



**REPUBLIC OF KENYA**

**BOMET COUNTY ASSEMBLY**

**ASSEMBLY DEBATES**

**(OFFICIAL REPORT)**

---

**DAILY HANSARD**

---

**Tuesday, May 5, 2015**

**PLENARY**

May 5, 2015 (Afternoon Sitting)

**COUNTY ASSEMBLY  
OFFICIAL REPORT**

**Tuesday, May 5, 2015**

**The House met at 2.43 p.m.**

**[The Hon. Speaker (Hon. G. K. Kipng'etich) on the Chair]**

**Prayers**

❖ **COMMUNICATION FROM THE CHAIR**

❖ **THAT THERE IS COMMUNICATION FROM THE REGISTRAR OF PARTIES NOTIFYING ON THE EXPULSION OF NINE OF THE MEMBERS OF UNITED REPUBLICAN PARTY WHICH NOMINATED THEM TO THE PARLIAMENT**

**Hon. Speaker:** Honourable members, I have one communication from the Chair; this morning I received communication from the Registrar of Parties notifying me of the expulsion of nine of our members of United Republican Party which nominated them to this Parliament. Honourable members, allow me to read the said communication from the Registrar; it is Office of the Registrar of political parties dated 4<sup>th</sup> May 2015, ref. no RPP/FRP/026, volume 2 in quote 4 and it is addressed to the Clerk, Bomet County Assembly, P.O. Box 590, Bomet and it reads, Dear Sir, and the subject matter is, Re: the expulsion of URP nominated members of the County Assembly for Bomet County. The Office of the Registrar of Political Parties (ORPP) is mandated under section 34 of the Political Parties Act to inter alia;

- (a) to register, regulate, monitor, investigate and supervise political parties to ensure compliance with the Act
- (b) To maintain a register of political parties and their symbols
- (c) Ensure and verify that no person is a member of more than one political party and notify the Commission

In accordance with section 14(3) and (7) of the Political Parties Act 2011, the office received communication in reference to the above subject matter from the United Republican Party (URP) on the expulsion of the following nominated members of the Bomet County Assembly pursuant to the URP constitution article 12(c) and 30(3);

1. Hon. Taplelei Rotich – ID No 4438960
2. Hon. Hellen Chepkurui- ID NO 22722094

---

May 5, 2015 (Afternoon Sitting)

3. Hon. Josephine Chepkoech Rotich- ID NO 31177184
4. Hon. Bency Chepkorir Too- ID NO 14579208
5. Hon. Rose Cherono Boiyon- ID NO 12922991
6. Hon. Nancy Chepkirui- ID NO 22873968
7. Hon. Aurelia Chepkirui- ID NO 22873968
8. Hon. Beatrice Chebomui- ID NO 8641492
9. Hon. Patrick Chepkwony- ID NO 28974822

In the same letter, the URP office requested this Office to notify your office of the same; please find enclosed copies of the expulsion letters, minutes of National Executive Committee meeting held on 7<sup>th</sup> April 2015, 30<sup>th</sup> April 2015 and a copy of the URP Disciplinary Committee Report; yours faithfully, Lucy K. Ndungu, (EBS), Registrar of Political Parties and it is signed by the said Lucy K. Ndungu, (EBS), enclosed are four copies; copy to the Speaker, Bomet County Assembly, P.o. Box 590, Bomet, Hon. Elias Barre Shil, Chairman, URP, P.o. Box 590, 74210-00200, Nairobi, Chairperson, Independent Electoral and Boundaries Commission, 6<sup>th</sup> Floor, Anniversary Towers, P.o. Box 45371 Nairobi and copies to;

- Hon. Taplelei Rotich – Bomet County Assembly, P .o. Box 590, Bomet
- Hon. Hellen Chepkurui - Bomet County Assembly, P .o. Box 590, Bomet
- Hon. Josephine Chepkoech Rotich- Bomet County Assembly, P .o. Box 590, Bomet
- Hon. Bency Chepkorir Too- Bomet County Assembly, P .o. Box 590, Bomet
- Hon. Rose Cherono Boiyon- Bomet County Assembly, P .o. Box 590, Bomet
- Hon. Nancy Chepkirui- Bomet County Assembly, P .o. Box 590, Bomet
- Hon. Aurelia Chepkirui- Bomet County Assembly, P .o. Box 590, Bomet
- Hon. Beatrice Chebomui- Bomet County Assembly, P .o. Box 590, Bomet
- Hon. Patrick Chepkwony- Bomet County Assembly, P .o. Box 590, Bomet

That is the communication from the Registrar of Political Parties and the said communication has serious implications on the membership of the House and I think the import of this is that the

---

May 5, 2015 (Afternoon Sitting)

said nine members are no longer members of URP and hence deemed to be no longer nominated by the said party to this House and they cease being members of the Assembly and therefore, based on that, not unless otherwise, there is other communication to the contrary, they are deemed to be strangers in the Assembly because of that denomination by the Party. I know it is very hard but that is the communication from the Party and I request them to leave the Chambers, and I hope they have received the said letters; unless there is further communication from the Party. Yes, honourable Taplelei.

**Hon. T. Rotich:** Thank you. I don't know whether to call what I am saying a maiden speech. I want to find out that since we came to this House through gazettelement and since degazetting has not been served to the Assembly as well House, I don't think what has happened is absolute as we have initiated other processes and they are going on right now so we wait as an Assembly for the degazettelement since that is the official thing and we came to this House only after being gazetted; so lets us wait for the degazettelement since that is the official thing that we have been removed from being members of the County Assembly and I know this is part of the intimidation of what is going on and even today it was being planned so that the CEC Finance can...

**Hon. Speaker:** Honourable Taplelei, you are out of order and I wish that you withdraw. I kindly ask that you that you withdraw unless you have any evidence that this is a kind of intimidation. I think it is not fair.

**Hon. T. Rotich:** This issue started with the Rose (Kositany) issues and that is why I am attaching it; it might of course not be from this House but from elsewhere.

