



**THIRTEENTH PARLIAMENT**  
**THE SENATE**  
**OFFICIAL REPORT**



**Fourth Session**

**Thursday, 28<sup>th</sup> August, 2025 at  
2.30 p.m. - Special Sitting**

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday, 28<sup>th</sup> August, 2025

### Special Sitting

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

*The House met at the Senate Chamber,  
Parliament Buildings at 2.33 p.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)*

Hon. Senators, we now have quorum. We will, therefore, proceed with the afternoon business as contained in the Order Paper.

Clerk, you may proceed to call the first Order.

### 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  
COUNTY ASSEMBLY OF KERICHO

**The Speaker** (Hon. Kingi): At the rise of the House, we had Hon. Albert Kipkoech. He had given his evidence, cross-examined and re-examined. It was for

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Senators to seek clarifications and many of you had done so. I will pick four more and then we move to the next witness.

Hon. Senators, today we may have to go all the way to midnight if you are to save tomorrow. So, just mentally prepare yourself for the long haul. It will be a long flight today.

Serjeant-at-Arms, you may usher in the witness.

*(The witness for Kericho County Assembly (Mr. Albert Kipkoech) was ushered into the Chamber)*

Hon. Albert Kipkoech, I remind you that you are still on oath. I will proceed to call Sen. Enoch to seek his clarification.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir. Mine is directly to the witness. He has brought before the Senate a number of issues of impropriety allegedly against the Governor. What I want to know from him, so that I make up my mind on how to proceed, is whether the Governor, in his own opinion, is guilty on account of being the head of the County Government of Kericho or he can, in any way, connect the acts of impropriety directly to the Governor.

**Sen. Cherarkey:** Mr. Speaker, Sir, I have two clarifications to *Mheshimiwa* Albert. One, you know very well that the Governor does not sit in procurement processes. So, what is the nexus between what you have tabled before the House and the Governor's role?

Two, looking at page 41 on volume four, I can see there is lunch, tea, and soft drinks. In this Kshs2.985 million and Kshs293,750 has been paid for 25 soft drinks of 500 ml - note Majority Leader, but millilitres – so that there is clarity. If you divide that by 25, it shows that one bottle of soft drink was procured at Kshs11,750. What is your opinion? If Kshs200,000 was used to pay for 500 hired plastic chairs, one chair was hired at Kshs400. So, what is your opinion? Also shed light on the issue of tissues and sodas as per voucher No.41.

Mr. Speaker, Sir, finally, do you have any evidence that Leah Chepchirchir, who has signed most of these vouchers, is no longer working within the governance structure of Kericho County?

I yield, Mr. Speaker, Sir.

**Sen. Mungatana, MGH:** Mr. Speaker, Sir, there was a very grave allegation that was made by the Governor that the reports of the *Ad Hoc* Committee, in fact, not just this one, but this report and another report were filed after the impeachment. That there was no opportunity for the Governor to exercise his authority on his officers, so that those mistakes or problems can be resolved.

I would like to ask the Chairperson of this *Ad Hoc* committee, who is also the witness, to clarify to us when this report was served to the Governor and when he moved the impeachment Motion, so that we are clear that there was no ill motive as alleged by the Governor in his opening statement.

I thank you, Mr. Speaker, Sir.

**Sen. Maanzo:** Thank you, Mr. Speaker, Sir. I would like to ask the witness, in order of things, there are matters which the Senate can settle or oversight and matters

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which the County Assembly can oversight. In these particular allegations, did the County Assembly exhaust all its internal mechanisms and did it give the Governor an opportunity to be heard as required by the law before it comes to the Senate?

**Sen. Tabitha Mutinda:** Mr. Speaker, Sir, from what has been presented as exhibits, as far as the payments issues are concerned, my concern is to the Governor. What is his take on all these various payments from the different departments that have been queried?

When I listened to the MCA, he stated that they do not do oversight. I would want to understand then, what is their role? This is because when he was asked, if they asked the Governor to appear to explain the fictitious payments that had been done, he seemed not to have authority to summon the Governor. We will also need clarity from the MCA.

**Sen. Wafula:** Thank you, Mr. Speaker, Sir. I would like to know from the way he has ably taken us through this document, how many terms he has done as an MCA, so that Kenyans can understand the calibre of MCAs we have in the county assemblies.

**The Speaker** (Hon. Kingi): Proceed, Sen. Mwaruma.

Hon. Albert, you do not need to respond to the query that has been raised by Sen. Wafula. It is of zero help to these proceedings.

*(Laughter)*

**Sen. Mwaruma:** Thank you, Mr. Speaker, Sir. Mine is to the Governor, as the CEO of the county. Was he aware that money was paid for renovation of houses, which was not done? This is because we were shown payments that were done, but no work was done.

**The Speaker** (Hon. Kingi): Lastly, Sen. Murango, then we allow the Hon. MCA to respond.

**Sen. (Dr.) Murango:** Asante, Bw. Spika. Hapo awali nilikuwa Mwakilishi wa Wadi. Ningetaka nijue kama kuna usuhuba wowote kati ya Bunge la Kericho na Gavana ama Mawaziri wanaofanya kazi nao? Pili, katika Kamati ya Ukaguzi na Uhasibu katika Bunge la Gatuza la Kericho kunayo ripoti yeyote ambayo ilitolewa kulingana na matumizi ya pesa ambayo mmeleta mbele yetu leo kama Bunge la Seneti?

**The Speaker** (Hon. Kingi): Proceed to respond, Hon. Albert.

**Hon. Albert Kipkoeh:** Thank you, Mr. Speaker, Sir and hon. Senators. I will start with the first question. I did not get the name, but allow me to respond to all the questions that you have raised.

Hon. Senators, you need to appreciate that the county CEO is the Governor. Since he is the Governor, he is supposed to put preventive obligations in all the expenditures that are being done in the county. Remember that this money that is alluded to be fictitious was made in February this year. It only happens that our Deputy Governor brought it to the attention of the public in July. That is five months after.

Does it mean that there were no internal controls or that the Governor did not have intelligence that something fishy was going on in his county, especially on issues of payments? So to me, I believe that the Governor should have a preventive obligation 24/7 to make sure that he knows and sees if everything that is happening in each and every department benefits the public.

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Second, Sen. Cherarkey has asked if there is a nexus. Allow me to say that it is there. These issues of fictitious payment cannot happen in all the departments without the knowledge of the Governor. Unless there is a very big distance between the Governor and the departments or he has automatically left the county. I want to believe that there is that connection.

On the issue of agriculture, for example, where soya beans were paid to the tune of Kshs15 million, does it mean the Governor would not know that there is a cooperative society expecting Kshs5 million for raw materials? There is that link or maybe the Governor is complicit. He is aware.

Maybe when these things happened, he was protecting it until the other day when our DG whistle-blowed it. Sen. Cherarkey, there is a very good connection between His Excellency the Governor and all the happenings, especially on fictitious payment.

Sen. Cherarkey also mentioned the issue of Denbi Holdings Limited, where there are exorbitant prices. On volume four, page 41, I will confirm to you that when paying for something fictitious, something that you are stealing, wrongs must be there. Maybe they were saying that these things would not be known and the only way to siphon this money was through soft drinks. Unfortunately, when we noticed it, until today, he has not told us the truth whether that soda or soft drink cost Kshs500 or Kshs1,100.

I was elected in 2017. So, I was with Leah Chirchir from 2017 to 2022. When the Governor came in, he brought his people as chief officers. So, I am very much aware that Leah Chirchir was there before. However, she is no longer working there today. The Chief Officer present is Quantity Surveyor (QS) Anderson Terer.

Another question was on reports. It is not the first time that the Kericho County Assembly is responding to or giving His Excellency the Governor, an *ad hoc* committee report. There was a report that we gave him in 2023. However, he has not acted on that report up to today. There is also another report on *Kazi Mtaani* that he has not acted on up to today. So, maybe it is unfortunate or *kwa bahati mbaya* there is this collusion now that the issue of the *Ad Hoc* Committee on Fictitious Payments is coming in when he is being impeached. However, he has a habit of not responding to reports.

**The Speaker** (Hon. Kingi): Hon. Albert, be specific to the questions raised by Sen. Mungatana. Which came first between the tabling of the impeachment Motion and the transmission of the *Ad Hoc* Committee report on Fictitious Payments to the Governor?

**Hon. Albert Kipkoech:** The transmission. We gave him the report on the 5<sup>th</sup> August, 2025. The Motion was tabled on 6<sup>th</sup> August, 2025.

**The Speaker** (Hon. Kingi): Are you saying that the report was transmitted on 5<sup>th</sup> and the Motion tabled on the 6<sup>th</sup>?

**Hon. Albert Kipkoech:** Yes, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Okay, proceed.

**Hon. Albert Kipkoech:** Hon. Senators, remember that the only person who prepares a Motion should give us the reason why he decided to use a report on fictitious payments. Maybe that can be answered well when the mover appears here.

**The Speaker** (Hon. Kingi): It is okay, proceed.

**Hon. Albert Kipkoech:** There was that question on oversight, whether we invited the Governor to appear before the County Assembly. I want to leave that to you because

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it is an issue of law. Are we allowed to invite the Governor to the County Assembly to answer questions on issues?

I believe that the only way we can invite the Governor to the County Assembly is through an impeachment. That is the reason we invited him on the 15<sup>th</sup> to answer these issues. Unfortunately, he did not answer on that particular day, especially on Kshs85 million that was siphoned through fictitious payment.

**The Speaker** (Hon. Kingi): *Mheshimiwa*, the hon. Senator for Makueni asked the question that having worked so diligently as a County Assembly and unearthed the fictitious payment and compiled a report, was it not prudent on your part to hear the other side through the Governor, so that he could explain exactly what happened and maybe what action he may or may not take?

**Hon. Albert Kipkoech**: Yes, we did. We invited the Chief Executive Committee Members (CECMs) headed by the CECM of Finance and his team from Finance. Also, all the Chief Officers from the affected departments. I believe that since he heads the Cabinet, those people responsibly represented him in the Assembly.

Okay, you told me not to answer the issues of terms. However, in a nutshell, I have been here since the inception of devolution. I got an opportunity as nominated, then elected thereafter. So, I have been here for three terms. On the issue of the County Public Accounts Committee (CPAC), the Assembly responded to these issues of Kshs85 million financial impropriety because the Deputy Governor wrote a letter to the Assembly listing the 46 companies that were affected.

He advised the Assembly to investigate and it is the reason we started with the establishment of a committee to look into these issues. Maybe later on, if all these issues appear in the audit reports, it is when CPAC will look into it. Otherwise, I have finished all the questions, unless there is any that I have forgotten.

**The Speaker** (Hon. Kingi): Thank you. What is the issue, Sen. Tabitha? I thought it was the issue of oversight and he has responded to it. We will now move to the next witness. We need to make progress on this matter.

Sen. Kavindu, you had an opportunity to ask a question. Okay, before we stand down the witness, take this one last question.

**Sen. Kavindu Muthama**: Thank you, Mr. Speaker, Sir. One question to the witness. You say that you have just answered one of the questions and said that you had summoned the CECMs and the COs. I would like to know when this was done because part of the MCA's job is to oversight the Executive. If there were all these irregularities, you would definitely have summoned the CECMs to appear before you, as the County Assembly, to answer questions. Was the report also forwarded to the Governor?

**Hon. Albert Kipkoech**: Thank you. Allow me to state that we invited them. If you have my affidavit, volume two, allow me to take you to paragraph nine, page 52. I want you to also take volume four. The first witness invitation letter is on page 221 and that is the whistleblower.

You can see the dates; he appeared on 24<sup>th</sup> July. We invited all of them based on the letter that was written to us by the Deputy Governor on 10<sup>th</sup> July. We were not acting as the normal oversight because if it is normal oversight, it means the CECM of Finance will be invited by the Committee on Finance.

If it is an issue of lands, there is the Committee on Lands and several other committees of the Assembly. This one was an exceptional case because the Deputy Governor wrote a letter to the Assembly, requesting that we investigate this matter, which had 45 companies that were paid in February and March.

Thank you.

**The Speaker** (Hon. Kingi): Hon. Albert, are you, therefore, saying that it is the Governor who requested you to investigate?

**Hon. Albert Kipkoech**: The Deputy Governor.

**The Speaker** (Hon. Kingi): That is the office of the Governor. Is that your testimony?

**Hon. Albert Kipkoech**: Since he is the Principal Assistant; it is the office of the Governor.

**The Speaker** (Hon. Kingi): That requested you to investigate?

**Hon. Albert Kipkoech**: Yes.

**The Speaker** (Hon. Kingi): Thank you.

Okay, we will now move to the next witness. We need to make progress on this matter.

Counsel for County Assembly, how many witnesses do you have because between this witness and your last witness, you have only 20 minutes and 32 seconds.

**Mr. Elias Mutuma**: Thank you, Mr. Speaker, Sir. Due to constraint of time, we will be calling our last witness; Mr. Kiprotich Rogony. As we usher him in, his affidavit is to be found at volume two of the County Assembly's documents, pages one to 50.

*(The witness for Kericho County Assembly (Hon. Kiprotich Rogony, MCA Sigowet Ward) took the Oath)*

Thank you, Rogony. Good afternoon to you.

**Hon. Kiprotich Rogony**: Good afternoon.

**Mr. Elias Mutuma**: Kindly introduce yourself with your full names, what you do for a living and how you are associated with the Motion before this Senate?

**Hon. Kiprotich Rogony**: Thank you. My name is Hon. Kiprotich Rogony, the MCA representing Sigowet Ward in Sigowet Sub-county, Sigowet/Soin Constituency.

**Mr. Elias Mutuma**: You also confirm that you are the mover of the Motion before Senate today?

**Hon. Kiprotich Rogony**: Yes.

**Mr. Elias Mutuma**: You prosecuted the same before the County Assembly?

**Hon. Kiprotich Rogony**: Yes.

**Mr. Elias Mutuma**: Do you also confirm that the Motion met the threshold under Section 33 of the County Governments Act and the Standing Orders of your Assembly?

**Hon. Kiprotich Rogony**: Yes.

**Mr. Elias Mutuma**: How did it meet the threshold?

**Hon. Kiprotich Rogony**: When the vote was called, Members voted 33 of the 47. The threshold is 32 MCAs.

**Mr. Elias Mutuma**: So, you confirm that the threshold was met?

**Hon. Kiprotich Rogony**: It was met.

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**Mr. Elias Mutuma:** Thank you. Due to limitations of time, I will go straight to the issues. You were present before Senate yesterday or rather, you must have watched and you were accused of having called one of the MCAs and bragging that you voted on their behalf. There was an audio that was played to that effect.

**Hon. Kiprotich Rogony:** I followed the proceedings and there was an audio that was played.

**Mr. Elias Mutuma:** Let me ask the question. Was that you in that audio that made those utterances?

**Hon. Kiprotich Rogony:** No.

**Mr. Elias Mutuma:** Have you at any given time talked to that MCA making those brags?

**Hon. Kiprotich Rogony:** I have never spoken to him on the subject matter that was played out in this Senate.

**Mr. Elias Mutuma:** So, you confirm that you did not call the hon. Member making those allegations?

**Hon. Kiprotich Rogony:** I did not.

**Mr. Elias Mutuma:** As a matter of fact, did you vote for this MCA or any other MCA?

**Hon. Kiprotich Rogony:** I only voted for myself; I never voted for anybody else.

**Mr. Elias Mutuma:** Are you aware of any instances where one MCA might have voted for another?

**Hon. Kiprotich Rogony:** It was impossible because from the link, once you vote, it becomes inactive so you cannot vote twice.

**Mr. Elias Mutuma:** Thank you. Indeed, look at volume one of the Governor's documents at page 261. There is a Certificate of Electronic Evidence.

**Hon. Kiprotich Rogony:** Yes.

**Mr. Elias Mutuma:** Are you at that page?

**Hon. Kiprotich Rogony:** Yes.

**Mr. Elias Mutuma:** Is the number provided therein your number?

**Hon. Kiprotich Rogony:** It is incomplete; it is not mine.

**Mr. Elias Mutuma:** It is not your number?

**Hon. Kiprotich Rogony:** Yes.

**Mr. Elias Mutuma:** For record purposes, kindly tell the Hon. Senators, your number that you ordinarily use and how many numbers you have for that matter.

**Hon. Kiprotich Rogony:** I only have one number. My number is 0724290295.

**Mr. Elias Mutuma:** Is that the number that appears on that certificate of electronic evidence?

**Hon. Kiprotich Rogony:** It is not.

**Mr. Elias Mutuma:** Thank you. That is on page 261 of volume one of the Governor's response, at paragraph two.

What would you say then of the MCA who accuses you of having called them, confirming that you voted for them?

**Hon. Kiprotich Rogony:** I can say that the claims by the MCA are malicious because even from the audio, I could not even identify the person he was talking to. So, I was not the one he was talking to.

**Mr. Elias Mutuma:** Thank you. You have been following proceedings in this impeachment process and most of the grounds have been covered by witnesses who came before you, so I will limit your evidence to the remaining issues.

Let us go to the issue of the Londiani accident and how you allege the Governor of having misappropriated funds that were donated for the victims.

First of all, confirm how many members of the public lost their lives during that unfortunate accident.

**Hon. Kiprotich Rogony:** From the report of the *Ad Hoc* Committee, 52 lives were lost.

**Mr. Elias Mutuma:** How many others were injured?

**Hon. Kiprotich Rogony:** From the report, 77 others were injured.

**Mr. Elias Mutuma:** Were you a member of that committee?

**Hon. Kiprotich Rogony:** I was not.

**Mr. Elias Mutuma:** Are you familiar with the findings of the report?

**Hon. Kiprotich Rogony:** I am aware because the report was tabled before the House and I was part of the people who were present.

**Mr. Elias Mutuma:** Thank you.

Let us play County Assembly's video, KCAV8.

*(A video clip was played)*

**Mr. Elias Mutuma:** We can stop there. The Governor is alluding to a committee that is in place. What was the committee he is alluding to and which he is seeking to direct on what to do?

**Hon. Kiprotich Rogony:** You will recall when there was a whistle blower on the misuse of this Fund, the Speaker formed an *ad hoc* committee that was led Hon. Moses Rotich, MCA, Tendeno/Sorget. The Governor came up with his own committee. That was the committee he was talking about.

**Mr. Elias Mutuma:** Who are members of that committee?

**Hon. Kiprotich Rogony:** I cannot recall all their names, but there is also a committee formed by the Governor and the County Commissioner and it was led by the then County Secretary, Dr. Wesley Bor and the County Commissioner being the co-chair.

**Mr. Elias Mutuma:** Who appointed this committee?

**Hon. Kiprotich Rogony:** The Governor.

**Mr. Elias Mutuma:** It is the same committee that the Governor is seeking to direct on how to use the funds, correct?

**Hon. Kiprotich Rogony:** Yes.

**Mr. Elias Mutuma:** Would you say that the Governor was in control and in charge of this committee?

**Hon. Kiprotich Rogony:** He was purely because of the---

**Mr. Elias Mutuma:** Yes or no? Just say he is or he is not?

**Hon. Kiprotich Rogony:** He is in charge of the committee.

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**Mr. Elias Mutuma:** We have seen the Governor confirming that no money will be paid to any hospital and that the money that was donated was meant for the victims, correct?

**Hon. Kiprotich Rogony:** That is true.

**Mr. Elias Mutuma:** What did the committee investigating how these funds were used discover?

**Hon. Kiprotich Rogony:** The *ad hoc* committee discovered that there were minutes drawn by the same committee we have talked about, led by Dr. Wesley Bor where the victims were paid slightly below Kshs5 million and the rest of the monies were expended. We will have a list.

**Mr. Elias Mutuma:** Take us specifically to that part of the report.

**Hon. Kiprotich Rogony:** It is found in my affidavit, page 44.

**Mr. Elias Mutuma:** That is what you said, but we want to look at the report.

**Hon. Kiprotich Rogony:** Volume two, page 44.

**Mr. Elias Mutuma:** No, we are not looking at your affidavit, Rogony. We want to look at the actual report.

**Mr. Elias Mutuma:** Okay, the report is on page 58 of volume 4B. The committee established the following findings.

That for each victim who was alive, they were paid Kshs60,000. They were 52.

