did you press the abstain signal on your phone?

Hon. Fancy Korir: I was not provided any---

Mr. Elisha Ongoya: I am asking about the phone. Did you log into the system?

Hon. Fancy Korir: I did not.

The Temporary Speaker (Sen. Veronica Maina): When we resume you will continue with the cross-examination of that witness.

ADJOURNMENT

The Temporary Speaker (Sen. Veronica Maina): Hon. Senators, it is now 1.15 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until later today at 2.30 p.m.

The Senate rose at 1.15 p.m.