**Hon. Speaker:** Honourable Taplelei, you are out of order and I wish that you withdraw

**Hon. T. Rotich:** I withdraw and I wish that you will consider that second part of the degazettelement.

**Hon. Speaker:** I will proceed to inform the IEBC because these are the people, based on a case in Garissa, have the final say and it is good you have said you have initiated other processes as you still have other options; meanwhile I request you...yes, honourable Rotich.

**Hon. D. Rotich:** The only thing the law accepts is degazettelement. Even during the time of election members could not come in unless they were gazetted and it also means that it is only when they are degazzeted that they become strangers in this House. Thank you.

**Hon. Speaker:** I think if you read section 19, it is the Speaker who writes to the IEBC and he cannot do degazzetement. After this, the IEBC takes up the matter; that is why the letter is copied to them.

---

May 5, 2015 (Afternoon Sitting)

**Hon. T. Rotich:** So what is the ruling then? Do we wait until we get the report from IEBC?

**Hon. Speaker:** My ruling is this; based on your expulsion from the Party, and no one has challenged your expulsion, and I have not received any other communication, this is the only communication, I kindly request you to leave the Chambers, based on that, and I hope every member has received a copy.

**Hon. T. Rotich:** Honourable Speaker, I am just hearing it from you. I have not received any.

**Hon. Speaker:** Please come Clerk.

*The Clerk walked to consult the Speaker*

**Hon. Speaker:** I am being informed some have received. So, maybe, for those who have not received, they can kindly be able to take the letters from the office of the Clerk. Honourable Serbai.

**Hon. R. Serbai:** Thank you honourable Speaker. It is a very unfortunate afternoon that some of our members are leaving us today. But, Honourable Speaker, we really want to say that let us control our emotions. We cannot attach the expulsion by the party to the issues and transaction of this House. We cannot attach the report of honourable CEC Cheruiyot to the expulsion, but, I just want to request our colleagues that you follow the due process and that due process will save you. We cannot, as an Assembly, say that let us do this, because it is not binding. And let us not mislead our colleagues by debating on the same matter in this House because it will not assist. Even if we debate until evening, it will not assist. We have quoted the Political Parties Act, we have also quoted the URP constitution and that is what we are going to abide by. It is only that we are just praying for our colleagues that you just go and defend yourself in a court of law. There is still room. It is also our prayer that because there is still room, God will see through your problems. Let us not try to mislead each other by saying if we debate today we are going to save them. Some Members here are trying to portray themselves as if they have that love for the other Members yet inside their heart they are cheating the affected. We, as the elected, we are not affected by this but we are affected because these are our sisters and brothers. However as we are going on, no one should mislead the nominated; they should be advised accordingly as far as the legal matters are concerned so that they can be safe. These other issues of bringing in politics will not assist our colleagues but will take them into the very path of the hole. Let them follow the due process and I think in due course we are going to be with them. Thank you.

**Hon. Speaker:** Honourable Bett

---

May 5, 2015 (Afternoon Sitting)

**Hon. R. Bett:** Honourable Speaker, mine is just but a question. When URP decides otherwise, there are some other structures within which political parties will act upon. I wanted to ask the honourable Speaker, is it enough for the communication from URP for the registrar for political parties to be just but a conduit of letters to this Assembly? And subsequently, a pronouncement from your desk that such people should cease being Members of this County Assembly. That is just a question. Are there any other avenues? We know that there are always avenues whereby a court of law is going to be followed. The rule of law will have to be followed, but I am only asking in this context of disciplinary measures and pronouncement in the Assembly, is it enough that any letter, that the national executive of URP...is it enough that those letters can only pass through the doors of political parties without investigation? And they just learn in this Assembly and subsequently you declared that the Members should not be sitting in this Assembly until such a time that other communication is brought forthwith. Thank you.

**Hon. Speaker:** Honourable Members, I know we don't usually debate on the communication from the Chair, but, given this is an exceptional circumstance I have allowed so that we can deliberate a little. To answer honourable Bett; if you read through the Political Parties Act, the people who declares is IEBC. That is why I will need to write a letter to them. The work of the Speaker is, at least, to communicate and be able to state, because by virtue that URP has expelled the Members. The same party nominated them here. They petitioned the political parties, and this is what I have received. So that we will not be able to engage ourselves much, I kindly request, honourable Members, I kindly request...honourable Helen... honourable, I think am going to give honourable Helen because I do not want to open a debate.

**Hon. H. Chepkirui:** Thank you very much. As I get out of the door because of the communication from the Chair, I should like to inform this House that, the letter that I was given was saying that 'referring to the first summon' that was done last year. But I had not been summoned. Was it fair? Was it humane?

**Hon. Speaker:** Honourable Kirui.

**Hon. L. Kirui:** Just to seek information honourable Speaker, from your Chair. I don't know honourable Speaker, whether it should only be when the Members have been de-gazetted that they cannot be allowed to be in this House? Because I think they are here in the virtue of being gazetted and I think they should also leave this House in the virtue of being de-gazetted. It is just seeking information because I don't have enough information.

**Hon. Speaker:** I think going through that section 19, it is very clear on what it says. It is the Speaker when he communicates that. I think, even though the Speaker has that power to declare, but I think, for me, I choose that so that it can go to IEBC. If you read through the law, clearly,

---

May 5, 2015 (Afternoon Sitting)

you will see a lot of inconsistencies. I like what honourable Taplelei said, already they have started the process. Mine was just to communicate and let us not personalize this. I want to request, so that we can proceed, the Members who were nominated, to kindly...

**Hon. T. Rotich:** I think, unfortunately I have not read the letter, the letter must have come to you as an information awaiting, because the people who de-gazette is IEBC which they have now copied. They are supposed to start now the process, the IEBC, and de-gazette. But, yours was just the information and it was good for the Members to have the information. But what I do not like is the part that now you are making the total judgment of having us out, when we still have a fair chance of still moving. You are supposed to wait now for the official communication that we are completely out then you can now take action on that. I don't think the letter, although I have not read, is really asking you to send us out of the Assembly. They are informing you that this is what the party has done, and then the political parties will deal with that and give the IEBC the information. The list to be de-gazetted.