**Mr. Elias Mutuma:** Before we go to the amount paid to the victims, how much was raised in total as per the committee?

**Hon. Kiprotich Rogony:** A sum of Kshs14 million. Thirteen million was in form of cash and Kshs935,000 in M-Pesa. There was a pay bill.

**Mr. Elias Mutuma:** Was there a specific pay bill or a bank that these funds were taken?

**Hon. Kiprotich Rogony:** It was a pay bill.

**Mr. Elias Mutuma:** Were these funds supposed to be deposited in any bank account?

**Hon. Kiprotich Rogony:** There was a Kericho County donation account that was opened. The pay bill number was 8062001, Account title was Londiani Accident Victim Support.

**Mr. Elias Mutuma:** What were the findings of the committee in terms of how the Kshs14 million was spent? Can you take us to the specific page?

**Hon. Kiprotich Rogony:** It is on page 61. This is how the money was spent. The *Ad Hoc* Committee found that 48 families had received Kshs90,000, which was Kshs4.3 million. Eight survivors have been compensated Kshs480,000. That makes a total of Kshs4.8 million. There was an expenditure.

**Mr. Elias Mutuma:** Before you go there, let me ask you a question. Other than paying the victims Kshs90,000 each, was the money used in any other way contrary to the Governor's direction?

**Hon. Kiprotich Rogony:** Yes.

**Mr. Elias Mutuma:** How was it utilized?

**Hon. Kiprotich Rogony:** The Kericho Referral Hospital, that is Kericho District Hospital received Kshs2,037,524. Londiani Hospital, Kshs1,534,190. Super Tricks, which were tents at Londiani Stadium. This was during the fundraiser and Kshs2.945

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million Super Shine Tents at Rays Hotel, Kshs411,000. We also have Rays Hotel lunch for 100 people; Kshs100,000.

There is PSM, the ward administrators and the rest, printing and refreshments, Kshs423,000. County Commissioner fuel and meal allowance for the team, Kshs300,000. We also have the damaged motorcycles, Kshs300,000. That brings a grand total of Kshs13,547,014. What was left in the account is Kshs112,296. Remember, they had not added what was in the pay bill.

**Mr. Elias Mutuma:** Thank you. What percentage in your assessment went to other expenses other than compensating the victims contrary to the wishes of the donors?

**Hon. Kiprotich Rogony:** Nearly Kshs10 million went to other expenses out of the Kshs14 million that was raised. That is nearly 60 to 65 per cent.

**Mr. Elias Mutuma:** Let us go to volume 4D of the County Assembly's documents on page 57. Were you able to corroborate from bank statements that, indeed, the monies were spent in other ways other than compensating the victims? Let us go to page 60 of volume 4D.

**Hon. Kiprotich Rogony:** That is true.

**Mr. Elias Mutuma:** First of all, confirm in whose name that account is?

**Hon. Kiprotich Rogony:** Kericho County donation account.

**Mr. Elias Mutuma:** Was that where monies in respect to---

**Hon. Kiprotich Rogony:** This is where all the monies from the fundraiser were deposited in.

**Mr. Elias Mutuma:** Hon. Senators, volume 4D on page 57.

Go to page 60 and look at the last transaction. Tell us the nature of that transaction and whether you know the person who transacted that.

**Hon. Kiprotich Rogony:** Fernandes Korir, who is a signatory to this account.

**Mr. Elias Mutuma:** What role does he play in the county?

**Hon. Kiprotich Rogony:** He is the Director of Finance.

**Mr. Elias Mutuma:** Is he the CFO?

**Hon. Kiprotich Rogony:** He is the Chief Officer Finance (COF).

**Mr. Elias Mutuma:** How much was withdrawn in cash?

**Hon. Kiprotich Rogony:** It was Kshs423,000.

**Mr. Elias Mutuma:** Can we go to the second last transaction on the same page?

**Hon. Kiprotich Rogony:** Super Trips Limited Entertainments.

**Mr. Elias Mutuma:** Was that the same company you had discovered as supplying tests and was supposed be---

**Hon. Kiprotich Rogony:** Yes, in Londiani stadium.

**Mr. Elias Mutuma:** How much?

**Hon. Kiprotich Rogony:** It is Kshs2, 945000.

**Mr. Elias Mutuma:** Let us go to page 61, the second from the top.

**Hon. Kiprotich Rogony:** These are withdrawals.

**Mr. Elias Mutuma:** From who?

**Hon. Kiprotich Rogony:** By Fernandes K. Korir.

**Mr. Elias Mutuma:** How much?

**Hon. Kiprotich Rogony:** A sum of Kshs300,000.

**Mr. Elias Mutuma:** Let us go to the third transaction on the same page.

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**Hon. Kiprotich Rogony:** This is a withdrawal again from Leornard Oti.

**Mr. Elias Mutuma:** The amount?

**Hon. Kiprotich Rogony:** It is Kshs100,000.

**Mr. Elias Mutuma:** Let us go to the fourth transaction on the same sheet.

**Hon. Kiprotich Rogony:** It is a withdrawal by Leornard Oti, Kshs300,000.

**The Speaker** (Hon. Kingi): Counsel for the County Assembly, keep your eye on the clock.

Proceed.

**Mr. Elias Mutuma:** Thank you, Mr. Speaker, Sir. Maybe at this juncture, I would request for your indulgence to be just given 10 more minutes to complete with this witness. I will be brief.

**The Speaker** (Hon. Kingi): You have the 10 minutes.

**Mr. Elias Mutuma:** Thank you. What is the nature of that transaction?

**Hon. Kiprotich Rogony:** It is a withdrawal of Kshs300,000 by Leornard Oti.

**Mr. Elias Mutuma:** Who is Leornard Oti and what is his designation?

**Hon. Kiprotich Rogony:** This is a signatory to this account and an employee of the County Government of Kericho.

**Mr. Elias Mutuma:** In what capacity?

**Hon. Kiprotich Rogony:** He is an accountant.

**Mr. Elias Mutuma:** Are these people who were appointed by the Governor to sit in this committee?

**Hon. Kiprotich Rogony:** I believe this is part of the team that sat in the committee of the Londiani accident.

**Mr. Elias Mutuma:** At the beginning of your testimony did we see the Governor saying that he would direct the committee on how to utilize the money?

**Hon. Kiprotich Rogony:** Yes, we did.

**Mr. Elias Mutuma:** Do you then think the Governor as aware or ought to have been aware of the transactions that took place in this account?

**Hon. Kiprotich Rogony:** This squarely puts the statement of fact to the Governor because he committed that all the money raised was meant for the victims, but up to Kshs9million cannot be accounted for.

**Mr. Elias Mutuma:** Did you have an opportunity to visit Londiani Hospital and any other that these monies are purposed to have been paid to?

**Hon. Kiprotich Rogony:** The *Ad Hoc* Committee paid a visit to Londiani Hospital, Kericho Referral and even up to Nakuru where most of those patients were referred.

**Mr. Elias Mutuma:** What was unearthed from their physical interaction with these hospitals?

**Hon. Kiprotich Rogony:** Most of those hospitals were never paid the amounts that is indicated in the reports to have been paid.

**Mr. Elias Mutuma:** In your assessment, how much money from the donated amounts never found its way to the victims?

**Hon. Kiprotich Rogony:** It was Kshs9million.

**Mr. Elias Mutuma:** To date, has the Governor explained to your satisfaction or even to any level of satisfaction how that money was spent?

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**Hon. Kiprotich Rogony:** Even after the report has been produced, the Governor has never given any explanation.

**Mr. Elias Mutuma:** When was the report produced and forwarded to him?

**Hon. Kiprotich Rogony:** In August, 2023.

**Mr. Elias Mutuma:** Was this Motion in anticipation of the report or it was the report that came earlier?

**Hon. Kiprotich Rogony:** It was the report that came earlier. Remember the Motion to impeach the Governor in the previous impeachment that featured as one of the grounds.

**Mr. Elias Mutuma:** What specific recommendation did you send to the Governor in respect of the handling of the Fund?

**Hon. Kiprotich Rogony:** That the monies that were meant for the victims which the Governor undertook to ensure they got were never paid. We requested the Governor to investigate and ensure that all the monies for the victims and the families that lost their loved ones were paid.

**Mr. Elias Mutuma:** I am made to understand that the specific officials that were highlighted as having misappropriated this Fund subsequently went to court to seek injunctive orders against the implementation of this report. Is that correct?

**Hon. Kiprotich Rogony:** That is true.

**Mr. Elias Mutuma:** Who were the parties of that case?

**Hon. Kiprotich Rogony:** It as Dr. Bor, Chief Officer, Betty Chebet and others.

**Mr. Elias Mutuma:** Was the Governor an interested party in that case?

**Hon. Kiprotich Rogony:** Yes, he was.

**Mr. Elias Mutuma:** Did the Governor swear an affidavit for against that by the CECMs?

**Hon. Kiprotich Rogony:** He did in support of the officials.

**Mr. Elias Mutuma:** So, he went to court and asked the court not to implement the report?

**Hon. Kiprotich Rogony:** That is true.

**Mr. Elias Mutuma:** That is captured in an affidavit, correct?

**Hon. Kiprotich Rogony:** Yes.

**Mr. Elias Mutuma:** Would you then say the Governor has the intention of implementing this report?

**Hon. Kiprotich Rogony:** He has no intentions of implementing it.

**Mr. Elias Mutuma:** To date, has the Governor given any contrary audit or report of how these funds were used almost two years down the line?

**Hon. Kiprotich Rogony:** He has never.

**Mr. Elias Mutuma:** What would you say about his conduct then?

**Hon. Kiprotich Rogony:** He is complicit in the whole set up.

**Mr. Elias Mutuma:** Thank you, Mr. Speaker, Sir. I was looking at the clock. Let us move to the other issue which is *Kazi Mtaani*. Tell us when a report on that initiative was made by the respective committee.

**Hon. Kiprotich Rogony:** I sat as the vice-chairperson of the *Kazi Mtaani* and the chairperson was Hon. Paul Bii.

**Mr. Elias Mutuma:** Hon. Senators, may I refer you to volume 4A of the County Assembly's documents on page 229 to 355. Proceed Hon. Rogony to the recommendations and findings of the committee and tell us when the report was finalised.

**Hon. Kiprotich Rogony:** We did the report in the month of July and came up with the report in August. The programme started in February. The report is with the Governor because once we do our part as the County Assembly, a copy of the report is sent to the Executive for implementation.

Shockingly, to date, the Governor has never implemented a single recommendation out this report. Remember the County Government of Kericho, through the two municipalities, lost cumulatively Kshs39million.

**Mr. Elias Mutuma:** Have you seen the response of the Governor in respect to that allegation? What has he said about it?

**Hon. Kiprotich Rogony:** From the replying affidavits in the previous Motion, the Governor alleged the County Government of Kericho did not lose funds through the programme. From the report, we can see there are even companies that were not prequalified, did nothing and were paid without a single document.

I am talking about the LSO because if one is given a job to clean a place in town, they need to have an LSO. Not a single LSO of all the 16 companies, nine for Kericho and six for Litein municipality, were given or supplied with an LSO for them to process payment.

**Mr. Elias Mutuma:** Maybe you may want to take some time and highlight because not all of us are aware of this initiative. What was the nature of the initiative? How would it work? Who were the beneficiaries and who were the participants?

**Hon. Kiprotich Rogony:** When the Governor launched the initiative on 14<sup>th</sup> February, 2023, it was meant to give an opportunity to the youth, the women and the marginalised from two municipalities. It was more like offering a job opportunity.

Since there was no policy, the Governor resorted to engaging those contractors who were doing jobs in the Department of Environment under Water because there was not law to support the process.

**Mr. Elias Mutuma:** Are you saying money never got to the intended beneficiaries?

**Hon. Kiprotich Rogony:** The youth and the women who appeared before the committee during the hearing were complaining because they were never paid.

Initially, these contractors were supposed to pay them either weekly or after 10 days for a period that they signed the contract. Out of this, you can see from the report there is even a contractor who was---

**Mr. Elias Mutuma:** Take us to the specific page where those complaints were raised and their nature.

**Hon. Kiprotich Rogony:** The report is page 230 of volume 4A.

**Mr. Elias Mutuma:** From my understanding for record purposes, how were the youth of Kericho County supposed to get their cash?

**Hon. Kiprotich Rogony:** The contractors promised to pay them via M-Pesa each, and they were assigned duties in the various parts of the municipalities.

**Mr. Elias Mutuma:** So, was it the contractor who would subcontract the youth or was it the county that contracted the youth directly?

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**Hon. Kiprotich Rongony:** It was a contractor who contracted the youth directly, but supervised by the municipal manager of that particular municipality.

**Mr. Elias Mutuma:** Proceed and show us the findings of the report

**Hon. Kiprotich Rongony:** You can see the whole thing is voluminous, but let me just take you to page 252. You can see down there that there was only one director who appeared before the committee and that is 4.6, Director of Glery's Company Limited and Reheza. Again, in this programme, it was so funny that a contractor with two companies was given the job. You can see he explained the number of days he was given from the BQ and the amount in that BQ.

Out of this, the particular contractor was supposed to hire. In the Kericho municipality, they had anticipated to hire 120 youth. In detail, it was 70. However, these numbers ballooned because of the number of contractors who were given the job. Nonetheless, they were supposed to still pay these men, youth, women and the marginalised group.

**Mr. Elias Mutuma:** So, then ultimately, who were the beneficiaries of the funds that were utilised under the *Kazi Mtaani* Initiative?

**Hon. Kiprotich Rongony:** These contractors.

**Mr. Elias Mutuma:** Can you confirm that the *Kazi Mtaani* Initiative was the Governor of Kericho's programme?

**Hon. Kiprotich Rongony:** It was clearly the Governor's. That is why it is called Equalizer *Kazi Mtaani*. It is him who launched the programme. From the photos, if we had time, you could see. I want to believe in all the annexures--- You can see the Governor even pushing the wheelbarrow during the launch of the programme in both Kericho and Litein.

**Mr. Elias Mutuma:** Indeed, I am made to understand the Governor's nickname or campaign name is Equaliser. Is that true? You want that to go on record?

**Hon. Kiprotich Rongony:** That is true.

**Mr. Elias Mutuma:** Thank you. How much, in your estimation or from the reports, was utilised in this initiative?

**Hon. Kiprotich Rongony:** For the two municipalities, it was Kshs39 million. Kericho being Kshs23 million and the balance being for Bureti, Litein municipality, Kshs16 million.

**Mr. Elias Mutuma:** Have you seen the response of the Governor and how he has responded to the issue? Has he made any clarification or brought documents to confirm how that initiative was utilised?

**Hon. Kiprotich Rongony:** First of all, he relied on the affidavits of the former CECM in charge of Lands, one Malel Kipruto. From the information the officers gave him, there were no funds lost. However, in the committee where I sat as a vice-chair, we felt the value for money in this programme could not be realised.

**Mr. Elias Mutuma:** In your final submissions, of all the grounds that you have accused the Governor of, in terms of violating the Constitution and other laws, would you say that the Governor is liable for all the impeachment charges that you have brought against him?

**Hon. Kiprotich Rongony:** This is one of the grounds that shows the Governor, even two years down the line, has never acted on his report. There are very specific recommendations where a contractor was paid, he never discharged a duty anywhere.

When we gave the recommendations, the Governor has never even communicated back to the committee on the implementation of whether these contractors returned the money. Remember also, there is a contractor who signed for 46 days, but he was paid for 26 days. So, the County Government of Kericho lost that money. We recommended that the contractor be surcharged or he completes the work where he was paid in excess of what he was supposed to. That never happened and the Governor can confirm in his defence.

**Mr. Elias Mutuma:** Thank you very much. I reserve the remaining minute for my re-exam, if need be.

**The Speaker** (Hon. Kingi): Counsel for Governor, you may proceed to cross-examine the witness.

**Mr. Katwa Kigen:** Good afternoon *Mheshimiwa* Rongony.

**Hon. Kiprotich Rongony:** Good Afternoon, Mr. Katwa.

**Mr. Katwa Kigen:** We are meeting again.

**Hon. Kiprotich Rongony:** Yes.

**Mr. Katwa Kigen:** Just for the information of the Hon. Senators, you are similarly the person who moved the Motion in September, 2024, is it not?

**Hon. Kiprotich Rongony:** That is true.

**Mr. Katwa Kigen:** Also, you moved this one?

**Hon. Kiprotich Rongony:** Yes, I am the mover this time again.

**Mr. Katwa Kigen:** When we were in the County Assembly, you said you would move another one, is it not?

**Hon. Kiprotich Rongony:** No. Perhaps this will be the last one if we will successfully---

*(Laughter)*

**Mr. Katwa Kigen:** Okay. However, your mission in the Assembly is to remove him, is it not?

**Hon. Kiprotich Rongony:** Not my mission.

**Mr. Katwa Kigen:** When you were elected, you took it that this is the mission, to remove the Governor.

**Hon. Kiprotich Rongony:** Of course, if this House finds him lying.

**Mr. Katwa Kigen:** Now, on *Kazi Mtaani*, one of your recommendations was that the EACC to investigate, is it not?

**Hon. Kiprotich Rongony:** That is true.

**Mr. Katwa Kigen:** You are aware that the Governor instructed these people to hand over all the documents for the EACC investigations?

**Hon. Kiprotich Rongony:** I am not aware.

**Mr. Katwa Kigen:** You do not know that the EACC is investigating?

**Hon. Kiprotich Rongony:** That is what you are now raising here.

**Mr. Katwa Kigen:** You do not know that?

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**Hon. Kiprotich Rongony:** No. Remember, I sat in this committee.

**Mr. Katwa Kigen:** Okay. Does it reduce your appetite to impeach the Governor or it still remains the same?

**Hon. Kiprotich Rongony:** Now, we have the officers who were involved.

**Mr. Katwa Kigen:** Okay. This project was under Lands, is it not?

**Hon. Kiprotich Rongony:** No, the two municipalities, not Lands. We have the municipality of Kericho and Litein. The two are supposed to be very independent.

**Mr. Katwa Kigen:** Under what department in the county government was it falling?

**Hon. Kiprotich Rongony:** That is the Department of Lands, the mother department.

**Mr. Katwa Kigen:** Who was the CECM when this project was going on?

**Hon. Kiprotich Rongony:** One Brian Langat.

**Mr. Katwa Kigen:** Could you confirm that Brian Langat is a lawyer?

**Hon. Kiprotich Rongony:** He is a lawyer.

**Mr. Katwa Kigen:** Could you confirm that you have recruited him in the County Assembly?

**Hon. Kiprotich Rongony:** He is now our Deputy Director, Legal Services.

**Mr. Katwa Kigen:** Answer my question directly. He is a part of the County Assembly, is it not?

**Hon. Kiprotich Rongony:** Yes.

**Mr. Katwa Kigen:** He is part of the witnesses in this impeachment of the Governor, is it not?

**Hon. Kiprotich Rongony:** He is not.

**Mr. Katwa Kigen:** Is he not one of the people who were cited in the county assembly Motion to impeach the Governor?

**Hon. Kiprotich Rongony:** Not in this programme. *Kazi Mtaani* is another programme.

**Mr. Katwa Kigen:** No. Just a minute. All I am saying is that Brian Langat is part of this impeachment process. He is one of the resource people you interviewed for purposes of impeaching the Governor in these proceedings before the Senate, is it not?

**Hon. Kiprotich Rongony:** We interviewed two of the sacked CECMs.

**Mr. Katwa Kigen:** Just answer that. Is Langat one of them?

**Hon. Kiprotich Rongony:** He is not one of them.

**Mr. Katwa Kigen:** You did not interview him?

**Hon. Kiprotich Rongony:** Now, he is an employee of the county assembly, unless in the previous Motion.

**Mr. Katwa Kigen:** Okay. Now, as we speak, it is true then that he was the CECM for Lands when you were investigating *Kazi Mtaani*, is it not?

**Hon. Kiprotich Rongony:** That is true.

**Mr. Katwa Kigen:** It is also true that the Governor has removed him from employment, is it not?

**Hon. Kiprotich Rongony:** That is true.

**Mr. Katwa Kigen:** So, to what extent then are you telling these Hon. Senators that, indeed, His Excellency the Governor, has done nothing, when indeed it is on record-

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-- Just listen before you answer. I know you want to answer. To what extent can you say he has not done anything, when number one, he has forwarded the files to EACC. Number two, the only thing he could do, being to remove the person who is answerable to him, the CECM he has sacked?

**Hon. Kiprotich Rongony:** Counsel, that will be hypocritical because one, *Wakili* Brian Langat was the CECM. We have the CEO still serving and that is the Accounting Officer.

**Mr. Katwa Kigen:** Thank you. So, apart from the CECM, Brian, you also have the CEO and you have the county managers.

**Hon. Kiprotich Rongony:** Yes, the municipal managers.

**Mr. Katwa Kigen:** Municipal managers, who you are implicating.

**Hon. Kiprotich Rongony:** Yes.

**Mr. Katwa Kigen:** Now, could you tell the Hon. Senators, are they answerable to the Governor?

**Hon. Kiprotich Rongony:** Yes, the Governor is the CEO of the county.

**Mr. Katwa Kigen:** Can he sack them?

**Hon. Kiprotich Rongony:** He can sack the CECMs, even the county chief officers. It is a disciplinary process.

**Mr. Katwa Kigen:** Is it not true that they are answerable to the County Public Service Board (CPSB)?

**Hon. Kiprotich Rongony:** In terms of disciplinary action---

**Mr. Katwa Kigen:** Please just answer the question. Who employs them?

**Hon. Kiprotich Rongony:** The CPSB.

**Mr. Katwa Kigen:** Who disciplines them?

**Hon. Kiprotich Rongony:** The CPSB.

**Mr. Katwa Kigen:** Who retires them?

**Hon. Kiprotich Rongony:** The CPSB.

**Mr. Katwa Kigen:** So, what are you trying to say then? Now, you say that some of the contractors were improperly paid and that some youths and women came to complain to you, is it not?

**Hon. Kiprotich Rongony:** To the committee.

**Mr. Katwa Kigen:** You also saw the list provided to you, is it not??

**Hon. Kiprotich Rongony:** To the committee.

**Mr. Katwa Kigen:** To the committee. You also saw the list provided in reply to your complaint. A list of youths and women saying they were paid. You saw that in response to the petition?

**Hon. Kiprotich Rongony:** It is only---

**Mr. Katwa Kigen:** Please, answer the question.

**Hon. Kiprotich Rongony:** It is only one contractor with a list that shows some M-Pesa transactions, but you cannot confirm whether those monies were channeled to those numbers.

**Mr. Katwa Kigen:** Could I ask the question, please? It is true that the Governor has provided a list of women and youth who were paid in response to your complaint that some youth were not paid. Is it not?

**Hon. Kiprotich Rongony:** Counsel, it is an amorphous list.

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**Mr. Katwa Kigen:** Please, let us not argue. Is it true that you have seen that the Governor has provided a list of the youths---

**Hon. Kiprotich Rogony:** It is in the report?

**Mr. Katwa Kigen:** It is there. Okay. Now, these other youths and women that you say have come to complain to you, has any of them, to the best of your knowledge, gone to court to complain about non-payment for what they had given to the county? Is there any case of a complaint that, "I have worked and I have not been paid" filed in court?

**Hon. Kiprotich Rogony:** They complained before the County Assembly.

**Mr. Katwa Kigen:** I am just asking you, are you aware of any court case?

**Hon. Kiprotich Rogony:** I am not aware about any court case.

**Mr. Katwa Kigen:** On this *Kazi Mtaani*?

**Hon. Kiprotich Rogony:** Yes.

**Mr. Katwa Kigen:** Are you aware of any complaint to the police on this *Kazi Mtaani* unpaid payments?

**Hon. Kiprotich Rogony:** I am not aware.

**Mr. Katwa Kigen:** You are not aware. *Kazi Mtaani* was done which year?

**Hon. Kiprotich Rogony:** In 2023.

**Mr. Katwa Kigen:** In 2023. So, we have about two financial years between then and now. Is it not?

**Hon. Kiprotich Rogony:** That is true.

**Mr. Katwa Kigen:** Have you seen that issue of *Kazi Mtaani* featuring anywhere in the auditor's report because that is an independent entity that would audit? Have you seen that case of *Kazi Mtaani*?

**Hon. Kiprotich Rogony:** Are you talking about the Auditor-General's report?

**Mr. Katwa Kigen:** Yes, Auditor-General's report.

**Hon. Kiprotich Rogony:** It featured in our reports as a---

**Mr. Katwa Kigen:** Please, answer my question. Has it featured in--- You are interested in impeaching the Governor forever. So, I want somebody independent. Has the Auditor-General captured any complaint about *Kazi Mtaani* losses of money to the best of your knowledge?

**Hon. Kiprotich Rogony:** Already there is a report on an *Ad Hoc* Committee of *Kazi Mtaani* on implementation---

**The Speaker (Hon. Kingi):** *Mheshimiwa*, that question is either yes or no.

**Mr. Katwa Kigen:** Are you aware of any Auditor-General's report on that issue?

**Hon. Kiprotich Rogony:** The PPRA report.

**Mr. Katwa Kigen:** Who has asked you about PPRA? Could you just wait, please? I have asked you about the Auditor-General. Is there any report from Auditor-General to the best of your knowledge?

**Hon. Kiprotich Rogony:** I need to check.

**Mr. Katwa Kigen:** To the best of your knowledge, *Mheshimiwa*?

**Hon. Kiprotich Rogony:** Okay. Not so far.

**Mr. Katwa Kigen:** You are not aware. What of Londiani victims? Are you aware of any Auditor-General's report on that Londiani laws you are claiming?

**Hon. Kiprotich Rogony:** Of course, it cannot---

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**Mr. Katwa Kigen:** Please, just answer the question.

**Hon. Kiprotich Rogony:** It is not there.

**Mr. Katwa Kigen:** Okay, good. Now, who was the head of the County Government's representation in the Londiani victims' issue?

**Hon. Kiprotich Rogony:** Dr. Wesley Bor.

**Mr. Katwa Kigen:** It was Dr. Wesley Bor. As we speak today, where is that Dr. Wesley Bor?

**Hon. Kiprotich Rogony:** Dr. Wesley Bor exited service in the county government.

**Mr. Katwa Kigen:** He left work. Is it your case still that the Governor has done nothing yet has retired Dr. Wesley Bor?

**Hon. Kiprotich Rogony:** Dr. Wesley Bor resigned. He was not removed by the Governor.

**Mr. Katwa Kigen:** How do you know that he did not remove him?

**Hon. Kiprotich Rogony:** It is because---

**Mr. Katwa Kigen:** Okay. So, anyway, an action has been taken, is it not?

**Hon. Kiprotich Rogony:** It is not the Governor who took the action.

**Mr. Katwa Kigen:** Was he answerable to the Governor?

**Hon. Kiprotich Rogony:** Yes, he was answerable to the Governor.

**Mr. Katwa Kigen:** Do you know whether the Governor then told him to resign? Do you know that for a fact?

**Hon. Kiprotich Rogony:** Now---

**Mr. Katwa Kigen:** Do you know or you do not know?

**Hon. Kiprotich Rogony:** I do not know.

**Mr. Katwa Kigen:** You do not know that. Okay. Now, in your report for Londiani, you also interviewed somebody by the name Edinah Tonui, is it not? Implicated in that report?

**Hon. Kiprotich Rogony:** It was---

**Mr. Katwa Kigen:** Was Edinah Tonui---

**Hon. Kiprotich Rogony:** The CEC in charge of Health?

**Mr. Katwa Kigen:** Yes. Was she mentioned in that report as a CEC and you made recommendations about her? Is it not? About the need to discipline her, is it not?

**Hon. Kiprotich Rogony:** Those who were---

**Mr. Katwa Kigen:** Please, just answer the question. Edinah was mentioned---

**Hon. Kiprotich Rogony:** She was not part of those who were recommended to be disciplined.

**Mr. Katwa Kigen:** Okay, but she was in health?

**The Speaker (Hon. Kingi):** Counsel for the Governor, your time is up, unfortunately.

**Mr. Katwa Kigen:** Mr. Speaker, Sir, could I very kindly plead for about 10 minutes?

**The Speaker (Hon. Kingi):** Very well. Ten minutes to conclude.

**Mr. Katwa Kigen:** Thank you, Mr. Speaker, Sir. Did you mention her in the report?

**Hon. Kiprotich Rogony:** As those who were present in one of the meetings.

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**Mr. Katwa Kigen:** Thank you. Has she been removed by the Governor?

**Hon. Kiprotich Rogony:** Yes, of course.

**Mr. Katwa Kigen:** She has been removed. What of Leonard Ng'etich?

**Hon. Kiprotich Rogony:** He is a former CEC.

**Mr. Katwa Kigen:** Has he been removed by the Governor?

**Hon. Kiprotich Rogony:** Yes.

**Mr. Katwa Kigen:** You still want the hon. Senators to still hold the Governor as not having taken any action on the Londiani issue? Now, is it true that the people you had mentioned in that report included one, Betsy?

**Hon. Kiprotich Rogony:** Yes.

**Mr. Katwa Kigen:** Is it true that Betsy filed a suit against you in court on that report?

**Hon. Kiprotich Rogony:** The Assembly?

**Mr. Katwa Kigen:** Not you?

**Hon. Kiprotich Rogony:** Okay, I do not know whether I am the Assembly, but---

**Mr. Katwa Kigen:** Okay. Anyway, Hon. Rogony, I am more interested in the fact that it is true that you went to court, is it not?

**Hon. Kiprotich Rogony:** Against the Assembly.

**Mr. Katwa Kigen:** Together with the other people who were recommended---

**Hon. Kiprotich Rogony:** Actually, the findings of the report---

**Mr. Katwa Kigen:** Yes, against the findings of the report. A decision was made by the court that the Governor should not take any--- Sorry. That is not correct. My apologies. A decision was made by the court that no action should be taken on that report, is it not?

**Hon. Kiprotich Rogony:** Yes. The findings.

**Mr. Katwa Kigen:** The findings that no action is to be taken.

**Hon. Kiprotich Rogony:** Yes.

**Mr. Katwa Kigen:** That notwithstanding, you want hon. Senators to say that the Governor has not done anything, when at most he was respecting a court order?

**Hon. Kiprotich Rogony:** So, you mean we leave the Kshs9 million without accountability and that was publicly---

**Mr. Katwa Kigen:** No. Your case is not Kshs9 million. Your case is that you have made recommendations around 2023 and the Governor has not done anything. I am telling you, the Governor has removed about four people from employment. When he was to take the next action, a court order was in place.

**Hon. Kiprotich Rogony:** Removal is not compensation, Katwa.

**Mr. Katwa Kigen:** So, what did you want the Governor to do? You wanted him to remove the money to compensate?

**Hon. Kiprotich Rogony:** To compensate.

**Mr. Katwa Kigen:** Okay. Now, let us move on. What have you done yourself? You have oversight over resources. Have you gone to court yourselves? Yes?

**Hon. Kiprotich Rogony:** I do not know whether that is relevant.

**Mr. Katwa Kigen:** Have you gone to court for the recovery of the money yourself, Hon Rogony?

**Hon. Kiprotich Rogony:** Perhaps that is what we should be doing.

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**Mr. Katwa Kigen:** That is what you should be doing. Have you recorded a statement at EACC, which is investigating? Have you recorded that statement?

**Hon. Kiprotich Rogony:** Now, who records the statement?

**Mr. Katwa Kigen:** Have you? Have you? Just answer the question, yes or no?

**Hon. Kiprotich Rogony:** Okay, I have not.

**Mr. Katwa Kigen:** You have not. Have you written to EACC to investigate?

**Hon. Kiprotich Rogony:** Counsel---

**Mr. Katwa Kigen:** Have you? Out of the report, have you written to EACC to investigate these issues?

**Hon. Kiprotich Rogony:** The EACC can acquire this information from the Assembly

**Mr. Katwa Kigen:** I am asking you. Hon. Rogony, you are saying the Governor has not taken any action. I am asking you, as the accountable person that you want to say you are, have you written to EACC to investigate this issue if you are as aggrieved as you pretend to be?

**Hon. Kiprotich Rogony:** Perhaps I will need to---

**Mr. Katwa Kigen:** You need to write?

*(Hon. Kiprotich Rogony chuckled)*

**The Speaker** (Hon. Kingi): *Mheshimiwa*, avoid being dodgy. These are very simple, straightforward questions, so that we save on time.

**Hon. Kiprotich Rogony:** Mr. Speaker, Sir, it is the Committee on Implementation to follow---

**The Speaker** (Hon. Kingi): Proceed, Counsel for the Governor.

**Mr. Katwa Kigen:** Thank you. Now, it is true that this issue of *Kazi Mtaani* and Londiani, were part of the impeachment complaints that you made in September, 2024. Is it not?

**Hon. Kiprotich Rogony:** That is true, yes

**Mr. Katwa Kigen:** You have brought them back again today.

**Hon. Kiprotich Rogony:** That is true.

**Mr. Katwa Kigen:** In the next one that you propose to bring, you will bring the same ones, is it not?

**Hon. Kiprotich Rogony:** At least it has been prosecuted now. Remember, our case was not heard in the last impeachment.

**Mr. Katwa Kigen:** You are saying these Senators did not hear your case?

**Hon. Kiprotich Rogony:** They did not hear because of the preliminary objection that you brought here.

**Mr. Katwa Kigen:** You are complaining against them?

**Hon. Kiprotich Rogony:** Our file was never opened.

**Mr. Katwa Kigen:** Mmh. Okay.

*(Laughter)*

At that time, you did not manage to get 32 MCAs, which was two-thirds.

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**Hon. Kiprotich Rogony:** We now have 33.

**Mr. Katwa Kigen:** This time round, you did not get until you voted for Kibet, yourself. Hon. Rogony?

**Hon. Kiprotich Rogony:** I voted once, Counsel.

**Mr. Katwa Kigen:** You voted for Kibet and you called him and told him, “Let me give you Kshs400, so that you swear an affidavit to say I have---

*(A counsel spoke off the record)*

Kshs200? Yes, Kshs200 plus Dubai and Rwanda.

*(Hon. Kiprotich Rogony chuckled)*

**Hon. Kiprotich Rogony:** Counsel, that clip is not me.

*(Laughter)*

**Mr. Katwa Kigen:** The voice is exactly this one, Hon. Rogony. How do you explain that?

*(Laughter)*

**Hon. Kiprotich Rogony:** Counsel, the person who was talking in that clip was a bit drunk. I am not drunk. I do not even drink.

*(Laughter)*

**Mr. Katwa Kigen:** We would like the people of Kericho and people who voted for you to hear you say this. You say you do not drink?

**Hon. Kiprotich Rogony:** I do not, Counsel.

**Mr. Katwa Kigen:** Completely?

**Hon. Kiprotich Rogony:** You know, Counsel---

**Mr. Katwa Kigen:** Do you or you do not drink?

**Hon. Kiprotich Rogony:** Mr. Speaker, Sir---

**Mr. Katwa Kigen:** Now, on the issue of drinking, you have raised---

**Hon. Kiprotich Rogony:** Let me clarify---

**Mr. Katwa Kigen:** Do you drink or you do not?

**Hon. Kiprotich Rogony:** I do not drink.

**Mr. Katwa Kigen:** Completely?

**Hon. Kiprotich Rogony:** I am a Seventh Day Adventist (SDA).

*(Laughter)*

**Mr. Katwa Kigen:** The moment you are an SDA, you do not drink?

**Hon. Kiprotich Rogony:** You know counsel--- Okay, let us leave that issue because I do not think we want to go there.

**Mr. Katwa Kigen:** Lastly is on the issue of the Londiani accident. I just want to explore this subject on the Londiani accident. Is it true that when you investigated the Londiani matter, you found that the County Commissioner was the Chairperson of the committee?

**Hon. Kiprotich Rogony:** He was a Co-Chair. Remember the only outsider in that committee was the County Commissioner.

**Mr. Katwa Kigen:** Just stick to the question I am asking you. Was the County Commissioner the Chairperson?

**Hon. Kiprotich Rogony:** He was a Co-Chair.

**Mr. Katwa Kigen:** Together with?

**Hon. Kiprotich Rogony:** The County Secretary.

**Mr. Katwa Kigen:** Who has since left and that is Dr. Bor, is it not so?

**Hon. Kiprotich Rogony:** Yes.

**Mr. Katwa Kigen:** Okay. Was the Governor a Member of that committee?

**Hon. Kiprotich Rogony:** He appointed his own members.

**Mr. Katwa Kigen:** Please answer the question. Was he a member?

**Hon. Kiprotich Rogony:** He appointed his own members.

**Mr. Katwa Kigen:** Please answer the question. Was he a member?

**Hon. Kiprotich Rogony:** He is the appointing authority.

**Mr. Katwa Kigen:** Mr. Speaker, Sir, I request the witness to answer the question.

**Hon. Kiprotich Rogony:** He was not a member, but he appointed the members.

**Mr. Katwa Kigen:** You looked at the bank accounts, is it not so?

**Hon. Kiprotich Rogony:** Yes.

**Mr. Katwa Kigen:** Is he a signatory to any of the bank accounts?

**Hon. Kiprotich Rogony:** We only have two signatories.

**Mr. Katwa Kigen:** Is he one of the signatories?

**Hon. Kiprotich Rogony:** He is not one.

**Mr. Katwa Kigen:** He is not. Did you trace any money to him from any of the withdrawals?

**Hon. Kiprotich Rogony:** Counsel, we heard the Governor speaking.

**Mr. Katwa Kigen:** Please answer the question.

**The Speaker** (Hon. Kingi): *Mheshimiwa*, let us make progress. Just respond to the questions as asked.

**Mr. Katwa Kigen:** Thank you very much. Did the Governor ever walk to the bank to withdraw any money?

**Hon. Kiprotich Rogony:** No.

**Mr. Katwa Kigen:** Thank you very much.

That is all, Mr. Speaker, Sir. Mr. Rogony, you are my friend. I hope we will remain friends.

**Hon. Kiprotich Rogony:** We will still be friends.

**Mr. Katwa Kigen:** Thank you.

**The Speaker** (Hon. Kingi): Any re-examination, counsel for the County Assembly?

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**Mr. Elias Mutuma:** Thank you, Mr. Speaker, Sir.

Very briefly, Mr. Rogony. To the best of your knowledge, other than the Auditor-General, has any other independent body taken up investigations in respect of the *Kazi Mtaani* Initiative?

**Hon. Kiprotich Rogony:** The Ethics and Anti-Corruption Commission (EACC) and the Public Procurement Regulatory Authority (PPRA).

**Mr. Elias Mutuma:** We are looking at the letter at page--- What is the page number?

**Hon. Kiprotich Rogony:** Page 206 of volume four.

**Mr. Elias Mutuma:** Volume four of the County Assembly's documents?

**Hon. Kiprotich Rogony:** Yes.

**Mr. Elias Mutuma:** What is the title of that letter from PPRA?

**Hon. Kiprotich Rogony:** Report of the *Ad Hoc* Committee on *Kazi Mtaani* Project Implemented by Litein and Kericho Municipal Boards.

**Mr. Elias Mutuma:** Indeed, PPRA is requesting for documentation that they had earlier requested for in the month of January, correct?

**Hon. Kiprotich Rogony:** Correct. That was 13<sup>th</sup> of January.

**Mr. Elias Mutuma:** Is it then correct for the Governor to state that there is no other independent body that has taken up the matter?

**Hon. Kiprotich Rogony:** It is wrong.

**Mr. Elias Mutuma:** It is not correct?

**Hon. Kiprotich Rogony:** It is not correct.

**Mr. Elias Mutuma:** Thank you. The Governor has also stated, through counsel, that Dr. Wesley Bor was removed from office by the Governor. Has the Governor produced any document to indicate that, indeed, Dr. Wesley Bor was removed from office by the Governor as a result of your recommendation?

**Hon. Kiprotich Rogony:** He has produced none.

**Mr. Elias Mutuma:** To the best of your knowledge, what were the circumstances surrounding the exit of Dr. Wesley Bor?

**Hon. Kiprotich Rogony:** Remember Dr. Wesley Bor was highly mentioned in the Londiani accident and also in the *Kazi Mtaani* Programme. Hon. Paul Bii, who was the Chairman of the *Kazi Mtaani* Programme, brought an Impeachment Motion against Wesley Bor. Wesley Bor tendered his resignation upon the signature collection because he was going to be impeached. Since he was part of the cabinet, he resigned.