**Hon. Speaker:** Honourable Member that is your interpretation. So that we proceed, let's just request...the Members have a lot of...I think honourable Members, let's not...we will go on with this debate. Honourable Chebomui... Honourable Members, please, we cannot debate on the communication from the Chair and what you want to engage is debate on a communication from the Chair. The mere fact that I have given you, at least, a few minutes... I want to kindly request, a humble request, that as per that communication, the nominated Members should be able to leave. Honourable Members, you are making me lose my...what is it honourable Chebomui?

**Hon. B. Chebomui:** I think it's rather a question, because, I came in, honourable Speaker, when you had already communicated. I really wanted to know what time did you receive the letters? Because me I have not seen that letter.

**Hon. Speaker:** Honourable Kirui...

**Hon. L. Kirui:** Honourable Speaker, just as an example; I think when these Members were being nominated; the first thing that happened was that everybody was aware that he or she had been nominated. But they were not allowed to enter this House, until they were gazetted. That was the time they were allowed to come to this House. The same case applies to this honourable Speaker...

**Hon. Speaker:** My question for you is; which section says they need to be de-gazetted? Just quote for me the section. And I will be satisfied. What is the procedure? Honourable Members, what is the procedure? It is a very simple question that I am asking. If you have the procedure, quote for me and I will be satisfied. That is all am saying!

---

May 5, 2015 (Afternoon Sitting)

**Hon. L. Kirui:** Honourable Speaker, I was the one raising this, and for real, I might not be in a position right now. But, I was going as per the example...

**Hon. Speaker:** And that is exactly what am seeing, you know this is a very critical area. Honourable Bett.

**Hon. R. Bett:** The mere question Mr Speaker is, a process is started, when the process when they were being nominated, as Mheshimiwa Kirui has said, when they were being nominated, there was a pronouncement from the party that so and so has been nominated by the party to be Members of the County Assembly of Bomet. Subsequently, they give out those names to political parties and, thereafter, Mheshimiwa Speaker, those names were handed to IEBC. Mr Speaker, the gazettelement was done thereafter, which of course, made those Members to be legitimate elected and nominated Members of this Assembly. So am only saying, if the due process is being followed, then I now, with the letters you received, it is an information coming to your desk, and it is just like a notice of motion, and a notice of motion cannot be dispensed before it is debated on. I think it is not right.

**Hon. Speaker:** Honourable Members...honourable Bett, you are saying it is not right, kindly tell me what is the right procedure? Which section are you relying on? What is your point of order Honourable Langat? Honourable Langat, the honourable Serbai

**Hon. R. Lang'at:** Thank you very much Mr Speaker. This is a day that has befallen us, and I know that this is one of the rare situations that we have come through...what I thought would have been good was when you received these letters, you were supposed to have done some research on what is supposed to happen after that. Because if we communicate like this and I am not sure whether you did some research.

**Hon. Speaker:** That one I assure you honourable Langat. I did research and procedure that I was informed is for me to state what I have stated and then write to IEBC with the copy of the Hansard. That is the research that I have done and reason I have quoted section 19 which only deals with elected members, so it in this case we were looking for a very specific instance until we did consultation and that is how we arrived at that. I could not communicate just like that a situation like this. So honourable Langat let us just proceed. I have also done a bit of inquiries and I could not arrive just like that at such a magnitude issue. In fact reading the law it is providing clearly for elected members and I asked what about the nominated and that is exactly when I was quoting section 19. You see at the end of the day in the absence of the law clear provision because even honourable Kirui there is; yes after gazettelement what happens? Because in the case of the elected it's the Speaker who does what I have done before the other process starts. I know honourable members; I know the nominated members are feeling totally down and

---

May 5, 2015 (Afternoon Sitting)

everybody did not imagine such a situation would come to this. So I just want so that we move forward.

*Several members trying to raise point of orders*

**Hon. Speaker:** Honourable members so that we move and proceed with this I want just to request if there are any other situation then we can be able to; Honourable Taplelei has said they on a process of trying to challenge this but up to now I have not received, so I am just requesting.

*Honourable David Rotich Big Five tried to rise on a point of order*

**Hon. Speaker:** Honourable Big five please, honourable big five please, and I am not going to give anyone. So let us proceed, the member I have requested we will go on with this debate until late in the night. Honourable big five, you know I have just allowed people to debate on the Communication from the Chair based on Standing Order number one and you know you cannot at least debate on it...

**Hon. D. Rotich:** But I am seeing you have breached the law Mr. Speaker. Why should we sit when I am seeing you are breaking the law?

**Hon. Speaker:** Serjeant-At-Arms kindly escort honourable big five out of the chamber. You cannot be a law unto yourself. Kindly escort honourable big five. Honourable big five you should be escorted out. So kindly the nominated member that is a humble request that I have made please I know at least you have started the other process. Honourable Taplelei kindly leave the Chambers. Even if you will be here after a few hours I would not mind. At least if there will be a ruling, let us wait, I will be served then you will come back. I will be served with the ruling first. So thank you very much. Next order!

**Hon Speaker:** Next order

## PAPER

**Hon. Speaker:** Honourable Ngeno.

**Hon. C. Ngeno:** Thank you honourable Speaker for the chance so that I can table the papers before the House. May I table the minutes for public participation on budget estimates 2015/2016 meeting held on April 28 2015 at Chepalungu Sub County in Sigor AGC. Allow me also to table the Medium Term Expenditure Frame Work Budget 2015/2016, 2017/2018 for the year ending June 30, 2016. This is another document also I want to table before the House annual expenditure report 2013/2014 for the first and second quarter and the expenditure report for 2014/2015 . And this is also the last document; allow me also to table before the House that is

May 5, 2015 (Afternoon Sitting)

on the Medium Term Expenditure Framework Budget 2015/2016 2017/2018 and Annual Budget for the year ending June 30, 2016 thank you.