**Mr. Elias Mutuma:** Thank you. You confirm that it was in the case before court that barred the implementation of the committee that the Governor swore an affidavit asking the court not to allow implementation of the same, correct?

**Hon. Kiprotich Rogony:** Yes.

**Mr. Elias Mutuma:** Thank you. You have also been told that one of the witnesses who appeared before the Senate, one Edinah Tonui, was the CECM in charge of health at the time. I want you to look at page 82 of volume 4B of the County Assembly's documents. Kindly tell us who was the CECM in charge of health at the time?

**Hon. Kiprotich Rogony:** The CECM in charge of Health at that time---

**The Speaker** (Hon. Kingi): Counsel for the County Assembly, your time is up, unfortunately.

**Mr. Elias Mutuma:** Two minutes, kindly.

**The Speaker** (Hon. Kingi): Alright, we will give you two minutes to wind up.

**Mr. Elias Mutuma:** Thank you. Who was the CECM in charge of health at the time?

**Hon. Kiprotich Rogony:** Bill Brenda Bii.

**Mr. Elias Mutuma:** Is Bill Brenda Bii still a CECM?

**Hon. Kiprotich Rogony:** She is still serving.

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

Mr. Speaker, Sir, that brings us to the close of the County Assembly's case, but I will be making a short application after the witness has been interrogated by Senators.

**The Speaker** (Hon. Kingi): Thank you. Any questions or clarifications from Hon. Senators? Clerk, someone should work on my dashboard because it is blank.

Yes, Senator for Nandi.

**Sen. Cherarkey:** *Mheshimiwa* Rogony, I am told that you are the "Mutuse" of Kericho.

My first question is this: Are you aware of Sections 44 and 45 that both the County Secretary and Chief Officers are appointed by the Governor after competitively being recruited by the CPSB?

Secondly, is the ground on fictitious payments the only one that you want Governor Mutai to go home for? Thirdly, in the Kipsigis culture, what happens to a person who misuses money for the dead?

What do you mean by pastors' appreciation where Kshs100,000 was paid? Does it mean that prayers are so expensive in Kericho? Out of Kshs14 million, approximately Kshs4 million went to the victims while Kshs10 million went to expenses. Was that justifiable? Finally, what do you want us to do to the Governor?

I thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Yes, Sen. Essy.

**Sen. Okenyuri:** Thank you, Mr. Speaker, Sir. I would like to ask the mover of the Motion the following questions.

Did you interact with the voting system before the impeachment? That is one. Secondly, do you want this Senate to impeach for not implementing a report? Finally, do we have a report from the Office of the Auditor-General?

**The Speaker** (Hon. Kingi): Proceed, Sen. Faki.

**Sen. Faki:** Thank you, Mr. Speaker, Sir. Mine is with regard to the *Kazi Mtaani* Report.

Is it that the work which was supposed to be done by companies that were prequalified was not done or people who did the work, that is the young people who were hired to do the work, were not paid by the prequalified companies?

Secondly, there are allegations that 18 MCAs never voted for this Motion. What is your response to this?

**The Speaker** (Hon. Kingi): Proceed, Sen. Keroche Tabitha.

**Sen. Tabitha Keroche:** Thank you, Mr. Speaker, Sir. Mine is about the Londiani accident because I remember it was a very sad tragedy and we all went to Londiani. I

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remember Sen. Cherarkey was also there and we contributed. I am happy to see the video clip that played where the Governor went ahead to say that he was going to ensure that hospital bills are cleared.

When you say that, you are talking to Kenya and the whole world. You have said that some of the victims were not paid. Are you saying that some of the victims were not paid?

The Governor said that he was to clear the bills and there were withdrawals. Have you traced to see where that money went or whether it was used to pay hospital bills?

To the Governor, if there are people who were not compensated, it will be good for them to be compensated. Whichever means will be used, it will be good for them to be compensated. I have nothing more to say.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Proceed, Sen. Olekina.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. My question is direct to the witness, reminding you that you are under oath.

There is a specific question that you asked, whether indeed you voted for a particular MCA, that is issue number one. I want you to be very candid on this matter, because earlier on we were dealing with the issue of the threshold. This is what will determine whether this Governor goes home, ends his career or he stays to serve the people of Kericho.

Can you please reiterate and repeat under oath, whether or not you voted for the nominated MCA, or whether you offered him an incentive to be able to vote, so that you can achieve the threshold.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Proceed, Sen. Kinyua.

**Sen. Kinyua:** Thank you, Mr. Speaker, Sir. Mine is to the mover of the Motion.

In volume 4D, page 60, he was saying that there is somebody called Leonard Oti, who withdrew money in particular terms when he was presenting. I do not see the annexes with the issue that money for Londiani was not reaching the victims.

By virtue of the fact that the same Leonard Oti was withdrawing the same amount of money long before the Londiani accident. For example, if you look page 60, the fourth transaction, it shows he withdrew Kshs99,000. Then on 24<sup>th</sup> December 2021, he withdrew Kshs259,000 long before the Londiani accident. So, I do not know the nexus, why you are showing us down here how the money was being withdrawn. Showing like those people are corrupt, but they are the same people who have been withdrawing money long before.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Sen. Mumma.

**Sen. Mumma:** Thank you, Mr. Speaker, Sir. My question is for clarification on the issue of whether the Governor is accountable to the County Assembly and whether you are able to call the Governor.

On all the issues you raised, in his opening remarks the Governor said he has not had an opportunity to look at and implement the *ad hoc* committee report. Is it possible that the issues you have raised in terms of rogue or fraudulent payments and others of

misappropriation of funds has just happened or it is an issue that happened before this *ad hoc* report?

If it so has happened, is the Governor accountable or it is only the officers who would have signed directly, the people who would have been on a committee who would be accountable? Can you guide us on the nexus between accountability and the Governor on the issues you have raised?

**The Speaker** (Hon. Kingi): Sen. Tobiko.

**Sen. Tobiko:** Thank you, Mr. Speaker, Sir. I want to know from the witness, according to you, how many MCAs actually voted for the impeachment Motion that you moved and if there is any other proof you have besides the printout, which is here, which already seems to be in contestation.

**The Speaker** (Hon. Kingi): Sen. Tabitha Mutinda.

**Sen. Tabitha Mutinda:** *Mheshimiwa*, could you clarify before this House, if in any way you either forcefully took any of your colleagues' phones and voted without their consent.

Number two, in regards to this fund for the victims of the Londiani tragedy, what was the total amount contributed in order to assist the victims?

Lastly, on volume 4D from page 60, we have seen the withdrawals by Fernandez Korir on 21<sup>st</sup> amounting to Kshs423,000. On the same day again, another withdrawal of Kshs300,000. On the same day, another withdrawal by Leonard amounting to Kshs100,000 and another withdrawal by the same Leonard amounting to Kshs300,000. Who are the signatories of this account? As we currently speak, these people are fired.

In your wisdom, do you feel that these people participated in one way or the other by fraudulently or in whichever capacity, withdrew this money for their own personal gain?

Again, on volume 4B, page 83, I have been able to look at the total expenditure, the alluded expenditure as you actually explained earlier, amounting to Kshs13.5 million, but you said before this House that only---

**The Speaker** (Hon. Kingi): Hon. Senators, you have under two minutes. So, condense your concerns.

Sen. Mariam Sheikh, you may proceed, your time is running.

**Sen. Mariam Omar:** Thank you, Mr. Speaker, Sir. My question is, Brian Langat was removed from office and later on he was again appointed as a CECM. On that trial, there is an integrity section of the Constitution. Is it allowed that any person who has been removed from office can be reappointed again?

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Sen. Richard Onyonka.

**Sen. Onyonka:** Thank you, Mr. Speaker. I have only one question.

Hon. MCA, I do not know whether you could be having the Standing Orders for the Kericho County Assembly, but I got it from your counsel, so the Serjeant-at-Arms could pick it.

Mr. Speaker, Sir, if you look at the Standing Orders for Kericho County Assembly and you look at our Standing Orders for the Senate, they are nearly the same. Essentially, it just gives us a chronology.

If you go to Standing Order No.36---

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No, sorry, Mr. Speaker, Sir.

It is basically on electronic voting. What I want you to clarify, because it is a matter that we have discussed as Members of this sitting; when the voting was done electronically, did you people have a manual system in case the electronic system was going to fail because that is what we do here?

Every time our system will fail, the Speaker would say, "Please, log in." If it logs in and if it does not, we are then asked to actually walk to the Dispatch Desk and we then register and say I want to vote "Ayes" or "Noes."

Did you people have such a last line of defense in case the electronic voting did not work because the question that is related to that is, what would have happened if the electronic system did not work?

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Sen. Karen Nyamu, you may proceed.

**Sen. Nyamu:** I would like to ask the MCA, before this impeachment Motion, had the Kericho County Assembly ever used electronic voting before? What safeguards are in place to prevent alteration of votes once they have been cast?

On *Kazi Mtaani*, can you under oath provide any documented instance to show that the Governor personally diverted, interfered with or manipulated the *Kazi Mtaani* Programme in Kericho County?

Thank you.

**The Speaker** (Hon. Kingi): Sen. Boni.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. The Hon. Member would help a lot. In his opening remarks, the counsel for the County Assembly told us that the Governor is a very bad man. Is it your evidence that he is a bad man? If so, the people of Kakamega are waiting.

In respect to the accident that was at Fort Ternan, Londiani, the people who died were predominantly from Kakamega. In fact, in Mukhuru Village, a family of four was wiped out. So, they would like to hear that the bad man, the Governor, is the one that we are talking about.

More importantly, during your investigation, did you establish whether the purported Kshs90,000 that was supposed to go to victims as compensation was actually received or was it only indicated on paper and the reported "bad man" did not make the actual delivery?

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

**Sen. Mungatana, MGH:** Asante, Bw. Spika. Katika hii ripoti ya Londiani, Mheshimiwa ametuambia kulikuwa na wenyekiti wawili: County Commissioner na County Secretary. Lakini katika mazungumzo yake sikusikia hatua gani zimechukuliwa dhidi ya County Commissioner. Kama kuna hatua zimechukuliwa upande huo, lazima upande huu pia. Kwa hivyo, achukue hatua. Ningependa kujua hatua gani mmechukua katika mapendekezo yenu katika ile ripoti ama *target* ilikuwa moja na ni hiyo pekee.

Asante.

**The Speaker** (Hon. Kingi): Sen. Mundigi.

**Sen. Munyi Mindigi:** Asante, Bw. Spika. Swali langu ni kwa Mheshimiwa wa Bunge la Kaunti ya Kericho. Kenya ina mipangilio ya kazi wakati pesa imekuja mashinani ama kwa serikali. Kuna Procurement Act. Kama mlikuwa mnafanya kazi

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vizuri ndio tujue mnasema ukweli, je, mlichunguza kujua kwamba tangazo la contractors na prequalified suppliers wa vitu kuliwa na vijana na walemavu? Wale watu wote mmetaja wamelipwa pesa, wakati mlikuwa mnafanya *oversight*, mliangalia kama walikuwa prequalified kazi zile kubwa ama walipata kazi namna gani?

Kama system ilitumika kutuma maombi ya zile kazi, kwani sio kila mahali wanatumia mfumo wa kujaza makaratasi, je, mlichunguza kujua kama ilifanywa kwa njia inayofaa? Wakati kazi imetangazwa, wale wanaopeana kazi lazima waangalie mtu wa chini na juu. Je, walijaza hayo makaratasi namna gani ndio ifike hapo na walilipwa vipi?

Asante.

**The Speaker** (Hon. Kingi): Sen. Osotsi.

**Sen. Osotsi:** Thank you, Mr. Speaker, Sir. My question to the witness is that the system that was used to do the voting, according to the evidence before us, was developed locally by your people. Is that the case? If that is the case, speaking as an Information Technology (IT) expert, we know that once a system has been developed and installed, there are processes that are done to make the users to be able to use the system well.

What were the circumstances in which the system was installed today and then it was supposed to be used the next day for an important exercise of voting? What are those circumstances? Why was training not done properly before the MCAs could be allowed to use this system, which was developed locally?

Number two, I am sure being an elected MCA, you understand a bit of IT, having gone to school. Do you think it is safe to use the Integrated Payroll and Personnel Database (IPPD) number and a password, which is an Identity Card (ID) number, to log into a system? What would be your basic requirement of a strong IT security environment? Would an ID or an HR number, IPPD, be appropriate to log into such a very high-sensitive system?

**The Speaker** (Hon. Kingi): Sen. Kisang.

**Sen. Kisang:** Thank you, Hon. Speaker. I have two issues. First, as a third term MCA, when the last impeachment case failed, I expected you to go back to the county, reconcile with the Governor and work for the people of Kericho County. Did you make an effort, as a senior Member of the Assembly, to sit down and see how you can work for the county with the Governor?

Secondly, I want to find out from the MCA, during the voting day, how many MCAs in total were in the Chamber? From the results that we have seen, it is only 33 that voted. What did the other 14 do? We expected them to be absent, abstain or vote no?

Lastly, if I still have time, if you go to Volume 4A of the County Assembly, you have said the challenges they faced at the committee was limited access to critical information that was required to verify allegations raised in *Kazi Mtaani*. Who is this person? How come you were not able to access any information on this report on *Kazi Mtaani*?

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

**Sen. Abass:** Thank you, Hon. Speaker. *Mheshimiwa*, as you are aware, the Governor is the Chief Executive Officer (CEO) of the County. The Governor commits no funds, signs nowhere. We have all the institutions in place. We have the treasury,

accounts and procurement. Even at the time of awarding contracts, there are committees that were formed.

In your investigation of the *Ad Hoc* Committee, was there anybody who was found to have committed the anomalies that you have now found? That they gave contracts to people who paid them money before coming to the Governor. Was there anybody who has been sacked? Was there anybody that you have recommended and the Governor has failed to sack, or you feel that the Governor is directly capable of doing all the wrongs that have taking place?

**The Speaker** (Hon. Kingi): Sen. Kavindu Agnes.

**Sen. Kavindu Muthama:** Thank you, Mr. Speaker, Sir, for this opportunity. My question is about *Kazi Mtaani*. You say that there was no law in place, yet the MCAs are the people who should be doing the legislation to put the law in place. That said, I am wondering if you now have a law in place for *Kazi Mtaani* if it happens to come again.

What about the procurement? Is it the governor who is supposed to procure or the procurement officers? Were the companies which were given the procurement pre-qualified in the county? Were the people who worked paid their monies?

Thank you.

**The Speaker** (Hon. Kingi): Sen. Wafula.

**Sen. Wafula:** Thank you, Hon. Speaker for this opportunity. I have clearly listened to our good MCA talk. My question comes here. Did we have any MCA in the steering committee of this arrangement for the burial of these deceased people? How much did MCAs and the County Assembly contribute towards this kitty that you are crying about for the injured and the bereaved? If you went there as mourners, assume you appeared in nowhere, how do mourners start auditing accounts of funds they have not contributed?

Finally, did you expect the governor or any other person to float tenders on how this money was going to be used and who will audit these accounts?

Thank you.

**The Speaker** (Hon. Kingi): Sen. Seki

**Sen. Seki:** Thank you, Hon. Speaker. To the witness, now that we realise the Londiani tragedy, on the issue of the signatories where the accountants are staff of the county--- We have heard from you that these officers were sacked. How do you make this House to understand how the misappropriations of funds is attached to the Governor?

Two, on the *Kazi Mtaani* Programme, we have seen the termination and the sacking of employees in regards to this programme. How else can you convince this House that the governor has not acted on this issue to make sure that he is warranted for his impeachment?

**The Speaker** (Hon. Kingi): Thank you.

Lastly, Sen. Murango

**Sen. (Dr.) Murango:** Asante sana, Mstahiki Spika. Swali langu ni kwa Mheshimiwa. Ili kung'amua mbivu na mbichu, jinsi ambavyo kura ilipigwa na waakilishi wadi - wale tisa ambao anasema hawakupiga kura lakini walihusika katika mchakato mzima wa kumng'atua Gavana - kunaye yeyote ambaye alichangia na kuna ushahidi kwamba isipokuwa kupiga kura pekee, alichangia katika mchakato mzima ule

kwa kuongea katika Bunge la Kaunti ya Kericho? Hii itatuwezesha kujua ya kwamba alisema nini kwa sababu anayechangia hujulikana na pia asiyechangia anajulikana.

Asante sana, Bw. Spika.

**The Speaker** (Hon. Kingi): Hon. MCA, you may now proceed to respond to those questions.

**Hon. Kiprotich Rogony:** Thank you, Mr. Speaker, Sir. Before I proceed, now that I need to very fast respond to all the issues raised, I wish you would guide me, so that I may not take long. Let me try my level best.

Sen. Cherarkey talked about Section 45; that is the appointment of CECs and the COs. Yes, this is done by the CPSB, but the county secretary is part of the cabinet. From the amended Standing Orders of the Kericho County Assembly, we can, as an Assembly, discipline the county secretary. However, for the COs, we can do the recommendation to the CPSB.

You talked about the fictitious payment. I think it is because of time. We have the issues of Financing Locally-Led Climate Action (FLLoCA) money. This is World Bank money that is highlighted in my Motion, but has not been canvassed in this House. However, it is in most of the reports that you have in this House.

We also have strategic intervention projects. These are capital projects in the County Government of Kericho. I can highlight one, which is captured in my Motion; The Kunyak Dispensary upgrade to become a health centre; where, certificate of payment of Kshs8 million was raised even before the contractor started anything on site. It is wrong. When the Committee on Implementation visited the site, the contractor was going to begin the works. However, from the information given to the Assembly by the Department of Finance, they claimed that the facility itself is on the slab level and the kitchen is on the walling stage. This is contrary to the findings of the committee which visited the site.

We also have the misuse of NFCDP funds. It is also highlighted in my Motion. Even if you check the response from the Governor, as of 10<sup>th</sup> of June, 2025, up to Kshs281 million, that is Kshs266 million from the World Bank and Kshs15 million from the County Government of Kericho contribution, has been used. If we had an opportunity to prosecute this, it will be appalling because this is a fund which has a manual from the World Bank. I can tell you that the Governor cannot produce even a single minute from the County Project Steering Committee.

**The Speaker** (Hon. Kingi): *Mheshimiwa*, whose question are you responding to?

**Hon. Kiprotich Rogony:** To Hon. Cherarkey. He asked me whether we are only pegging the impeachment of the Governor on the fictitious payments. There are so many grounds that we raised and that is why it is a matter of time.

I cannot talk about the money for the death, Hon. Cherarkey, because in our community, it is not good to take money meant for the dead. The money for the pastor, of course, it was wrong. It was not part of the expenditure out of that money. The County Government of Kericho lost. It cannot account up to Kshs9 million. The Governor has a burden to prove to this House when he takes the stand.

Sen. Okenyuri, on the voting system, before we used to do any division manually. However, when the Standing Orders were amended last year, it then required the Assembly to use electronic voting even on a matter as this. I can guarantee you from the

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logs that will be produced. I followed when the Director, ICT was being cross-examined. Each Member who voted can be accounted for, I mean for 33 of them. I did not get the Auditor-General's report, Sen. Okenyuri.

Sen. Faki, on *Kazi Mtaani*, most of these works were done. However, then, not even most of these works, some of them were done, but with others, the contractors were merely assigned a place. They never did anything. It is in the report, but they were paid.

We, as a committee that looked into this, felt that the value for money was not realised. We even gave the Governor recommendations to ensure these contractors who were paid, without a single documentation, be surcharged and the officers who oversaw this process be disciplined. As of now, it cannot be the CEC in charge of lands who will carry the burden. When we still have the municipal manager who is still serving to date and the accountant who paid, is still serving to date.

The municipality of Litein at the moment is headed by a sub-county administrator who is still serving to date. That is the accounting officer who oversaw the whole process. So, most of these officers are currently working. They have never been called to account for the loss of Kshs39 million. That is why I said, pursuant to Article 179(4) of the Constitution and Section 33(f) of the County Governments Act, the Governor bears the huge responsibility in the way the resources of the county are managed.

Sen. Tabitha about the Londiani victims, I can tell you that if you pay Kshs4.8 million out of the Kshs14 million raised, about nine point something million shillings was not given to those victims. The commitment by the Governor in that clip--- How I wish we had time because we produced three clips for Londiani to this Senate. A clip of the Governor talking of what he were to do. However, when the report from this committee came out, he said "My hands are tied, I cannot punish any official."

We felt that the Governor is the biggest beneficiary in the whole scenario. How can you not take a chief officer or even the signatory to account on how these monies were spent?

Sen. Ledama Olekina, first of all, Hon. Kibet Bosuben is an elected Member of the County Assembly (MCA) representing Cheplanget. For the record again, on the clip that was played in this Senate; it is not me. Even if he was recording me, for instance, then there should be that conversation between me and him. If these affidavits are put here, it should be able to produce even the timings.

The arbitrary clip that has been played is so funny. As I said for the avoidance of doubt, I schooled with Sen. Aaron Cheruiyot in high school. I want to set the record straight that I was the Chairman of the Seventh-day Adventist group. Even at the university, I became a deacon for four years. How can I be a drunkard?

*(Laughter)*

I have integrity to protect even after being elected. Sen. Ledama, that is not me and I voted once. In fact, I was number four in that log because as the mover of the Motion, I want my vote to count. I badly want all the Members to pass the Motion for us to come and be heard before the Senate. We were not heard last time.

Sen. Kinyua, I want to believe Kinyua is here, I would wish to request him--- Hon. Members, let me take you to volume 4D, page 60. Sen. Kinyua, if you check when

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the fundraiser money was raised on 4<sup>th</sup> July, 2023, there was a deposit of Kshs13,653,660. That is in cash that was deposited into the account. You can see Kshs537,150 Pay Bill money that was tied to this account. You can also see Kshs266,361 money that was sent by a businessman in Kericho who supported the family and we have the Kshs51,051. If you add all that money, it brings a total of Kshs14 million and some amount on top.

Now, you can see that transactions began from date 11<sup>th</sup> July. So, this account was existing, but the county decided to use this account. The transaction is where we are beginning from down there, where withdrawals were done. I believe that I have explained.

Sen. Mumma on accountability to the Assembly, the Executive is accountable to the Assembly through the CECMs appointed by the Governor. But then, you know this Governor has a history of not implementing any single report. The *Kazi Mtaani* report was tabled and not a single implementation was done by the Executive.

On the Londiani accident victims, Sen. Boni Khalwale, the committee paid visit to families of those who perished in Western, to confirm. The County Government of Kericho paid Kshs90,000 to those who lost their loved ones and Kshs60,000 to the families of those who survived. Out of the Kshs14 million, the national Government through the Ministry of Treasury, gave Kshs300,000 to every family that lost their loved ones and Kshs200,000 for the families of those survivors who could be traced.

The County Government, raising merely Kshs14 million could not disburse the entire Kshs14 million to the families and the Governor himself committed to doing so. I can tell you, it is up to this House to establish whether the Governor will account for the Kshs9 million that he said he disbursed later on because what we can trace is only Kshs4.8 million.

Sen. Tobiko, MCAs who voted for the Motion are 33. The reason we are here is that we met the threshold. Sen. Tabitha, if you could see, being the mover of the Motion, I was seated in front. I believe that video will be played. I sat throughout the Motion until it ended. I had only one phone in my hand and only one link, so I did not vote for anybody. Anybody who claims that I voted for them; I saw a ruling done by the Speaker that later on, there is an independent audit that will be carried out on that system.

It will reveal whether, through my phone, I voted for two people or for myself alone. Otherwise, we can account for the 33 who voted, so that they do not take you around. We already have one who swore an affidavit that they voted. Initially, the Governor had taken her to Kisumu and hid her for more than three days, but she sneaked and was able to testify that she voted.

We only need the other three to confirm they voted. So, there was a breakdown. Actually, if you look at my affidavit in volume two, when you get time, I was able to break down the entire payment. The Kshs423,000 was meant to be paid fictitiously to some spending. The Kshs411,000 that you can find later on was paid to Superticks. These are the people who are not meant to receive this amount. In fact, the Governor said the county is not broke; this county is rich. Again, he instructed the same committee to make payments for the expenditure that was never meant to. This one, we can prove. Despite the fact that we came up with this report, he never acted on it.

Sen. Mariam, Brian Lang'at was fired by the Governor as the CECM. If you check the grounds under which the Governor fired the six CECMs, it was failing to adhere to some--- They talked about Executive Order No.1 of 2022, 1 of 2023, 1 of 2024. If you look at the executive orders, it is failing to adhere or to go to wherever they were posted to do.

Now, you cannot tie Brian to the incident of Londiani in that firing spree. We realised that Brian is a very young man who had a future. Before he was picked as an executive, he was the legal officer in the Assembly. So, when an opportunity was advertised in the Assembly, he applied and was competitively sourced. He is now the Deputy Director of Legal Services. We feel that Brian was not fired for committing any offence.

Sen. Onyonka, it is true about your Standing Orders and ours. We are trying to improve as a county because we felt that if we continue using manual--- Remember, we are still using the Assembly that was used by the defunct local authorities. There is one that we are building. Once we have a modern Assembly like this, I believe we will have gadgets like this. It will be easier for us to vote and the results will be seen within a minute.

**The Speaker** (Hon. Kingi): *Mheshimiwa*, you have two minutes to go.

**Hon. Kiprotich Rogony:** Thank you, Mr. Speaker, Sir.

Sen. Nyamu, we have never used electronic voting before because we have never had a matter of great importance as this one. So, we had to use this one because it is a decisive vote. It does not mean that we used it, so that we get the requisite numbers. I believe the IT officer has explained that in case of any malpractice or failure, there is a way we would address that.

Sen. Boni, Counsel Ongoya painted the Governor as a bad man. If we had an opportunity to play most of those clips, the Governor is a man of double speak. When the report of fictitious payments came out, he referred to the same MCAs he had faith in as contractors, but before then, he had said that he has faith in these MCAs looking into the matter.

The shocking thing is that in broad daylight and in public, the Governor referred to the *Ad Hoc* Committee that was looking into the Londiani incident as a funeral committee. This is an *Ad Hoc* Committee composed of Hon. Members and when you publicly refer to them as a funeral committee, it is up to this House to find him not to be a good Governor, but likely to be a bad one.

Sen. Mungatana, the composition of the committee that was spearheading the distribution of this money was co-chaired by the County Commissioner. About 90 per cent of the committee members were appointed by the Governor and he supervises them. This County Commissioner had no role in that committee despite the fact that he was a co-chair. I want to believe that the issue that was raised about the voting has been deliberated on by the other officer.

Sen. Abbas, the Governor is the CEO of the county. As I said, we tied the Governor to any misuse of funds that we have witnessed because pursuant to Section 30 of the County Governments Act and Article 179(4) of the Constitution, the Governor bears the greatest responsibility in the manner in which our resources are misused.

Mr. Speaker, Sir, under your directive, we will be getting the real results on the issues of voting. I want to beseech this House that when the time comes for voting, please, consider the issues of Kericho County. It is not one, there are so many grounds, including the haphazard dismissal of staff by the Governor.

There is one CECM who was dismissed in 2023, a very young man who went to a village school, scored the best grade, came to Kenyatta University and was working for the Water Trust Fund. The Governor, by a mere text, he was dismissed.

This is a Governor who should learn that when you are given an opportunity, you need to act according to Article 75 of the Constitution; conduct of state officers. The Governor should also know that being a governor of a county like Kericho does not mean he is above the law and he can do anything as he thinks. It is up to this Senate to decide on behalf of the people of Kericho County.

Thank you.

**The Speaker** (Hon. Kingi): Thank you. Yes, counsel for the County Assembly, do you have something to say?

**Mr. Elias Mutuma:** Yes, Sir.

**The Speaker** (Hon. Kingi): Please, proceed.

**Mr. Elias Mutuma:** Mr. Speaker, Sir, you will recall that at the close of our case, I had intimated that I would be making a very quick application.

At the end of our examination-in-chief yesterday, we were told by the Senate that they reserved the interrogation of our first witness, Mr. Geoffrey Bett. We still want to have that clarification whether he is still needed because we still have him around. He is one of the witnesses that is living with disability, so we want to have that clarification first.

Second and related to the issue, at the end of his testimony yesterday, the said witness made an application for protection, not just on his physical attack, but even against bullying on social media.

He has brought to my attention an incident that went against the request that he had made, that yesterday through a *Facebook* post by one Joan Chepkurui, whose *Facebook* name is Joan Kaku, alias Nadia, wrote the following words-

*"Kiwete anataka kuhurumiwa na Kshs80 million ilipotea kwa department yake."*

That comment was shared on another *Facebook* page, that is, Philip Mugo's Foundation. That specific lady, Joan Chepkurui, has been sighted sitting at the Speaker's Gallery or the public gallery. In fact, she took lunch at the Senate yesterday and today. Therefore, the simple request from Mr. Geoffrey is for stern action to be taken against that particular person, who is still within the Senate's precincts.

I will usher in my senior to also make a comment on the same.

**Mr. Elisha Ongoya:** Mr. Speaker, Sir, the most important thing for us is that the maker of that post is within these precincts. The witness says that as he sat here, that lady was among the people sitting in the Gallery, just above your head and that she has eaten lunch with us in the Senate's precincts. He knows her personally because she is a neighbour from home and a known blogger for the Governor in Kericho County. Those are the instructions that we have.

We think that those words that Mr. Mutuma has read are not only demeaning, but they humiliate a witness of that nature who was here, spoke his voice and spoke about this being a healing process for him. That humiliation damages his healing by far.

Mr. Speaker, Sir, we will direct that if that witness is still within these precincts, stern action is necessary to them. Coincidentally, on her page, she has posted photos which she took with some Senators - and I will not name their names - meaning she has been here. We have been shown photos taken yesterday with some Senators in these precincts, validating the fact that she is within these precincts and, therefore, stern action is necessary.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Thank you, counsel for the County Assembly. Counsel for the Governor, just have a seat.

The Senate can only do what is within its powers. To the first limb of your request as to whether the Senate wishes to engage further with the witness, the answer is no.

To the second request, I was made to understand that yesterday the witness asked for arrangements to be made, so that he feels secure when he goes back home. We can only relay that information to the Inspector General of Police that the witness does not suffer any insecurities as he goes back home as a result of having appeared before the Senate.

On the third one on the social media posts, as a Senate, we are not in a position to control what goes into social media. Now, counsel for the County Assembly, since you have identified the culprit, you know exactly the remedies that are available to the witness. Kindly pursue them so that, that particular person who posted that derogatory post is punished, pursuant to the law.

I will, however, add one thing to the members of public, we are here on a very serious matter and no member of public, nor the parties involved in this particular case or even the Senators, are allowed to intimidate any witness. That post is an intimidation of a witness. Therefore, to whoever did that, be warned because the reason why I told the counsel for the Governor to sit down is because, otherwise, we will degenerate into a hen-pecking exercise of, "my client has been mentioned, I need to say this." We will run all the way without finding a stop down the line.

A stern warning from the Senate is that no member of public should aim derogatory remarks to the witnesses that appear before us. If you do, then as I have already advised counsel for the County Assembly, you have a smorgasbord of remedies available to you. Ours is to give that stern warning.

Should it persist, then we will, at an appropriate time, ask that Member, if they are in this House, to withdraw from the precincts of Parliament because that particular behaviour cannot be tolerated while these proceedings are ongoing.

Senator for Nairobi City County, proceed.

**Sen. Sifuna:** Mr. Speaker, Sir, at the very minimum because according to the Rules, everyone in the gallery sits at the pleasure of the Speaker, and if it is possible for the team from the County Assembly to point out to the Serjeant-at-Arms who that person is, it would be proper. This is because of the disrespect that has been shown to the process, that person be removed from the precincts of Parliament.

I would like the team from the County Assembly to know that as the Speaker has said, it is difficult to control what people say on social media. Yesterday, some of the witnesses asked to take photos with me outside there. I have also seen posts from Kericho saying that a bevy of young women has been deployed to confuse me.

*(Laughter)*

Mr. Speaker, Sir, it is a bad thing because I consider myself public property. So, if someone asks to take a photo with me, I cannot say no. However, they are going to insinuate that these young ladies were somehow deployed as a force to cause confusion and that if we vote, we will not do so on issues. However, if this specific person can be identified by the counsel for the Assembly, then it would be fair and proper for this case they be ejected from the precincts of Parliament.

I thank you.

**The Speaker** (Hon. Kingi): Hon. Sifuna, I thank you for your piece of wisdom, but the biggest problem will be the identification using that post. If I heard the counsel for the County Assembly well, that post is traceable to someone known to the Governor. Therefore, it is a process because the name given in that post, if I understood correctly, is not the official name that the person uses.

You will, therefore, need the IT people to get that pseudo account because it is using a different name, different from the person who is allegedly seated with us and for us to be convinced that post and that name actually refer to the same and one person as the one seated here, is another process. That is why I am saying that is difficult for us to and the only thing we can do is to issue a stern warning; assuming that pseudo name refers to the person you are referring to, then may that person be warned that we cannot tolerate that kind of behaviour in the Senate.

We will now proceed. We have now concluded the case for the County Assembly. We will now move to hear the case for the Governor.

Governor, you now have five hours to prosecute your case. Those hours are distributed as follows-

Three hours will be preserved for the Governor and his witnesses and two hours will be allocated for the team from the County Assembly for purposes of cross-examination. The time taken by the Senators for seeking clarification and questions is not part of the five hours we have just apportioned between the two teams.

Hon. Senators, the Senate will rise at exactly midnight tonight. We, therefore, hope to conclude the case of the Governor before we rise at midnight. We shall then resume tomorrow for purposes of deliberating and voting.

**Sen. Olekina:** Mr. Speaker, Sir, these proceedings were gazetted for three days. What is the point of us sitting here until midnight?

**The Speaker** (Hon. Kingi): If you recall, the second day ends at midnight.

**Sen. Olekina:** Mr. Speaker, Sir, I beseech you because we only have five hours for the Governor's case and a couple of hours for the other party, for us to rise at 6.30 p.m. because it is healthy and then we come tomorrow when we are fresh, at 9.00 in the morning, we deal with this matter and prosecute it. It would only be fair.

**The Speaker** (Hon. Kingi): The Senator for Nairobi City?

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**Sen. Sifuna:** Mr. Speaker, Sir, referencing the Gazette Notice for these Special Sittings that the Minority Whip has spoken to, and which are gazetted for three days, I might be missing some commas in this communication, but it is only in respect of Friday that there was expression that the session would commence at 9.00 a.m. and run until the conclusion of the business of the day.

Tomorrow morning, there is enough time and I am sure that if we did the one-and-a-half hours remaining today, and then as the Whip, tomorrow morning, I can commit on behalf of the Minority side, that we will be here at 9.00 a.m. sharp. We can conclude the Governor's case by around 11.00 a.m. or 12.00 a.m. Then, we will have time to deliberate and make a vote. At least for tomorrow, we know we are here until the matter is concluded.

Mr. Speaker, Sir, with kind indulgence and humility which as you know, is a rare trait for some of us---

*(Laughter)*

We are learning. Please, just reconsider that because my understanding of the Gazette Notice is as such.

**The Speaker** (Hon. Kingi): Hon. Senators, let us see how far our batteries will take us. If they run low at 6.30 p.m., we are human beings, we shall abide. Again, let us see how far our batteries will take us.

Proceed.

*(Several Senators spoke off record)*

No, we cannot. However, individually, you can walk out, stretch and come back, Senator for Mombasa.

PRESENTATION OF THE CASE OF THE  
KERICHO COUNTY GOVERNOR

**Mr. Katwa Kigen:** Mr. Speaker, Sir, can I have the witness come in?

**The Speaker** (Hon. Kingi): Serjant-at-Arms, kindly usher in the first witness of the Governor's side.

**Mr. Katwa Kigen:** Mr. Speaker, Sir, and hon. Senators, the affidavit of the witness is in volume one of the Governor's bundle, pages 128 to 131. That bundle is bound in red.

*(The witness for Kericho County Governor  
(Hon. Martin Kiplangat Cheruiyot) took the oath)*

**Mr. Katwa Kigen:** Mr. Speaker, Sir, with your permission and permission of my colleagues, I will lead the witness on non-contentious issues. If my colleagues have any problem, they can say. Confirm that your names are Martin Cheruiyot Kiplangat.

**Hon. Martin Cheruiyot:** I confirm.

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**The Speaker** (Hon. Kingi): Serjeant-at-Arms, you may need to ask the technical team to power the microphone a bit higher because we cannot hear the counsel for the Governors well.

Counsel for the Governor, please, indicate the number of witnesses you are calling for purposes of managing your time.

**Mr. Katwa Kigen:** Mr. Speaker, Sir, I have four that I must call. That is the three MCAs who were impersonated in the votes and the IT expert. After that, I had intended to call as many of the other 18 as my time could allow.

**The Speaker** (Hon. Kingi): Okay. You have three hours to do all that.

**Mr. Katwa Kigen:** That is okay, Mr. Speaker, Sir.

Could you confirm that your name is Cheruiyot Kiplangat.

**Hon. Martin Cheruiyot:** Yes, I confirm.

**Mr. Katwa Kigen:** You are an MCA at Kericho County?

**Hon. Martin Cheruiyot:** Yes, I confirm

**Mr. Katwa Kigen:** Could you confirm that you represent a Ward by the name---

**Hon. Martin Cheruiyot:** I am an elected leader representing Kapkugerwet Ward.

**Mr. Katwa Kigen:** Did you swear an affidavit in support of your averments in this County Assembly?

**Hon. Martin Cheruiyot:** Yes, I did.

**Mr. Katwa Kigen:** Could you confirm that is the affidavit at pages 128 to 131 in bundle one.

**Hon. Martin Cheruiyot:** Yes, I confirm.

**Mr. Katwa Kigen:** Would you like the honourable Senators to look at it in support of your case?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Could you confirm that you also swore another affidavit jointly with other MCAs if you could look at page 113 of the same bundle?

**Hon. Martin Cheruiyot:** I confirm.

**Mr. Katwa Kigen:** You would also like to rely on that affidavit.

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** How many people have signed that affidavit of pages 113 to 116?

**Hon. Martin Cheruiyot:** It is signed by 18 people.

**Mr. Katwa Kigen:** Could you confirm that they are all MCAs.

**Hon. Martin Cheruiyot:** They are all MCAs.

**Mr. Katwa Kigen:** Could you confirm that what you are saying in that affidavit at pages 113 to 116 is that the 18 of you did not vote in favour of the Motion?

**Hon. Martin Cheruiyot:** I confirm that we did not vote in favour of the Motion.

**Mr. Katwa Kigen:** That is not what I am asking you. What I am asking you is that in that affidavit is that you said all the 18 of you did not vote.

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Could you move on to page 109? What is the document in that page?

**Hon. Martin Cheruiyot:** This is an Occurrence Book (OB) Number.

**Mr. Katwa Kigen:** Were you involved in making that OB number?

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**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** What was the complaint that you had made?

**Hon. Martin Cheruiyot:** The complaint I made at the Directorate of Criminal Investigations (DCI) was that somebody else impersonated me in the vote.

**Mr. Katwa Kigen:** Was it you alone that was complaining?

**Hon. Martin Cheruiyot:** No.

**Mr. Katwa Kigen:** How many people complained?

**Hon. Martin Cheruiyot:** Four of us.

**Mr. Katwa Kigen:** The four of you are the ones whose votes are purported to have been in favour of the impeachment. Is that not so?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** You would also like the Senators to take that into account.

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Could you confirm if you are familiar with the letter on page 110- 112?

**Hon. Martin Cheruiyot:** Yes, I confirm.

**Mr. Katwa Kigen:** What is that letter?

**Hon. Martin Cheruiyot:** This is also a complaint to DCI to request them to investigate unauthorized use of my credentials in that voting process.

**Mr. Katwa Kigen:** It is also a complaint in respect to impersonating you in the voting. How many people wrote that letter of complaint?