**Hon. Speaker:** I think the documents are now the property of the House. I want to commit them officially to the committee on Budget and Appropriation and they have 21 days to be able to report to the House on all those issues. We can be able to, at least the sectorial committees, especially on the budget estimates they will be able to meet and deal with the committee on budget before the end of 21 days and they will bring a report to this House, next order.

❖ **MOTION**

**THAT PURSUANT TO STANDING ORDER 66(6) AND (9) THE COUNTY ASSEMBLY ADOPTS THE REPORT OF THE SPECIAL COMMITTEE ESTABLISHED TO INVESTIGATE INTO THE PROPOSED REMOVAL FROM OFFICE OF THE COUNTY EXECUTIVE COMMITTEE MEMBER, MR DAVID CHERUIYOT.**

**Hon. Speaker:** Honourable Serbai.

**Hon. R. Serbai:** Thank you honourable Speaker for giving me this chance to move motion number eight. Pursuant to standing order 66(6) and (9) this County Assembly adopts the report of the special committee established to investigate into the proposed removal from office of the County Executive Committee member, Mr David Cheruiyot. Honourable Speaker, we have just gone through the process having been the chairman of the ad hoc committee. Honourable Speaker, therefore I want to say that it is my pleasure and honour to present the report by the special committee to this House set up to investigate the proposed removal from office of the Executive Committee Member of Finance, Mr. David Cheruiyot. The Mandate of the committee, Mr. Speaker, is subject to standing order 66(6) which is to investigate the matter and report to the Assembly within ten days whether it finds the particulars against the CEC of finance Mr David Cheruiyot to have been substantiated. The committee in execution of its mandate was guided by the provision of the constitution, the county government Act 2012 and its own rule of procedure. Honourable Speaker, the committee membership is as follows.

1. The Hon. Robert Serbai, MCA                      Chairperson
2. The Hon. Taplelei Rotich, MCA                      Vice Chairperson
3. The Hon. Reuben Langat, MCA                      Member
4. The Hon. Evaline Chepkemoi, MCA                      Member
5. The Hon. Julius Korir, MCA                      Member
6. The Hon. Wilson Keter, MCA                      Member

---

May 5, 2015 (Afternoon Sitting)

- |                                 |        |
|---------------------------------|--------|
| 7. The Hon. Samwel Bor, MCA     | Member |
| 8. The Hon. Samson Towett, MCA  | Member |
| 9. The Hon. John Chepkwony, MCA | Member |
| 10. The Hon. Rose Boiyon, MCA   | Member |
| 11. The Hon. Benard Ngeno, MCA  | Member |
| 12. The Hon. Philip Siele, MCA  | Member |
| 13. The Hon. Leah Kirui, MCA    | Member |

We had several committee sittings and to be precise we held a total of nine committee meetings and two sittings where the committee went to Kericho Tea research Foundation for report writing. The other nine was utilize in the election of the chair and vice chair, adoption of rules of procedure, confirmation of charges, and interrogation of respondents among other core business of the committee. The committee minutes are next in the report for more information. Honourable Speaker, I want also to believe that all the members have the reports and have gone through it. Honourable Speaker the proceeding of that particular period was so good, and I just want to acknowledge the committee is grateful to the House through the Speaker in its support in executing its mandate. The Committee is also grateful to the Office of the Clerk for facilitating the process and aiding through technical support to ensure it executed it mandate and it is also appreciates all the parties that are involved in the matter namely County Executive Member for Finance who is none other than Mr David Cheruiyot, further the committee extends it gratitude to the Assembly staff namely research depart and legal departments in their commitment, indeed their commitment made it easy for the committee to conduct it work successfully. I wish to express thanks to the members of the committee who sacrificed time away from their families and resident to attend the extended committee sittings and report writing. Honourable Speaker, after we had such a successful sitting, we the honourable members of the committee did affirm our signatures to the report and I believe it is in the IPads and the signatures of the members are there and all the members have gone through. Mr. Speaker, following the tabling of motion on 25<sup>th</sup> March 2015, urging the Governor to dismiss Mr. David Cheruiyot the County Executive Member of Finance on grounds of incompetence, gross misconduct and gross violation of the constitution, and the PFFM Act, honourable Speaker that aware that section 40(1) of the county government act 2012 provides grounds on which the governor may remove a member of the county executive, also aware that this House debated and approved the report of the ad hoc committee to investigate persistent use of overdraft by the county without the approval of the County Assembly; further aware that the committee recommended for the commencement of the removal proceeding from office of the CEC concerned; deeply concerned that Mr. David Cheruiyot in carrying out his role as the CEC Finance has on a number of occasion misled this

---

May 5, 2015 (Afternoon Sitting)