**Hon. Martin Cheruiyot:** Eighteen Members.

**Mr. Katwa Kigen:** Having laid the documents, in your affidavit, I would like you to go to paragraph three. You say-

“We have read the affidavit sworn by hon. Kiptoo Bii Kiptegen. We adopt and reiterate all he has stated inclusive of the annexes he has made.”

Is that your position at page 128?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Could you confirm that you stand by that position and rely on the substantive affidavit sworn by hon. Bii Kiptegen?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** I would like you to be shown page 117 to 120. Could you confirm that is the affidavit of Kiptegen which you rely on?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Let us discuss a few things; the main reason you are here. Why are you here?

**Hon. Martin Cheruiyot:** Mr. Speaker, Sir, I am here to prove that I did not vote in that voting process.

**Mr. Katwa Kigen:** You are here to tell these Hon. Senators that you did not vote. If the report purports that you voted, what is your position?

**Hon. Martin Cheruiyot:** My position is that whoever did it for me denied my right---

**Mr. Katwa Kigen:** Your position is that if it is alleged that you voted, somebody has impersonated you.

**Hon. Martin Cheruiyot:** Yes.

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**Mr. Katwa Kigen:** Apart from yourself, were there other people in your company that were opposed and how many were they?

**Hon. Martin Cheruiyot:** There were 17 other Members.

**Mr. Katwa Kigen:** Coming to a total of 18.

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Did you make your position known at the County Assembly?

**Hon. Martin Cheruiyot:** Yes, we made our position known when time of declaration of votes was directed by the Speaker, the 18 of us stood requesting that we make a vote by roll call.

**Mr. Katwa Kigen:** You wanted to vote by roll call?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Why were you opposed to the use of electronic voting?

**Hon. Martin Cheruiyot:** It was new to us. We were not even earlier inducted on it, so it was a decision that was made at that time. We did not want to vote electronically. I feared manipulation.

**Mr. Katwa Kigen:** Manipulation by who?

**Hon. Martin Cheruiyot:** By whoever maybe did the system because---

**Mr. Katwa Kigen:** The two reasons you wanted a roll call vote were- One, it was a new system

**Hon. Martin Cheruiyot:** Yes, a new system.

**Mr. Katwa Kigen:** Secondly, you were suspicious of the intentions in the use of the electronic voting.

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Could I ask you a few questions? Had you been trained on the use of this system?

**Hon. Martin Cheruiyot:** No.

**Mr. Katwa Kigen:** Had you ever voted using the system?

**Hon. Martin Cheruiyot:** No.

**Mr. Katwa Kigen:** Had you put in place manuals, regulations or policies for the use of this system?

**Hon. Martin Cheruiyot:** There were not policies or guidelines and no manuals on the use of this system.

**Mr. Katwa Kigen:** You had the IT expert say that you passed Standing Order No.77 in October, 2024. Is that correct? Are you aware there is a Standing Order No.77?

**Hon. Martin Cheruiyot:** Yes

**Mr. Katwa Kigen:** You do not recall when it was passed?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Okay. Do you recall when you impeached the Deputy Speaker?

**Hon. Martin Cheruiyot:** Yes, I recall.

**Mr. Katwa Kigen:** Was it on 8<sup>th</sup> of November, 2024? When you removed, not impeached, the Deputy Speaker? It was November, 2024.

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Did you use this electronic voting then?

**Hon. Martin Cheruiyot:** No.

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**Mr. Katwa Kigen:** This was after you had already passed that Standing Order No.77.

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Had you even used this electronic voting ever before?

**Hon. Martin Cheruiyot:** No.

**Mr. Katwa Kigen:** When was it decided that it should be used?

**Hon. Martin Cheruiyot:** Just immediately before voting for the impeachment of the Governor.

**Mr. Katwa Kigen:** So, it was decided that day in the course of the impeachment discussion.

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Did you have notice that it would be used on that day? As you woke up to come, were you aware they would be using electronic voting?

**Hon. Martin Cheruiyot:** No, we were not aware.

**Mr. Katwa Kigen:** Was there any communication it might be used?

**Hon. Martin Cheruiyot:** No.

**Mr. Katwa Kigen:** Now, if 18 of you had indicated that you were not going to vote electronically and you preferred roll call voting, in the face of the fact that the Speaker insisted that it must be electronic voting, what did you do?

**Hon. Martin Cheruiyot:** We requested that we use the roll call, and we stood. One Member stood and the rest of us stood in support.

**Mr. Katwa Kigen:** My question is the Speaker said we will use electronic voting. He refused to grant your wish to use roll call. Did you vote?

**Hon. Martin Cheruiyot:** No, I did not vote.

**Mr. Katwa Kigen:** Are you aware if the 18 voted?

**Hon. Martin Cheruiyot:** I am not aware also if they voted.

**Mr. Katwa Kigen:** Okay. So, if 18 abstained, how many people could have at most voted on that day?

**Hon. Martin Cheruiyot:** If 18 abstained because we have 47 Members, then 29 Members could have voted.

**Mr. Katwa Kigen:** If 18 abstained, there would be only 29 members voting. However, you see that they have said that 33 voted, is it not?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Okay. Now, if it remained 29, would you have achieved the two-thirds that is the target of this process?

**Hon. Martin Cheruiyot:** No.

**Mr. Katwa Kigen:** It would not have been achieved. Lastly, two issues. Did you have any gadget where the Speaker very specifically said in the HANSARD that you press a button? You remember that?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Was there any gadget with a button that you could press?

**Hon. Martin Cheruiyot:** There was no gadget that I had at that time.

**Mr. Katwa Kigen:** Okay. Mr. Speaker, Sir, in evidence-in-chief, I would like to leave it there. Hon. Member, you will wait for questions from my colleagues for the

Assembly. They might not be as friendly as I am, so be ready. Probably you could come this side and they can ask you.

**The Speaker** (Hon. Kingi): Counsel for County Assembly, you may now proceed to cross-examine the witness.

**Mr. Elias Mutuma:** Thank you, Mr. Speaker, Sir. Hon. Martin Cheruiyot, good evening.

**Hon. Martin Cheruiyot:** Good evening.

**Mr. Elias Mutuma:** I will ask you a series of questions. First of all, tell us whether you are a first-time Member of the County Assembly or this is your second or subsequent term.

**Hon. Martin Cheruiyot:** First-time member.

**Mr. Elias Mutuma:** What is your level of education?

**Hon. Martin Cheruiyot:** I am a diploma holder.

**Mr. Elias Mutuma:** In what field?

**Hon. Martin Cheruiyot:** Procurement.

**Mr. Elias Mutuma:** So, you are relatively a learned and exposed person, correct?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** You are also familiar with the use of mobiles and other internet facilities, correct?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** Tell us, for the last two-and-a-half years that you have been a MCA, how have you been receiving communication on any issue pertaining to the County Assembly?

**Hon. Martin Cheruiyot:** We have been receiving through SMS and also at times by circulation of hard copies.

**Mr. Elias Mutuma:** How is that SMS generated? Is it a special SMS that runs through a system?

**Hon. Martin Cheruiyot:** Yes, it emanates from the County Assembly.

**Mr. Elias Mutuma:** How about the generation of invoices that pertain your *per diems* and other payments? You still do that through the same system, correct?

**Hon. Martin Cheruiyot:** About the invoices, that is now the work of the accounts department.

**Mr. Elias Mutuma:** How do you make claims for your allowances? Is it through a system that has been generated and used by the county assembly?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** You have interacted with this system since the time you came to the county assembly, correct? You have used that system for other functions, correct?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** You have been trained on the use of that system on other functions, correct?

**Hon. Martin Cheruiyot:** No, the system I mean is the SMS, the replies of the messages that come to my mobile phone. No training.

**Mr. Elias Mutuma:** Have you had any challenges in the use of that platform that has been internally developed by the County Assembly? Have you had any challenges yourself?

**Hon. Martin Cheruiyot:** No challenge because it is replying of messages.

**Mr. Elias Mutuma:** So, the only challenge you had was the use of electronic voting and not for any other purpose. Do you not feel that is too convenient for the Senators to believe?

**Hon. Martin Cheruiyot:** Yes, but---

**Mr. Elias Mutuma:** Thank you. You have answered my question. I move on to the next issue.

Mr. Cheruiyot, has the County Assembly provided you with a laptop paid for by taxpayers' money?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** What was the purpose of you getting a laptop paid for by taxpayers' money?

**Hon. Martin Cheruiyot:** For us to be using during our proceedings.

**Mr. Elias Mutuma:** Including electronic voting, correct?

**Hon. Martin Cheruiyot:** Yes, which we have not been inducted on.

**Mr. Elias Mutuma:** Thank you. Let me go specifically to the affidavit you have sworn before this House. That is the affidavit dated 23<sup>rd</sup> August, 2025, correct? The one appearing on page 128 all the way to page 130, correct?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** You confirm that it is a joint affidavit, it is not an affidavit sworn by an individual?

**Hon. Martin Cheruiyot:** Yes, it is a joint affidavit.

**Mr. Elias Mutuma:** Therefore, the contents of that affidavit are contents that have been owned by two people and not one person, correct?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** Those are not just your averments, but averments of another person, one Edinah Tonui, correct?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** When did you appear before a commissioner of oaths to swear this affidavit? Do you recall appearing before any commissioner of oaths?

**Hon. Martin Cheruiyot:** 23<sup>rd</sup> day of August.

**Mr. Elias Mutuma:** Where specifically?

**Hon. Martin Cheruiyot:** Kericho.

**Mr. Elias Mutuma:** Which office?

**Hon. Martin Cheruiyot:** Imarisha.

**Mr. Elias Mutuma:** Give me the building and the floor number of that advocate.

**Hon. Martin Cheruiyot:** Katwa & Kemboy Advocates 5<sup>th</sup> Floor, Transnational Plaza.

**Mr. Elias Mutuma:** So, this affidavit was sworn by Katwa & Kemboy Advocates, correct?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** So, then you did not appear before Chebet Ngetich, the Commissioner for Oaths, or are you telling me that Chebet Ngetich works at Katwa and Kemboy Advocates? You did not go to any other advocate to swear this affidavit, correct?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** You did not. Therefore, you did not appear before a commissioner for oaths, one that is said to have commissioned this document, Chebet Ngetich, correct? You do not know who Chebet Ngetich is, correct?

**Hon. Martin Cheruiyot:** I appeared.

**Mr. Elias Mutuma:** Mr. Cheruiyot, which version of your story should we take? You have just said you did not appear before any other person apart from the office of Katwa & Kemboy Advocates.

**Hon. Martin Cheruiyot:** I appeared before Chebet Ngetich Fancy.

**Mr. Elias Mutuma:** Give me the location of this advocate. Which offices does she operate from?

**Hon. Martin Cheruiyot:** Imarisha Kebo Plaza in Kericho.

**Mr. Elias Mutuma:** Which floor? Door number?

**Hon. Martin Cheruiyot:** Okay. Second floor, I think.

**Mr. Elias Mutuma:** I want you to go on record because we are going to confirm these details, Mr. Cheruiyot. This is because when Chebet Ngetich practises law and has commissioned your document, we can easily trace. So, you need to think your answer through very carefully. Did you appear before Chebet Ngetich or not?

**Hon. Martin Cheruiyot:** I appeared, but I do not remember exactly which floor she was on.

**Mr. Elias Mutuma:** In whose company were you in? Which other person was in your company when you appeared before this commissioner for oaths?

**Hon. Martin Cheruiyot:** This one, I was alone.

**Mr. Elias Mutuma:** You were alone?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** This affidavit confirms that two people appeared at the same time before a commissioner of oaths. You are telling these Senators that you appeared alone. Do you not think that you are confusing the Senators, Mr. Cheruiyot, or at least you are not being truthful?

**Hon. Martin Cheruiyot:** When I signed, I signed alone even though the affidavit appears to have been sworn by two people.

**Mr. Elias Mutuma:** So, you do not recall seeing Edinah while this affidavit was being prepared?

**Hon. Martin Cheruiyot:** I signed and I think later she came and also signed because she is my colleague MCA.

**Mr. Elias Mutuma:** This is your affidavit, Mr. Cheruiyot. At the beginning you said, 'we.' That means this document was generated, drafted and commissioned by two people at the same time. So, are you now disowning the fact that this affidavit was jointly done and that it is only you who signed the affidavit? Is that your position?

**Hon. Martin Cheruiyot:** No. There is a space for Edinah who also signed and I also signed.

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**Mr. Elias Mutuma:** I want you to look at another affidavit. Hon. Senators, this is the affidavit appearing at volume 7A of the County Assembly's document.

**The Speaker** (Hon. Kingi): Clarification time is not yet, honourable. Okay. Just pause the time for the Governor's team.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, if you are following the proceedings, you need to remind the witness that he is on oath. He has changed his position three times on the same matter. So, you should help us on which version we should follow. We want to know the truth.

**The Speaker** (Hon. Kingi): Just take note of whatever you are noticing. It will inform on how you will vote eventually.

Proceed, Counsel.

**Mr. Elias Mutuma:** So, for record purposes again, Mr. Cheruiyot, you were not at any given time in the same place and time with one Edinah Tonui while preparing this document? You were not.

**Hon. Martin Cheruiyot:** Yes, I signed my part.

**Mr. Elias Mutuma:** That is not my question. That, at no given time, were you and Edinah Tonui together in the preparation, signing or commissioning of this document. Correct?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** Therefore, when you append a signature at the end of this document, saying that, "We, the above named". Just read paragraph 14 of your affidavit appearing at page 130. Just read what you state there. Proceed and read.

**Hon. Martin Cheruiyot:** Facts deponed herein are true to the best of our knowledge, information and belief, save where we have stated otherwise, where we will verify hereof in the correctness of what we stated.

**Mr. Elias Mutuma:** Do you still stand by the affirmation at paragraph 14 of the affidavit, that the contents of this affidavit are true and correct to the best of your knowledge and belief?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** You have just confirmed that you have not seen Edinah in the preparation, signing and commissioning of these documents. How are we to reconcile that with the fact that you are now stating that this document was generated jointly between you and Edinah? Do you not think there is a contradiction, Mr. Cheruiyot?

**Hon. Martin Cheruiyot:** No.

**Mr. Elias Mutuma:** You do not think there is a contradiction? I will put it to you, Mr. Cheruiyot, that you have presented a forged document before the Senate, purporting that one Edinah signed this document jointly with you. What would you say?

**Hon. Martin Cheruiyot:** No, I have not presented a forged document.

**Mr. Elias Mutuma:** Kindly look at the affidavit before the Senate, volume 7A. Who is the deponent of that affidavit?

**Hon. Martin Cheruiyot:** Chepkirui Edinah Tonui.

**Mr. Elias Mutuma:** The same person that you have alleged you were with when you were signing this affidavit jointly, correct?

**Hon. Martin Cheruiyot:** Yes, but I stated I signed it---

**Mr. Elias Mutuma:** Yes or no? Is it the same person?

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**Hon. Martin Cheruiyot:** Same person.

**Mr. Elias Mutuma:** Same person. Kindly, read paragraph eight of that affidavit. What does Edinah say?

**Hon. Martin Cheruiyot:** That I have affidavits and letters filed by the Governor, purporting that I was part of the 18 MCAs who allegedly absconded from voting on the impeachment Motion, to which-

(a) The affidavit allegedly sworn on 15<sup>th</sup> August, 2025 jointly by myself and 17 other Members of the County Assembly.

(b) The affidavit allegedly sworn on 23<sup>rd</sup> August, 2025 jointly by myself and Hon. Martin Cheruiyot Kiplangat.

(c) An undated later allegedly co-authored by myself and 17 other Members of the County Assembly of Kericho, addressed to and received by the Director of Criminal Investigations (DCI) on 18<sup>th</sup> August, 2025.

**Mr. Elias Mutuma:** Edinah confirms that she did not sign the affidavit that you presented before the Senate. You have also confirmed that you did not see Edinah at any given time in the preparation, signing and commissioning of this affidavit. This is your affidavit, Mr. Cheruiyot. Are you then, on record, confirming that you have brought before the Senate, a forged document in the name of an affidavit, that you have presented on oath?

**Hon. Martin Cheruiyot:** No, there are other affidavits that are there---

**Mr. Elias Mutuma:** I am interested in the affidavit dated 25<sup>th</sup> August, 2025. This is your affidavit, correct?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** Edinah has denounced the same. Do you then accept that you presented a document that was forged or procured without the authority of the other deponent? Please, answer the question.

**Hon. Martin Cheruiyot:** No.

**Mr. Elias Mutuma:** No. Mr. Cheruiyot, as has been stated by Sen. (Dr.) Khalwale, you have given different versions of the same story from the time you took the stand. You have also presented a document that you signed on oath that you have now disowned. The simple question is, why should we believe you when you say that you did not vote, when the system confirms that you voted?

**Hon. Martin Cheruiyot:** I did not vote.

**Mr. Elias Mutuma:** How credible is that statement in the wake of all the other lies and contradicting versions that you have given before this House?

**Hon. Martin Cheruiyot:** The link that was used to vote was sent to my mobile phone, which I never opened.

**Mr. Elias Mutuma:** Thank you. You have also stated in your affidavit that you did not have your phone at the time of the voting, correct?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** Where was your phone at that time?

**Hon. Martin Cheruiyot:** At that particular time of voting my phone was in the car at the parking lot.

**Mr. Elias Mutuma:** For how long was your phone in the car?

**Hon. Martin Cheruiyot:** Immediately just before voting and for almost one-and-a-half hours after.

**Mr. Elias Mutuma:** You have also stated in that affidavit, that not just your phone, but Edinah's phone, was not with her. Is that what appears in your affidavit or am I reading my own things? Do you remember stating that fact? Is it in your affidavit?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** You stated on oath that Edinah did not have her phone at the time of the voting. Correct? In your affidavit? Correct?

**Hon. Martin Cheruiyot:** The 18 members that were---

**Mr. Elias Mutuma:** I am talking about Edinah and yourself, the deponents of this affidavit. You have confirmed on oath that Edinah did not have her phone as at the time of voting, correct?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** How could you tell that Edinah did not have a phone at the time of voting?

**Hon. Martin Cheruiyot:** We were together in the Chamber and she also had given her phone elsewhere.

**Mr. Elias Mutuma:** We are interested in knowing that elsewhere. Where is that other place that your phone and Edinah's were?

**Hon. Martin Cheruiyot:** Mine was in my car at the parking lot and she said she also did not have hers. I do not know exactly where she had kept it, but she did not have the phone in the Chamber.

**Mr. Elias Mutuma:** Mr. Cheruiyot, you have disowned ever seeing Edinah in the making of this affidavit. How can we verify the fact that Edinah did not have her phone at the time of voting?

**Hon. Martin Cheruiyot:** She swore in another affidavit that she did not vote.

**Mr. Elias Mutuma:** Which affidavit is that?

**Hon. Martin Cheruiyot:** In reference to the complaint that she--- Yes, there is an affidavit on page 113.

**Mr. Elias Mutuma:** Give us the page of the affidavit. Which page?

**Hon. Martin Cheruiyot:** Pages 113 to 115.

**Mr. Elias Mutuma:** Again, that is a joint statement prepared by all the 18 MCAs, correct?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** Was Edinah with you when that affidavit was prepared?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** Who commissioned the affidavit?

**Hon. Martin Cheruiyot:** Brian Kiprotich.

**Mr. Elias Mutuma:** Brian Kiprotich. In which office did Brian Kiprotich commission this document from?

**Hon. Martin Cheruiyot :** Imarisha Kebo Plaza.

**Mr. Elias Mutuma:** In which town?

**Hon. Martin Cheruiyot:** Kericho.

**Mr. Elias Mutuma:** You confirm that all of you appeared before that commissioner for oaths?

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**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** Mr. Cheruiyot, were you for the impeachment of the Governor or you were for the position of saving the Governor?

**Hon. Martin Cheruiyot:** I was for the position of saving the Governor.

**Mr. Elias Mutuma:** You were. So, you have not supported any process of impeaching the Governor?

**Hon. Martin Cheruiyot:** I did not support the process of impeaching the Governor.

**Mr. Elias Mutuma:** Thank you. I want you to go to volume three of the County Assembly's document on page 120. Let us see what you contributed before the House in respect to the issue of fictitious payments. I want you to read verbatim your contributions contained on page 120 of Volume 3.

Hon. Senators, that is the HANSARD report as contained in volume three of the County Assembly's documents.

Look at page 120. Confirm that you are the MCA for Kapkugerwet Ward, correct?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** You confirm that at page 120, we come across your contributions on the Floor of the House in respect to the fictitious payments, correct?

*(A counsel for the Governor spoke off record)*

You should be having a copy, counsel. We supplied volume three, but we can avail an extra copy.

Look at page 120. I want you to read your contribution before the Floor of the House in respect to fictitious payments and kindly be mindful of my time.

**Hon. Martin Cheruiyot:** It says-

"Thank you very much, Mr. Speaker, Sir, for giving me this opportunity to contribute on this report on fictitious payments. First, Hon. Speaker, let me congratulate the *ad hoc* committee led by the Chairman, Hon. Albert Kipkoech, for this very good and eye-opening report.

Mr. Speaker, I want to say that one of our roles as a House is oversight and I want to say that we cannot stand aside and watch those who have been given responsibility to squander or do the kind of payments they have done. I want to cite a case in my ward relating to how the procurement process was done. I have read and heard from the Members that a procurement process was initiated and in a record of three days, from the initial stage to the end, the payments were made.

I have a project in my ward, Hon. Speaker, that was done two years ago and the work was done genuinely. Actually, the contractor did the work very nicely and I am wondering how a procurement can be done in a record of three days, up to the payment that somebody has put resources, a genuine person has done very good works but has not been paid for such a long time.

I remember some of these officers. When we were bringing them in to serve the county, one of the aspects we saw was the aspect of integrity. Now questioning where the integrity has gone that now we are not being careful with the resources of

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our county. So, I want to say that those who have been implicated or mentioned, and specifically I am going to specific recommendations that action needs to be taken against them or be held accountable for the actions that are upon them.

So, I want to say, Hon. Speaker, I am in support of this report, so that we move on and guard the resources of our county.

Thank you, Hon. Speaker.”

**Mr. Elias Mutuma:** Are you changing your position in respect to the report on fictitious payments?

**Hon. Martin Cheruiyot:** I am not changing, but there are specific recommendations, not really impeaching the Governor.

**Mr. Elias Mutuma:** You did not disagree with the report, did you?

**Hon. Martin Cheruiyot Kiplangat:** I agreed with the report, but with specific recommendations.

**Mr. Elias Mutuma:** Thank you. You endorsed the report, correct?

**Hon. Martin Cheruiyot:** I endorsed recommendations.

**Mr. Elias Mutuma:** Just a straight answer. You endorsed the report, correct?

**Hon. Martin Cheruiyot:** Yes, I endorsed, but not the impeachment of the Governor.

**Mr. Elias Mutuma:** But you endorsed the report which stated that all people who are culpable should be held to account, correct?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** If the Governor is one of them, that remains the position, correct?

**Hon. Martin Cheruiyot:** Unless it is proven that he is one of them.

**Mr. Elias Mutuma:** Mr. Cheruiyot, I believe you are also familiar with your Standing Orders, correct?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** Kindly tell us what Standing Order No.77 provides in terms of electronic voting. Before you read Standing Order No.77, while we are still at that report, kindly go to page 178 of volume 4A. We are still talking about the same fictitious payments report, correct?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** What was the last recommendation by the committee?

**Hon. Martin Cheruiyot:** The last recommendation was that according to Section 30(3)(f) of the County Governments Act, 2012, the Governor has the overall responsibility of being accountable for the management and use of county resources, hence should take full responsibility for the anomalies.

**Mr. Elias Mutuma:** That is part of the report that you endorsed, correct?

**Hon. Martin Cheruiyot:** Recommendations.

**Mr. Elias Mutuma:** The report contained the recommendations, correct?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** We have seen you making contributions before the Floor of the House endorsing that recommendation, correct? Therefore, you endorsed the removal or action being taken against the Governor for fictitious payments, correct?

**Hon. Martin Cheruiyot:** All those found culpable for the---

**Mr. Elias Mutuma:** That specific recommendation targets the Governor, correct?

**Hon. Martin Cheruiyot:** Yes, this one targets the Governor.

**Mr. Elias Mutuma:** You endorsed this report that targeted the Governor for having the overall responsibility, correct? Mr. Cheruiyot, correct? It is a yes or no.

**Hon. Martin Cheruiyot:** No, I did not target the Governor.

**Mr. Elias Mutuma:** Did you seek to amend or disagree with any part of the report? We have seen you fully endorse the report on the HANSARD. Had you not read the report or you are changing your version when you are appearing before the Senate now? Which one is which, Mr. Cheruiyot? Either you had not read and, therefore, made contributions without familiarising yourself with the report or you are changing your version now. Which one is which, Mr. Cheruiyot?

**Hon. Martin Cheruiyot:** I read the report.

**Mr. Elias Mutuma:** So, you endorse the report as it were?

I am struggling to understand what your position is. You have just told the Senate here that you do not agree with the report to the extent of removing the Governor on account of fictitious payments, correct?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** That is what you have told us. We have seen you on the Floor of the House endorsing this report that seeks to hold the Governor fully accountable for the same. Which one is your position, Mr. Cheruiyot?

**Hon. Martin Cheruiyot:** That report also recommended for the Governor to be given time---

**Mr. Elias Mutuma:** I am interested in that specific recommendation that required the Governor to take full responsibility. Is that part of the report that you endorsed?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** Then you have lied before this Senate when you said that the Governor should not be held accountable for the same fictitious report that you endorsed, correct?

**Hon. Martin Cheruiyot:** There are people in the department who are supposed to be held liable and responsible for the---

**Mr. Elias Mutuma:** Mr. Cheruiyot, what was the incentive for you to change your position from endorsing the report from voting for the Governor's impeachment and to now testify that you did not vote? What was the incentive?

**Hon. Martin Cheruiyot:** I want the Governor to be given time to act---

**Mr. Elias Mutuma:** I am asking you a very specific question. What was the incentive?

**Hon. Martin Cheruiyot:** I did not support the impeachment of the Governor.

**Mr. Elias Mutuma:** You did not support the impeachment of the Governor?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** Even though the evidence states the contrary.

Let us go to the Standing Orders as my last line of cross-examination. Do your Standing Orders provide for electronic voting?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Elias Mutuma:** In Standing Order No.77, correct?

**Hon. Martin Cheruiyot:** Yes.

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- Mr. Elias Mutuma:** Are you familiar with that Standing Order as a MCA?
- Hon. Martin Cheruiyot:** Yes, I am familiar.
- Mr. Elias Mutuma:** Did you require advance notice to comply with Standing Orders that are express?
- Hon. Martin Cheruiyot:** Yes.
- Mr. Elias Mutuma:** Did you require prior notice that voting would be electronic?
- Hon. Martin Cheruiyot :** Yes, because we did not have---
- Mr. Elias Mutuma:** Did you require notice?
- Hon. Martin Cheruiyot:** Yes, I required.
- Mr. Elias Mutuma:** What is the basis of your answer?
- Hon. Martin Cheruiyot:** We did not have the electronic gadgets and I was not prepared with my laptop---
- Mr. Elias Mutuma:** Mr. Cheruiyot, you have confirmed that the County Assembly bought you a laptop. So, when you say that you did not have a gadget to vote, are you not lying to these Senators?
- Hon. Martin Cheruiyot:** At that time, counsel, I did not have my laptop.
- Mr. Elias Mutuma:** It is a simple question. Are you not lying when you state that you did not have a gadget, when you have been bought for a gadget and you knew the business of the day? You lied, correct?
- Hon. Martin Cheruiyot:** I did not have my laptop at that time.
- Mr. Elias Mutuma:** Were you not aware of the business of the day?
- Hon. Martin Cheruiyot:** I was aware, but I was not aware that the electronic system would be used.
- Mr. Elias Mutuma:** Mr. Cheruiyot, I put it to you that you are a very dishonest person who gives the version of the story that is convenient to you. What do you say?
- Hon. Martin Cheruiyot:** No.
- Mr. Elias Mutuma:** That is all for this witness, Mr. Speaker, Sir.
- Thank you.
- The Speaker (Hon. Kingi):** Any re-examination, counsel for the Governor?
- Mr. Katwa Kigen:** Mr. Martin, was there any time when you said that you supported the impeachment of the Governor?
- Hon. Martin Cheruiyot:** No.
- Mr. Katwa Kigen:** The part that has been read to you. Does it say anywhere that the Governor is to be impeached?
- Hon. Martin Cheruiyot:** No, it does not.
- Mr. Katwa Kigen:** More specifically on the issue of the vote, did you vote in support of impeachment?
- Hon. Martin Cheruiyot:** I did not.
- Mr. Katwa Kigen:** That is your testimony in this Assembly that you did not vote in favour of the impeachment?
- Hon. Martin Cheruiyot:** Yes.
- Mr. Katwa Kigen:** Now, even assuming for one moment you had a different mind when you were arguing, were you entitled to change your mind before the voting?
- Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** But your position has always been that you do not support the impeachment of the Governor?

**Hon. Martin Cheruiyot:** I do not support impeachment.

**Mr. Katwa Kigen:** Okay. What kind of action did you have in mind from the report on the part of the Governor? What did you have in mind that should happen to him?

**Hon. Martin Cheruiyot:** Because there were other specific recommendations, so I want the Governor to be given time to implement what the committee recommendations---

**Mr. Katwa Kigen:** So, your position is that the responsibility that the Governor was to take on account of the fictitious payments as it is alleged, was that he be given time to take action on those claims?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Now, you have been asked several questions in relation to Edinah and you were shown an affidavit sworn by Edinah, is it not?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** From the County Assembly, have you seen Edinah come to testify in the whole of these proceedings?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** I am saying, since we started this hearing, has Edinah come here to give her testimony?

**Hon. Martin Cheruiyot:** No, no, no.

**Mr. Katwa Kigen:** You have not seen her?

**Hon. Martin Cheruiyot:** No, I have not seen her.

**Mr. Katwa Kigen:** Okay. Have you seen her say that the affidavit you have been shown is the genuine affidavit?

**Hon. Martin Cheruiyot:** No.

**Mr. Katwa Kigen:** You have not seen that?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Can you say for a fact that the affidavit that you have been shown from Edinah has not been forged? Can you say that? Would you know whether it is forged or not?

**Hon. Martin Cheruiyot:** No.

**Mr. Katwa Kigen:** It could possibly be forged also, is it not?

**Hon. Martin Cheruiyot:** Yes, yes.

**Mr. Katwa Kigen:** Okay. Now, the affidavit that you jointly swore with Edinah, were you with Edinah when she was signing? Were you with her when she was signing or you signed alone the way you said?

**Hon. Martin Cheruiyot:** I signed alone.

**Mr. Katwa Kigen:** You signed alone and went away?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Okay. Do you stand by everything that is stated in that affidavit as Martin?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Do you know whether Edinah would stand by them or not? Do you know?

**Hon. Martin Cheruiyot:** I do not know.

**Mr. Katwa Kigen:** You do not know, but you are speaking for yourself in terms of what you said, is it not?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Now, I would like you to look at page 131 of volume one of the Governor's Bundle. My apologies.

You were asked whether you swore the affidavit before who and for a moment you said Katwa & Kemboy Advocates. Do you remember saying that?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Could you let the Senators know what is indicated as being what Katwa and Kemboy Advocates did?

**Hon. Martin Cheruiyot:** Drawn and filed by Katwa and Kemboy Advocates.

**Mr. Katwa Kigen:** So, it merely shows that Katwa and Kemboy Advocates drafted the document, is it not?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** And then on page 130, who has commissioned it?

**Hon. Martin Cheruiyot:** It is Chebet Ng'etich Fancy.

**Mr. Katwa Kigen:** Chebet Fancy commissioned it. Now, away from that affidavit, you remember when you walked into this Chamber?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** What happened to you?

**Hon. Martin Cheruiyot:** I took an oath.

**Mr. Katwa Kigen:** You took an oath?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** What you are saying, is it true as per the affidavit?

**Hon. Martin Cheruiyot:** Yes, it is true.

**Mr. Katwa Kigen:** Is it true as per the oath that you took before these Senators?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Now, you said you did not have your phone, it was in the car, is it not?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** Do you know where Edinah's phone was? Do you know where it was?

**Hon. Martin Cheruiyot:** I do not know.

**Mr. Katwa Kigen:** All you know is that she did not have, but you do not know where it was?

**Hon. Martin Cheruiyot:** Yes.

**Mr. Katwa Kigen:** So, as I finish my re-examination, as you speak today here, are you speaking for yourself and Edinah, or you are speaking for who?

**Hon. Martin Cheruiyot:** I am speaking for myself.

**Mr. Katwa Kigen:** You are speaking for yourself and your point is that you did not vote?

**Hon. Martin Cheruiyot:** I did not vote.

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**Mr. Katwa Kigen:** Okay. Lastly, were you given notice that they would be using electronic voting on that day?

**Hon. Martin Cheruiyot:** No.

**Mr. Katwa Kigen:** Were you given notice to make sure you walk into the Chamber with your phone?

**Hon. Martin Cheruiyot:** No.

**Mr. Katwa Kigen:** Were you given notice that you should come with your laptop to the Assembly that day?

**Hon. Martin Cheruiyot:** No.

**Mr. Katwa Kigen:** Mr. Speaker, Sir, that should be all for this witness. Thank you.

**The Speaker** (hon. Kingi): Now, hon. Senators, it is time for you to ask questions and clarifications. I will take four from this side and four from the other side, so that we proceed.

You have the floor, Senator for Nairobi City County

**Sen. Sifuna:** Thank you, Hon. Speaker. I want to refer the witness to the affidavit that starts from pages 113 to 114 of volume one of the Governor's bundle. Going through the affidavit at paragraph one, the 18 people who deposed this affidavit are saying they participated in the proceedings. At paragraph six, they say the Speaker demonstrated impartiality at several instances, to mean they were present during that.

Then at paragraph nine on page 114, that during voting, there were people experiencing technical difficulties and others questioning the integrity. Then at paragraph 13, they say we abstained because we were not trained on the use of electronic machine.

Now, as far as I understand the word, “abstain”, witness, an abstain, according to our gadgets here, is a vote. Did you mean you voted to abstain or you refused to vote? That is the clarity that I want from you.

**Hon. Martin Cheruiyot:** I refused to vote.

**The Speaker** (Hon. Kingi): Just take the questions, then you will respond to them.

**Hon. Martin Cheruiyot:** Okay. Thank you.

**The Speaker** (Hon. Kingi): Yes, Sen. (Dr.) Murango.

**Sen. (Dr.) Murango:** Asante sana, Bw. Spika. Swali ninalotaka kuuliza Mheshimiwa ni kwamba amesema alikuwepo katika Bunge la Gatuzi la Kericho na kwamba kuna matatizo yaliyompata mojawapo ikiwemo njia ya kupiga kura ambayo hamukuielewa. Kuna ushahidi wowote unaoweza kutuonyesha ukiambia Spika wa Bunge la Kericho kwamba kuna matatizo kama hayo ama kuleta jambo hilo mbele ya Spika wakati mchakato mzima wa kumng’atua mamlakani Gavana wa Kaunti ya Kericho ulipokuwa unaendelea?

Asante sana, Bw. Spika.

**The Speaker** (Hon. Kingi): Sen. Crystal Asige.

**Sen. Crystal Asige:** Thank you very much, Mr. Speaker, Sir. First, I am not too sure of the relevance of the last couple of questions by the Counsel, who asks the witness, “Were you told to bring your phone? Were you told to bring your laptop to Chamber?” I do not think anyone needs to be told to bring their tools of doing business to their place of

business. It is like saying all of us should have to be told to bring this or that or the counsel to be told to bring his bundles for evidence's sake.

On the same question, I want to ask the witness, you said that Edinah did not bring her phone. You did not see her, but you saw that she did not bring her phone through the affidavit that you read. However, as per your counsel's questioning, you answered in the affirmative when he asked, "Could that affidavit be forged? Do you know it to be a true affidavit?" and you said no. Therefore, can you clarify whether the affidavit is something you are relying upon or you are dismissing it, as you do not know whether it is true or not?

I also want to ask, if you do not bring your phone or your laptop to Chamber, how do you then do business usually, void of the two?

Lastly, I would also want to ask the mover, according to your Standing Orders, if you do not vote 'Ayes' or 'Noes' or abstain, what then are you doing in the House?

Mr. Speaker, Sir, in this House, you have told many a time to us, Senators, that we must vote either way. You cannot be in the Chamber and just occupying space.

Thank you.

**The Speaker** (Hon. Kingi): Sen. Chute, I do not remember forcing Hon. Senators to vote. Anyway, that is for another day.

**Sen. Chute:** Thank you, Hon. Speaker. I want to refer the witness to the County Assembly's documents, volume 4A. This is a question that had been asked by Sen. Abass before. I refer him to page 12. There was bulk SMS sent to 28 MCAs. I wanted to know from the witness if he was among the 28 MCAs who got the messages.

Thank you.

**The Speaker** (Hon. Kingi): Sen. Faki, you have the floor.

**Sen. Faki:** Thank you, Mr. Speaker, Sir. I want to refer the witness to the affidavit on page 115 of volume one of the Governor's documents. Did all the 18 of you go to the Commissioner of Oaths for you to swear the affidavit?

Two, looking at the affidavit, you have stated that an introduction of untested electronic voting. Did your standing orders provide for electronic voting? When did you amend them to allow for the electronic voting?

Thank you.

**The Speaker** (Hon. Kingi): Sen. Mbugua.

**Sen. Mbugua:** Thank you, Mr. Speaker, Sir. Mr. Witness, I want to refer you to your affidavit on page 114 of the Governor's documents. In particular, at number six, you say that the Speaker of the Assembly failed to conduct the proceedings with impartiality and in several instances demonstrated bias. Can you give this House examples of those bias?

Two, the last sentence of number seven, you say that Members had a right to choose the mode of voting, whether manually or electronically. Is this provided for in your Standing Orders or where do you get these rights?

Thank you.

**The Speaker** (Hon. Kingi): Sen. Beatrice Akinyi.

**Sen. Ogola:** Thank you, Hon. Speaker. Phones are very personal items. I would like to know from *Mheshimiwa*, what role do you have in knowing where people keep their phones? On this Member, how would you know where somebody's phone is? Do

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you have an official role of knowing where people keep their phones or for what reasons did you know where the Hon. Member's phone was?

**The Speaker** (Hon. Kingi): Sen. Boni.

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I would like the witness to clarify to us. One common denominator for all of us who speak English Language in this Chamber today is that at one time you went to school. Were you being reminded to carry with you a pencil and an exercise book when you were going to school? If that common sense did not make it difficult for you, you always carried it. Why do you want me to believe that the Speaker or the Clerk or somebody in Kericho had to remind you to carry the gadgets for you to go and vote?

Finally, based on your verbatim contribution in the County Assembly and the contradiction you are making in the House today, do you appreciate the import of what you are doing to the case of the Governor, whom you have come here to help to succeed in his case or have you deliberately come here to make fools out of the people who sit in this distinguished House?

**The Speaker** (Hon. Kingi): Sen. Mwaruma.

*(Sen. Mwaruma spoke off record)*

Then log out, Hon. Senator, please. Senator for Nandi County, proceed.

**Sen. Cherarkey:** Thank you, Mr. Speaker, Sir. *Mheshimiwa* Martin, when you protested of not being given an opportunity to vote or participate, did you--- I believe there is a Committee of Powers and Privileges in Kericho County Assembly. Have you reported this matter?

Secondly, is it a coincidence, according to volume one of the Governor's bundle that 18 of you did not carry their phones - 18 of you because that is page six on volume one and you are number 10 that all of you did not carry your phones that day to the Chamber because you knew the SMS link will be sent to your phone?

Mr. Speaker, Sir, finally I have seen the HANSARD and I have your affidavit. Who are you? Is this an hermaphrodite case? You are trying to be an hermaphrodite. Where are you? Do you want us to believe the affidavit or the HANSARD?

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Sen. Murgor.

**Sen. Murgor:** Thank you very much, Mr. Speaker, Sir, for giving me the opportunity. I would like to know from the Hon. MCA, if he realises that he is contradicting himself to have agreed with the report that intends to impeach the Governor and yet denies signing. Does he realise how he is contradicting himself?