honourable House on crucial county financial matters and that he has repeatedly failed in the tenets of Public Finance Management Act 2012, this House urges the Governor of Bomet County to dismiss Mr. David Cheruiyot on grounds of incompetence, gross misconduct, gross violation of the PFM Act and constitution. Mr. Speaker, the motion was overwhelmingly supported by a majority of members of Bomet County Assembly which was evident on the vote taken during the sitting. Mr. Speaker, as I continue because I believe the members have the report, I just want to go through but want to say a few things about the rules of procedure which is also in annex one for further information. Mr. Speaker, we have the charges preferred against the CEC which include and approved by the committee. Charge one; gross violation of the constitution of Kenya and Public Finance Management Act 2012, unlawfully and procedurally borrowing overdraft and other short term loans contrary to the article 220 of the constitution and provision of section 58, 122, 140, 141 and 142 of the Public Finance Management Act 2012, Mr. Speaker, the particulars are that Mr Cheruiyot on diverse dates between August 2013 and September 2014 breached the law with wanton overdraft by drawing overdrafts and taking on behalf of the county and yet the same had not been approved by the County Assembly as required by the law. The County Government incurred and continues to incur huge losses in form of interests. Mr. Speaker, charge two, particulars are unlawfully altering and misrepresenting critical financial documents including but not limited to the financial year 2014/2015 Budget and Appropriation Act contrary to section 121(2)(b) and 162 of the Public Finance Management Act 2012. Mr. Speaker, the particulars are that sometime between July 2014 and August 2014, Mr Cheruiyot allowed a budget to be uploaded into the Integrated Financial Management System platform that did not conform to the Budget Estimate and Appropriation Act approved by the County Assembly. Unlawfully, intentionally permitted car loan and mortgage scheme that was not anchored in any law. This is contrary to section 102 of the PFM Act. Mr. Speaker, Mr. Cheruiyot allowed an agreement to be executed between the County Government and Transnational Bank regarding a car loan and mortgage facility for the members of the County Assembly of Bomet that was contrary to regulation that he has issued that pursuant to section 116 of the PFM Act. Also Mr. Speaker, he was charged that he unlawfully allowed issuance of cheques in that name of the county government to various groups and societies without any legal regulation. Mr. Speaker, the CEC has allowed the issuance of cheques to certain groups in the county by the Governor that is not backed by any regulation and making it arbitrary and political tool. Mr. Speaker three, Mr Cheruiyot failed to account on several occasions KES 70 million vote head appropriated by the County Assembly for a fund for car loan of members of the County Assembly in the Supplementary Act 2013/2014. Mr Speaker, Cheruiyot has also failed to account for KES 61 million for the building of a new County Assembly Chamber on financial year 2013/2014. Mr. Speaker change three, the particulars are that he unlawfully and intentionally withholding crucial financial information contrary to Article 201 of the constitution. Mr. Speaker, particulars are that

---

May 5, 2015 (Afternoon Sitting)

Cheruiyot has on several occasions deliberately failed to avail crucial financial information when they are required by the County Assembly. Mr. Cheruiyot refused to avail documents and all information to the ad hoc committee regarding overdrafts that had been taken by the county government since inception. Mr. Speaker we have a conference of parties, honourable Speaker the conference of parties was sent on April 7 2014, and Mr. Cheruiyot the CEC for Finance who in this case is the respondent appeared before the committee. The main reason of the conference of parties was to confirm the charges to the respondent to schedule the events and give the respondent a fair hearing among other factor considered by the committee. Mr. Speaker, on the key deliberation on conference of parties, Mr. Cheruiyot confirmed to the committee that he will look at the charges and further told the committee he will respond to the charges in form of a report, of which Mr. Speaker, he responded and we had that conference and we also invited him to appear before the committee of which he complied. Also Mr. Speaker the response are also there and I hope you can allow me to mention how we responded because I believe the members have the response in their various iPads. Mr. Speaker we also go to because I do not want to read the entire report. When we go to page 40 where by that is chapter 4, after the committee went through all these procedure and made observation. These are the observation in order of the charges preferred against Mr Cheruiyot. Mr. Speaker , observation and finding on charge one are that the CEC lied on section 119(4) of the PFM Act and ignored article 220 (b) of the constitution and section 142 of the PFM Act. It also shows that the CEC did not do any research and deliberately ignored the law especially article 212(b) which states that a county government may borrow only with permission of the County Government Assembly and section 142 of the PFM Act which state that the County Assembly may authorize short term borrowing by the County Government for cash management only. Mr. Speaker, as we were actually interrogating him the CEC was evasive on shading light of the overdraft. Mr. Speaker, on first day, the committee noted that Mr. Cheruiyot adopted an evasive approach during his defences. The committee found it strange that Mr. Cheruiyot had not refuted his position on whether an overdraft was a loan facility, which was a subject of a thorough exposition in another committee before which Mr. Cheruiyot appeared. He seems to have refined his position as he requested the assembly to alter such facility in 2014. Mr. Speaker, taking cognisant of the fact that issuance of overdraft was not new to the CEC and has not been subject matter of another committee; the committee arrived at a conclusion that Mr Cheruiyot was making attempts to mislead the Assembly by feigning ignorance. Mr. Speaker, it was not to the committee, the controller of budget had cited Bomet county for irregular taking of overdraft facility and the committee found Mr. Cheruiyot to have adopted the strategy of defence and misleading on PFM Act of person administering over the county finance, in light of the report of the County Assembly on overdraft facility, the report of controller of budget citing the county on overdraft, the committee formed

---

May 5, 2015 (Afternoon Sitting)

the view that Mr. Cheruiyot was unapologetic and evasive. On the charge one, the committee found the charges against Mr. Cheruiyot were substantiated.

Mr. Speaker, observation and finding of charge two, and I believe the charges I have actually read was that on the charge of IFMIS alteration, the committee made a follow up on Mr. Cheruiyot to furnish whether he discovered who altered the budget. The CEC responded in annex 28 on which you will actually find how he responded. The committee also found that Mr. Cheruiyot's explanation was not satisfying, to say the least; he seems not to take the issue with seriousness it deserves. He simply repeated what he had said and concluded that they captured budget passed by the County Assembly. Without actually taking much time I believe the honourable members have read through the observation, and I do not want to read through all the observation and I believe the member to have actually read them. Mr. Speaker, there is also the threshold for removal from office and recommendations which were actually seen through by the ad hoc committee. Removal from office is akin to impeachment and is constitutionally specified on the means by which an official accused of unlawful activity may be removed from office for misconduct. Impeachment is a formal inquiry aimed at making public officers accountable to the people both on the principle that public office is a public trust.

Mr. Speaker, these are recommendation of the committee and the members have them. If you go to page 51, the special committee of the Assembly has further found that the allegation against Mr. Cheruiyot have been approved and taking into consideration the serious of the accusation, the committee is of the opinion that a degree of sufficiency of seriousness as to remove the said Mr. David Cheruiyot from office. The committee further take cognisant of the fact that he has been transferred to another docket, the committee wishes to make it clear that it found no basis to believe that Mr. Cheruiyot was not well placed in the finance docket, in fact the committee found Mr. Cheruiyot possessed the necessary competence but deliberately choose to ignore or refused to adhere to the law. This to the committee was strong indictment of Mr. Cheruiyot personal character as a state officer and for that reason the committee found that Mr. Cheruiyot is not fit to carry any duty in any other office. Mr. Speaker the recommendation by the committee is that in some instances Cheruiyot committed acts which amounted to serious criminal offenses under Kenya law. The committee came across two instances where it found reasons to believe that Mr. Cheruiyot added false document particularly with the forwarding of the CIDP and Fiscal Strategy Paper to the Controller of Budget, the committee is also found that liability also lies in his office. Mr. Speaker, though the committee was unable to pin point evidence there is reason to believe that there were cheques which Mr. Cheruiyot allowed to be drawn while aware that they will be disowned. The committee recommends that this information should be forwarded to relevant authorities for possible prosecution of Mr. Cheruiyot. Also in the process of investigation, the committee came across evidence to the effect that regulation was made to give

---

May 5, 2015 (Afternoon Sitting)

the members of the county executive car loan and mortgage facilities. This car loan and mortgage facilitates raise a lot of issues with the committee which due to its limited time could not delve deeper into it. The committee proposes that the Assembly investigates this matter to shade light on the following issues how did the regulation bypass the Assembly yet they were made pursuant to section 116 of the PFM Act which states that a county executive member of finance may establish a fund with the approval of the county executive committee and the County Assembly. Two is that what is the priority of car loan for the CECs when they are entitled to official vehicles which they use through the week, three if the regulation were made through the advice of the Salaries And Remuneration Commission why was it restricted to CEC and the County Attorney and lastly when and how was the appropriation done for the car and mortgage for the county executive members? Mr. Speaker, those are the recommendation and the other report in the annex attached and I believe members went to through. Honourable Speaker, I therefore urge the House that the kind of problem this House has was observed by the committee, and I therefore urge the House to adopt the report for the county to be safe, I request that for each member who has the heart for this county to support the report and save the county and the residents. Mr. Speaker, I therefore rest my case and request honourable Reuben Langat to second. Thank you.

*Honourable Lang'at seconded*

**Hon. Speaker:** Thank you honourable Serbai and honourable Langat. It is now my turn to propose the question that pursuant to Standing Order 66 (6)(9) this County Assembly adopts the report of the special committee established to investigate into the proposed removal from office of the executive committee member of Finance, Mr David Cheruiyot. It is now open for debate. Honourable Molel.

**Hon. J. Molel:** Thank you Speaker for this opportunity. I rise to support the report because the committee has raised recommendation and to me I just want to follow what the recommendations is all about. The accusation that the committee has raised needs a lot of attention. Mr. Speaker bearing in mind that the CEC Finance acts as the government adviser as far as financial matters is concern. If the CEC member fails to advise the government then the consequences may be a negative one. Mr. Speaker, when we come to overdraft, this is where the CEC has failed and has shown incompetence, the CEC is much aware on the procedures which should be followed to access an overdraft. Mr. Speaker I am not saying overdrafts is illegal but it will be illegal when the process is not followed and this is what has happened. Mr. Speaker, the other time the overdraft facility was requested through this House and indeed the members after considering the importance, never hesitated, Mr. Speaker, when we argue as the members that the CEC violated the law where he never advises the government on how the facility is to be; now it is in a total

---

May 5, 2015 (Afternoon Sitting)

mess. Mr. Speaker, I want also to raise an issue on the bouncing cheque , I wonder how a professional, a member of a finance signs a cheque which can finally bounce, we have witnessed this where a cheque bounces not only in my ward, this is a mess. I want to say I support the report and their recommendation.

**Hon. Speaker:** Honourable Samson.

**Hon. S. Towett:** Thank you for allowing me to stand and contribute to this motion this afternoon. The motion before us has been forced to be before us after going through several stages. The issues that has been raised that even led to the formation of a committee has a lot to do with the operations in the department concerned with funds, how it is used and whether it is used it appropriately. It could not have been our wish to remove a member of executive from office but in our scenario whereby issues have gone through several stages and in every stage allegations laid are substantiated, then the House is left with no other option. The three charges allegations raised before the ad hoc committee over the CEC finance, one, touching on the overdraft, I know the Budget and Appropriation committee have discussed on it and have made a recommendation that the CEC Finance should stick to the provisions of law and ensure the necessary approvals for instance if it provides that the executive committee should meet and approve, if it says the Assembly must approve that must be sought for. The issue of overdraft has become a thorn in flesh for quite some time. And I said the Budget and Appropriation committee have looked at it and made recommendation that were not complied to by the said department. We have also looked at the report by the Controller of Budget, and the overdraft was not approved by the Assembly. We also formed another ad hoc Committee to look at the issue of overdraft and they upheld what was recommended by the Budget and Appropriation committee and what Controller of Budget did. We went further and even asked the CEC to furnish the committee with documents that could support whether the overdraft was approved, and he really promised that the minutes and other documents were available but could not supply them, I know as I said, that committee made this recommendation and it appear again all along the provisions of the committee were not adhered to and this forced the committee to substantiate this overdraft. And I think we should be clear that an overdraft is a loan and if you go to the dictionary, it defines overdraft as a short term borrowing and therefore if it is a loan. And according to us, anything that you take for one minute and it earns an interest, somebody gives you his or her money and you will have to repay back that is a loan. So I know the CEC may not really agree or accept but there no other way we can define overdraft other than that. Looking at the other issues which I said are not compliant with the law, I know the CEC did accept he did not consider the other provisions of law and relied on one section that is section 119(4) which in essence that section doesn't give powers to exercise that particular kind of work to be done. Since this exercise has gone through all those stages I have nothing to add but only support the

---

May 5, 2015 (Afternoon Sitting)

recommendation that were made by that committee and urge the entire House that we go the same way. Thank you.