Secondly, did he plan with the lady MCA to leave their phones in the car because it cannot be a coincidence that they left their phones in the car yet they were supposed to have them? Was there an intention? Was there a prior plan before voting time?

**The Speaker** (Hon. Kingi): Proceed, Sen. Olekina.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. I have to attest that this is the first time I am seeing an affidavit signed by several people - One affidavit signed by so many people. I think in law, an affidavit is supposed to be deposed by one individual. With that case as it might be, I just want some clarification from the witness whether indeed you

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went with all these 18 - and I am looking at your affidavit on page 113 of volume one of the Governor's documents. Volume one, page 113 and it says - and I believe you are number three on this - "We, the undersigned." I just want to be sure and please correct me if I am wrong.

First of all, I have just said and I stand corrected by both legal counsel whether an affidavit petition can be signed jointly by various different individuals although it was only by one person. Did all of you; 18 of you go together, sit down together and then based on the order of names: the first one is Hon. Kamam Rop; after he signed, the next person is Hon. Kiptoo Faith signs?

The last question is this: I have seen another affidavit volume 7A of the County Assembly's document signed by the same person called Hon. Chepkurui Eidnah Tonui. I believe that is the same name here. Chepkurui Edinah Tonui, how is it that you ---

*(Sen. Olekina spoke off record)*

**The Speaker** (Hon. Kingi): You are off record, Hon. Senator.  
Proceed, Sen. Veronica.

**Sen. Veronica Maina:** Thank you, Mr. Speaker, Sir. I want to refer you to County Assembly documents, volume 4A on page 28. There is a report there. The electronic voting system results audit indicating that Hon. Cheruiyot Martin Kiplangat voted at 19.26.12 seconds. Did you actually vote on any system that day either on phone or on the computer that was in the Assembly? Did you vote?

**Hon. Martin Cheruiyot:** I did not.

**Sen. Veronica Maina:** You did not vote? So, this is a false document what the County Assembly has brought or have you changed your mind about the vote you put on that day and following what you have alleged in your affidavit that you think this system came without a proper tendering process and was installed at the night? Did you change your mind because of the way the system was introduced as a voting system during the impeachment proceedings?

**Hon. Martin Cheruiyot:** I never voted.

**Sen. Veronica Maina:** So, you want to tell Senate this is a false document that has been brought by the County Assembly of Kericho on the report on the voting electronic voting system?

**Hon. Martin Cheruiyot:** They did the voting by electronic, but I did not vote.

**Sen. Veronica Maina:** Was there a system that day that was used by MCAs to vote? Did you see any system in the Assembly?

**Hon. Martin Cheruiyot:** There was no - it was using MCAs phones.

**Sen. Veronica Maina:** So, nobody voted on a desktop or laptop? It was just the phones?

**Hon. Martin Cheruiyot:** I remember there was a laptop for those Members who wanted to be assisted. They were told that they can be assisted to vote.

**Sen. Veronica Maina:** Were any Members assisted that day?

**The Speaker** (Hon. Kingi): Sen. Veronica, you are not cross-examining the witnesses. You are supposed to--- I know you are a lawyer, but, in this instance, you are a Senator.

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Proceed, Sen. Eddy.

**Sen. Oketch-Gicheru:** *Mheshimiwa*, in your affidavit you say that you participated in the proceedings, that is on page 113. On page 114, you say you abstained because you are not trained on the use of electronic. Now you and I are called upon to hold governors accountable.

I hope you are familiar with Article 159 of the Constitution which says that where there is procedural technicality, we must give substantive justice, anyway. Your reason for not voting is because you are not trained in the use of electronics. You follow the proceedings there. You followed the proceedings there and you have followed the proceedings here, where there are glaring issues that have been raised in this case.

Do you believe that the issues that have been raised in these proceedings and in your proceedings in the Assembly are issues that are tantamount to impeaching the Governor? This is because your reason here is not because the issues have no merit. It is because the electronic system was not – you were not afforded the training grounds. As an MCA, do you believe that the issues that have been raised here and in your proceedings are issues tantamount to the impeachment of the Governor?

**The Speaker** (Hon. Kingi): Sen. Kisang.

**Sen. Kisang:** Thank you, Hon. Speaker. This is the first witness who is testifying for the Governor. If he is the best witness, I think the Governor is cooked. This is because you cannot be reminded to come to work and carry the tools of work. As Sen. Asige has said, that is common sense. You cannot go to school without your books.

Hon. Speaker, the MCA has confirmed that there was a laptop that was used to assist those who could not vote. How come the 18 of them could not volunteer and go to be assisted or walk out because they did not agree with the process? In this House, sometimes when we do vote, if the Minority side are aggrieved or they are not agreeing with us, they walk out. How come you did not walk out or go to the clerks to assist you to vote?

**The Speaker** (Hon. Kingi): Sen. Lomenen.

**Sen. Lomenen:** Thank you, Mr. Speaker, Sir. I wish to ask the witness, *Mheshemiwa*, Did you participate in impeachment Motion?

**Hon. Martin Cheruiyot:** Yes, during the debate I was there.

**Sen. Lomenen:** Did you vote?

**Hon. Martin Cheruiyot:** I did not vote.

**Sen. Lomenen:** Which means did you use to vote?

**Hon. Martin Cheruiyot:** I did not vote.

**Sen. Lomenen:** Did you see the other 17 vote?

**Hon. Martin Cheruiyot:** I did not see them vote. When the Speaker directed that the voting should take place, one Member; Hon. Paul Bii, stood on division and requested that voting be done on roll call. All of us, the 18 Members stood because we suspected and feared manipulation on this voting process. I also feared manipulation.

**Sen. Lomenen:** Confirm you were 17 and not 18. Did you see Edinah vote?

**Hon. Martin Cheruiyot:** I did not see Edinah vote, but she stood when the rest of the Members stood up.

**The Speaker** (Hon. Kingi): Yes, Sen. Wakoli.

**Sen. Wafula:** My first question to the hon. Member is; are these phones that messages were sent to County Assembly phones or personal phones? Secondly, did you receive any SMS in your phone reminding you that you were supposed to connect with the system to vote?

Thirdly, we have our Serjeant-at-Arms who usually check these systems to see if signals are working. When you were getting into the House, did your Serjeant-at-Arms check to confirm if there was Wi-Fi or data so that when they call to vote, you are updated?

**Hon. Martin Cheruiyot:** Mr. Speaker, Sir, I request that you allow me to respond to what the hon. Senator has asked, that if my phone is personal or the Assembly's phone and then I will go to the rest of the questions from the rest of the Senators.

My phone is my personal phone and not a County Assembly phone. He has asked if I received that message in my phone. At that time of voting, my phone was in the car. Therefore, I did not vote. Later on when I got my phone, that message was there. The SMS had been sent to my phone. However, at that time, I did not have my phone. I did not open that message.

Even as we speak today, that message is there and I have never opened it. Hon. Senators, you know when a message comes to your phone and you click to open, it shows that you have opened the message. Considering my fear of the manipulation of the voting, I feared getting into the link.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Sen. Hezena.

**Sen. Lemaletian:** Thank you, Mr. Speaker, Sir. I seek more clarification from the witness on the phone issue because we know that technology has lately advanced. We now have a screen saver which makes you not see what the person sitting shoulder to shoulder with you is typing.

How did you exactly know that your colleague did not vote? Sometimes, we sit shoulder to shoulder with our colleagues and it is hard to know what someone is doing on their phones. For the other 17 people, I would also like to know if they were sitting in one place or they were confined in one place such that he was able to monitor all of them.

**The Speaker** (Hon. Kingi): Proceed, Sen. Keroche.

**Sen. Tabitha Keroche:** Thank you, Mr. Speaker, Sir. Mr. Witness, you said your level of education is diploma. Looking at you, you are not yet 40. If I, Senator Keroche, said I was analogue, everybody would believe. However, for you, is very hard for people to believe that you ran away because of the system. If I was you, I would have said I did not want to impeach the Governor, but not about the system. Do you have your phone today?

**Hon. Martin Cheruiyot:** Mr. Speaker, Sir, I have it.

**Sen. Tabitha Keroche:** How many times do you forget your phone? One thing I know young people do not forget is their phones. You are talking to your mother which is why I know everything.

**The Speaker** (Hon. Kingi): Hon. Member, you may now respond to the queries.

**Hon. Martin Cheruiyot:** Mr. Speaker, Sir, there was the first question that asked by Sen. Sifuna about abstaining or did not vote. I deliberately did not vote because as I have said, I feared manipulation in this.

Before, when the debate was going on, it emerged even that some four Members, I included, had already been voted on behalf of. The reason I did not vote was because I feared manipulation. That was a question that was posed about making our request known that we needed a voting method of apart from the electronic one. Hon. Paul Bii requested the Speaker to allow us to vote by roll call.

When he stood, he was denied and all of us 18 stood up and call for a Division, but the Speaker directed that electronic system be used.

There is a question about the affidavit of Hon. Edinah Chepkirui that was where the 18 of us swore. She was there and swore in that as one of the 18 Members.

There was a question almost similar to the one I was asked before about my phone at the time of voting. I did not have my phone at that time. It was in my car.

There was another question posed about getting the link that was sent to my phone. I confirm that the link was sent to my phone. Later, when we came out of the Chamber, I saw the message on my phone and I stated that the message is there. I did not open the message. It is evidence that I did not vote that day.

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

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

Madam Temporary Speaker, there is a question of all of us appearing before the Commissioner of Oaths. I think this question was posed by Sen. Olekina. Yes, all of us, the 18 of us, appeared before the Commissioner of Oaths. Also, there is a question that was posed about electronic voting.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed and answer the questions.

**Hon. Martin Cheruiyot:** There is a question also that was asked about the Standing Orders providing for electronic voting. Yes, it provides, but it also provides for the roll call that we requested for. So, the Members who did not vote were not comfortable with the mode of voting. That is why I did not vote. I have said I feared my vote could not be taken lightly since I was not for the impeachment.

There is also a question from Hon. Senator about me having an official role in knowing where a Member keeps their phone. That day, we were sitting almost next to each other. She told me that she also did not have her phone. So, I do not know exactly why she did not have that phone, but I can say by her word of mouth that she did not have her phone.

Also, there was a question of whether I need to be reminded to carry my phone? No, I do not need to be reminded because I always carry it around. However, on this day, I did not have it at that particular time because there were many calls coming from my people on the ground. This was a weighty matter that needed a lot of attention. I did not want a lot of interference from the callers. So, I kept it in my car.

There was also a question that Hon. Senator asked if I had come to make fools out of the Senators. No, kindly, I have come to give my evidence and this is a House of honour and we regard it highly.

There was a question also that was raised by Sen. Cherarkey regarding whether I have reported to Powers and Privileges. No, I have not reported.

There is also another question referring back to Hon. Edinah, about the phone that was asked by--- It is a similar question that was asked by an hon. Senator about whether we planned to leave our phones outside or elsewhere, away from the Chamber. We did not. Each Member had an application on his or her own to do whatever it is with their phone.

I think I have responded to what our Sen. Olekina asked about going to sign the affidavit.

Madam Temporary Speaker, there was a question that you also posed, where you wanted me to confirm whether I voted at 9:26. I confirm that I did not vote.

Sen. Oketch Gicheru asked a question about the proceedings of the House and the reasons for not voting. On this one, I say I did not vote. As I have stated, I feared a lot of manipulation in this. That is why I did not vote.

That is my submission. Thank you.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Tabitha, I will allow you indulgence to ask just one question, then the witness will respond to it.

**Sen. Tabitha Mutinda:** Thank you. My question is very simple. Does your phone have a password? Answer 'yes' or 'no'?

**Hon. Martin Cheruiyot:** Yes, it has a password.

**Sen. Tabitha Mutinda:** Thank you. Just leave it at that. So, nobody could access the voting, if your phone has a password? Leave it at that.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Mumma, proceed.

**Sen. Mumma:** Thank you, Madam Temporary Speaker. I would want to understand what the hon. Member was going through during this impeachment hearing?

**Hon. Martin Cheruiyot:** Yes.

**Sen. Mumma:** Were there issues? The issues that have been raised before us, did you find them weighty enough to impeach the Governor, that your only problem was the method of voting?

**Hon. Martin Cheruiyot:** No, I did not support the impeachment of the Governor, and I, myself, wanted to vote "no" on the impeachment of the Governor. However, as I said, I feared manipulation of the votes. I did not trust the electoral process. That is why we had requested for the roll call.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Lomenen, proceed.

*(Sen. Mwaruma spoke off the record)*

Sen. Mwaruma, it is reading Sen. Lomenen on the dashboard. Are you sitting on his desk?

**Sen. Mwaruma:** So, my question to the witness would be, the Speaker had ruled that electronic voting was going to be used. Now, you decided the 18 or 17 of you, that you would not vote. What was the expected consequence? Did you think that the whole

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vote will be annulled, by virtue of the fact that some of you have refused to vote? If that is a consequence that you expected, can you invoke that part of the Standing Orders that you relied on, to annul that vote? This is because whether you vote or not, the vote will still count when others have voted.

**Hon. Martin Cheruiyot:** Thank you, Madam Temporary Speaker. Hon. Senator, as I have said, the 18 of us---

Let me talk of myself. Since we had not been inducted on the mode of electronic voting, we had requested the Speaker to give us a leeway to use roll call voting for the process because we believed it was a transparent way. Since he directed that it should continue that way, the 18 Members who had requested for use of the roll call voting never voted, but the process continued. The 29 Members were in support of the electronic voting system. After the voting, the results were that 33 Members voted, whereas there were 18 Members who had requested otherwise. Their votes were not captured because they did not vote. Our fear was that there could be manipulation. That is why we declined to vote.

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): Witness, you are still not discharged. Let us listen to Sen. Karen Nyamu and Sen. Peris Tobiko in that order.

**Sen. Nyamu:** Hon. MCA, you have stated that you did not vote because you feared manipulation. Manipulation by who and who had the administration rights during the proceedings of the Governor's impeachment?

**Hon. Martin Cheruiyot:** Madam Temporary Speaker, since the Speaker declined to allow roll call voting, we feared manipulation by the Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. Peris Tobiko.

**Sen. Tobiko:** Thank you, Madam Temporary Speaker. Mr. Witness, were all the MCAs present in the Chamber during the voting and in your observation, how many voted "Yes" and how many voted "No"?

**Hon. Martin Cheruiyot:** Thank you, Madam Temporary Speaker. All the 47 MCAs were present in the Chamber. Since 18 Members did not vote, I expected 29 to have voted. However, at the end of voting, it came out that 33 voted, yet 18 Members did not vote.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. Margaret Kamar.

**Sen. (Prof.) Kamar:** Thank you, Madam Temporary Speaker. *Mheshimiwa* MCA, I am a bit confused. You keep on saying 18 of you did not vote. We have listened to all the questions that have been raised and, at one point, you disowned Edinah. Did the 18 vote? Are you still confirming that actually 18 did not vote?

Secondly, did you have a meeting of 18 where you made up your mind that you were not to vote, such that if Edinah says that she did not vote, then she would have betrayed the group?

**Hon. Martin Cheruiyot:** Madam Temporary Speaker, let me confirm that we were 18 who did not vote completely because, at that time, the 18 included Hon. Edinah who stood with us together with the other hon. Members. Therefore, 18 Members did not vote.

Secondly, Sen. (Prof.) Kamar, we have a video of the 18 Members who never voted---

*(Sen. (Prof.) Kamar spoke off record)*

**The Temporary Speaker** (Sen. Veronica Maina): Sen. (Prof.) Kamar, you know the right way to request for that.

Proceed, Sen. John Kinyua.

**Sen. Kinyua:** Madam Temporary Speaker, thank you---

**The Temporary Speaker** (Sen. Veronica Maina): What is your point of order, Sen. (Prof.) Kamar?

**Sen. Kinyua:** I cannot be out of order.

**The Temporary Speaker** (Sen. Veronica Maina): Resume your seat, Sen. Kinyua. It is a Special Sitting.

**Sen. (Prof.) Kamar:** Sorry, Madam Temporary Speaker. I was trying to intervene because the hon. MCA is not answering my question. He is insisting that the 18 voted. Edinah is insisting she did not vote. So, I am asking him, are you going on record to tell us that Edinah is lying that she voted and yet she did not vote?

**Hon. Martin Cheruiyot:** Madam Temporary Speaker, Sir---

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Margaret, when the witness gives their answer whether good or bad, that answer will help the Senators to determine how to vote. So, he is entitled to the answer he wants to give.

**Hon. Martin Cheruiyot:** Madam Temporary Speaker, let me request that you allow me to respond.

**The Temporary Speaker** (Sen. Veronica Maina): Please, proceed.

**Hon. Martin Cheruiyot:** I have said the 18 did not vote. I did not say they voted. The 18 members did not vote and why? It is because later when the results were declared, because we had to register the complaint, all the 18 Members went to the DCI Headquarters to report and investigate the process of voting. That is what I was saying that there is a clip to that effect showing that the 18 members did not participate in the voting process. They did not vote.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. John Kinyua.

**Sen. Kinyua:** Thank you, Madam Temporary Speaker. My question to the hon. Member is: Can the HANSARD of the Kericho County Assembly vindicate you that you protested the electronic voting? If it is so, there is a provision in your Standing Orders that, if you agreed with the impeachment of the Governor, you were to vote "Yes." If you did not agree, you were to vote, "No." If you were confused of what to do, you abstain. What was so hard for the 18 of you because you were not agreeing to vote "No"?

Thank you, Madam Temporary Speaker.

**Hon. Martin Cheruiyot:** Thank you, Madam Temporary Speaker. As I said, myself I was to vote "no" but there is something that I have said and I will just repeat it again, that I really feared because I did not trust the electronic process. I feared manipulation in this electronic voting because my name had emerged before that I was among those who had been voted for even before the voting process began. So, I chose not to vote completely. I chose not to vote completely.

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Also, even from the HANSARD and from the clips in the County Assembly, it is very clear that those Members who chose not to vote stood and they can be counted from 1 to 18. It is very clear.

Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): The last question will come from Sen. Seki Lenku and then we will close the evidence from that witness.

**Sen. Seki:** Thank you, Madam Temporary Speaker. Hon. MCA, I want to believe that whatever you were saying here is the truth and from what I have learned you have really tried to balance yourself. I want to agree that you know exactly what is all about the County Assembly. Does it mean that you have been forced by the Executive to change your mind and say that you did not vote while you voted because it seems you voted? Can you tell this House that you did not vote and that is all rather than try to double-speak.

**Hon. Martin Cheruiyot:** Thank you, Madam Temporary Speaker, thank you, Hon. Senator. If you could allow me, I have my phone here with me right now. I did not vote and it was voluntary. Nobody compelled me not to vote or do otherwise. If I had voted, I would have voted no for the Motion of impeachment of the Governor. I was opposing the Motion on Impeachment of the Governor.

I did everything willingly. Given a chance at this time, I will still vote no to the Motion on impeachment of the Governor. I did everything willingly. In fact, immediately after the voting process, we proceeded willingly to the Directorate of Criminal Investigations (DCI) to report the improper way of how it was voted. Even coming to the Senate, I have not been forced. I volunteered myself and I am willing. If given a chance, I will vote no even today on the Impeachment Motion.

Thank you.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you. I want the Clerk to confirm we now have the report from the independent ICT expert, so that we can see whether we can take proceed to take that. There was an earlier ruling from the Chair that it should be produced today.

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

You may resume your seat.

*(The Witness for the Governor (Hon. Martin Cheruiyot) resumed his seat)*

The report is not ready. I wish to direct the Clerk that that report be tabled tomorrow at 9.00 a.m. when the Senate session resumes. That then amounts to a variation of the earlier ruling by the Speaker.

The Governor's team will have two hours 40 minutes for evidence of remaining witnesses, if any, and the County Assembly will have one hour 30 minutes for cross-examination of the witnesses that will be called tomorrow by the Governor's team.

**ADJOURNMENT**

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, it is now 6.43 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until tomorrow, Friday, 29<sup>th</sup> August, 2025 at 9.00 a.m.

The Senate rose at 6.43 p.m.