**Hon. Speaker:** Any other contribution. Honourable Langat?

**Hon. R. Lang'at:** Thank you very much Mr. Speaker, in as much as I want to support this report, there are questions in my mind about where we are going, looking at the moods of this House, the numbers, with all fairness, we require to be as fair as possible. We have children like any other person, but I want to say this House even if we debated to the end of the session, the verdict that will come out will not go anywhere because of the verdict. I was seeing because of the moods, the minds of the members here are divided. Some could be annoyed and the decisions that they may make may not be favourable. So mine is about is to ask, what is the threshold if we were to go through the whole process? Because this House is constituted normally with 35 members, but having communicated that the other people have been expelled and now that we are in this situation, where will be our justice? I say I support this report, but will there be justice? Thank you.

**Hon. Speaker:** Honourable Joyce, then honourable Kirui then honourable Molel.

**Hon. Joyce Korir:** Thank you very much honourable Speaker. For the issue that has been raised by honourable Langat which I think it is very legal, I want to register the departure of our colleagues. The constitution and the County Government Act section (40) where it talks about the removal of an executive member, in number (2) it talks about a MCA supported by one third of all the members of the County Assembly. The one third of this House basing on 26 is 9, I also want to read in the constitution section 152(6) where it talks about a Member of the National Assembly supported by at least one quarter of the whole House may table a motion requiring the president to dismiss a Cabinet Secretary which in this case applies to the County Government. So it is only for this House to decide to adopt the report or to reject. The issue of quorum is attained. Thank you.

**Hon. L. Kirui:** Thank you very much Mr. Speaker for allowing me to contribute to this motion. I want to say as per the order paper it is well indicated that today we were to debate on this motion and I thought I was the only one who has a mood that will not allow me to decide how I should have been in the first case before the incident that happened today. I may not be in line with honourable Langat on the issue of numbers, I think as indicated by honourable Joyce the number is still valid for discussion of this motion but I want us to be human and be realistic that sometimes when we have moods we may decide out of the moods and the decisions we make may not be true decisions. So my concern is that we may defer this motion to even tomorrow just to allow us go back to our moods especially based on what has happened today. Further to that I

---

May 5, 2015 (Afternoon Sitting)

don't think this is the first time for a CEC in the Republic of Kenya to be impeached, but I still have a concern that the legal team it should have assisted us in it because it has happened once in Bungoma and we realized that the court later on rejected what was done by the Assembly. I expected that out of the report that we have here we should have put a paragraph showing us how to do so that we could not be only doing things that will be reversed later on. So it is my request that we defer the motion a bit so that we do away with the emotions that we have and the same time I humbly request that even once sentence concerning this issue be inserted. Thank you.

**Hon. J. Molel:** Thank you Mr. Speaker, I want to inform the member that if it is the question of appealing or a member seeking direction from a court of law, he or she has a right. We don't want to do things here doubting that this one might bounce; so long as we are within the law. The members are right when they talk about the nature of mood in the House today but that does not mean we are in the wrong mood to an extent that the business of today might bring the wrong result. I want to urge the members that today's motion has really come along way, it has come very far. So it is not a surprise that today it has landed in this House and the fact that our colleagues have left this House is shocking. But indeed we have to have the business on as planned.

**Hon. Speaker:** What is it honourable Joyce, can I proceed? I think honourable Langat and honourable Kirui, despite what has happened, honourable Langat you are a member of the House Business Committee and remember last week we were to debate last week and honourable David Cheruiyot requested that we postpone to today since he was attending to some matters in Nakuru where he had been invited by the EACC. On the issue of the number, we have it up to this level; I can see we have the number. And if we can dispense off this motion once and for all because I am seeing everybody is undergoing stress. This matter has been pending and Mr. Cheruiyot also has a right this matter be dispensed with. I think we are within the law in terms of numbers to transact this business in this Assembly, so let us proceed. You might be able to vote elsewhere and you have decided otherwise, in my own opinion, the facts are on the table and it is up to you to vote where you want to vote, no one can compel you to vote otherwise. Honourable Joyce?

**Hon. Joyce Korir:** Thank you very much honourable Speaker, though I have a very heavy heart, I want to say that the motion before this House is going to pave way for correct measures to be taken by the relevant authorities or we move the wrong way. The reason I say this is that as we speak we were handling the issue of the supplementary budget and we had to sacrifice the whole day not even having chance to go out to take a bottle of water because of the challenges that we have been given by the Finance office. It might not be necessarily the CEC concerned who has done this but because this House gave him the mandate to manage that office, he will carry the cross. By so saying I want to support the document that has been tabled before this

---

May 5, 2015 (Afternoon Sitting)

House, This is because of a number of issues that as we speak today no member can deny the malpractices that have been done in the treasury. This is actually a challenge, remember the treasury office is the one that is supposed to drive this county economically but it has failed. The removal of the CEC is well stipulated in the Constitution section (40). The reason why he is being removed is well stipulated both in the County Government Act and in the constitution section (152). As I speak the supplementary budget that we discussed in the morning had a number of issues that cannot be answered by any member of this House and even the report given by the relevant committee stated clearly that they cannot tell the vote heads that were being moved from one side to the other. The 2014/15 budget does not match with whatever has been done; a good example is the issue of the ECD classes where this House passed a budget of KES 138million and infrastructure of KES 115 million making a total of KES 250 million. As we speak only 60 schools have received the funding at a tune of KES 300, 000 that makes about KES 20 million. I am a member of education committee and today I can't tell where the rest of the money went because if you ask about it no one can tell you. Remember the good Governor of this county has also gone to an extent of being given the AIE's of the relevant office of the treasury to distribute the same AIE's to distribute to all the proposed ECD schools which has even informed Infotrak to rank this county as number four yet nothing has been done on the ground. The same office is the one that has been writing bouncing cheques to as number of schools instead of providing legal advice to his Excellency the Governor. And that is why this county is now in a mess, the Committee on Budget cannot even tell whether the schools that have been given money have received or not. Same thing to the issue of ECDE where as we speak right now, it is in the floor of this House that Governor is seeking a loan of KES 124 million to enable him construct the ECDE classes. The 124 million was already budgeted for in 2014/15 budget at KES 138 million and as I speak right now, no classes have been completed and nobody is ready to answer that. Not only that, let us go to the issue of stadium, it was passed in this House, the name of the contractor was never given but there was a construction at cost of KES 50 million and as we speak the construction of the stadium has taken a lot of money removed from other vote heads including ECDE, infrastructure among others. And they have used the same money for the construction of the stadium and it was never approved by this Assembly. Neither the structure nor the design was given to this Assembly nor was any other relevant authority given for approval. And they have used a lot of money; the CEC for Education told the committee that they have used KES 111 million and I am sure that the CEC for Finance can also confirm that the stadium has used money up to a tune of KES 187 million contrary to the KES 50 million that was approved by this House. Remember the CEC is given power by the PFM act to interchange the vote heads, unfortunately it supposed to be approved by the Assembly. On the issue of bursaries, remember these are elected members and they want to come back in 2017 but because of the good heart of the Excellency the Governor, he has decided

---

May 5, 2015 (Afternoon Sitting)

on whom to give the bursaries to an extend of giving some sub-counties KES 5million while others get KES 3 million. The basis is not explained. The Supplementary Budget that was passed in this House is the one that has a lot of issues to an extend that what we passed last year on Supplementary Budget carried KES 70 million meant for the car loans for the MCAs. Unfortunately, the said Supplementary Budget was never used and that is why the same treasury office is today giving us a Supplementary Budget giving us room to pass KES 30 million that has already been repaid. We pass it so that they can be comfortable. Unfortunately they have not explained whether this KES 30 million is for clearing or a start of KES 70 million that the members have taken. I must thank the members of this House for returning the KES 30 million in the Supplementary Budget. I have heard that the Governor has called a number of members that he is not going to sign the document unless we do what he wants. I wonder then why do we have this document then in this House? Why don't the Executive don't do it and pass it on their own. As we speak members sacrificed KES 30 million meant for car loan to be reallocated to ECDE sector that is now asking for a loan making the ECDE sector in the Supplementary Budget that was passed to KES 109 million contrary to what we passed. These are the messes that are done by the treasury. As we speak a number of roads are in a total mess, the CIDP is not an issue, the Fiscal Strategy Paper is not an issue, the budget estimates does not match. The same office is expected to guide the political arm be it the Governor or the Legislative arm but they have gone ahead to do what is not right. A number issues have been raised be it forgery, contracts, tenders which are being done by the treasury office, what does the Constitution say? Chapter 6 talks of conduct of public officers. Mr. Speaker, enough is enough we had about KES 40 million that was set aside in the Supplementary Budget and you can convince me that it the Supplementary Budget was never used. The Supplementary Budget and the Budget 2013/2014 had also KES 40 million meant for construction of a tea factory but nothing was ever given. But the other day when we were called by the EACC, I was shocked to learn that the treasury had paid KES 5 million of the KES 40 million that was supposed to be given to the said factory. Another issue that the members may not be aware is the tea buying centres, I have seen a document from the treasury that they have already done some tea buying centres to a tune of KES 8 million, and there is a cheque of KES 5 million and another of KES 3million. As I speak, I come from a tea growing area and no tea buying centre has even been constructed. As we speak today, the same office went ahead to pay for the mortgages, car loans which will also affect the members of this Assembly because it will not appear in any of the vote heads if they never used the Supplementary Budget. I wonder who are these people who are manning the treasury to a situation where they cannot advise legally. I remember the other time when I asked the same CEC, Mr. Cheruiyot on who is supposed to administer the funds and they were telling me it is the Clerk. I asked him three times and he insisted it is the Clerk yet they have removed the role of clerk and taken it to the treasury. The budget which is supposed to be made by the Assembly

---

May 5, 2015 (Afternoon Sitting)

Clerk is also made by the treasury. They expect the Assembly to approve the malpractices that they do. This county is rotten, as we speak they gave us a number of issues in the supplementary budget where they just want us to rubber stamp yet there no money. It is so shocking that the said office has been going round telling the members of public that the percentage of development in this county is 58 per cent, it was so shocking to learn today that the percentage of development budget in this county is 25 per cent. I wonder where the county is going, with the number of issues that are pending on the ground, go to water, go to the resources, and go to revenue. They give us things that do not tally; they do things that do not pass the legal process. The revenues that have been collected so far are KES 131 million and they are telling us within two months they can collect 400 million. What a miracle? They normally say in *Swahili* '*Mjinga akierevuka mwerevu yu mashakani.*' The Assembly is aware, though they were denied money to go for an induction and to be facilitated to go for training but I thank God because of a number of well-wishers who have come out to assist the legislators of this County Government to assist them in terms of learning on the procedures of making a budget, the procedures of handling a number of issues and that is why today I can say that *mjinga akierevuka mwerevu yu mashakani.* I support the motion, thank you.

**Hon. Speaker:** Thank you, any other contribution? If there is none I want to give to Mr. David Cheruiyot because under our Standing Orders he is entitled to be able to defend himself before I give the mover to make final remarks. Mr. Cheruiyot.

**Mr. David Cheruiyot:** Thank you very much Chair and honourable members of this House. I stand before you today, as I have also stood before the committee earlier on to address some of the issues that have been raised by the committee and many other institutions that have raised.

For clarity let me start with the issue of overdraft. This overdraft came up in the first half of 2013/2014 financial year and this was the first quarter of the year that the government came in and by that time the County Revenue Bill had not come in place in the month of July and August.

It was our wish that we get this money for us to meet services, address cleanliness in town, and salaries for both arms of the government.

This overdraft was requested to the Executive Committee of Bomet and they saw a need to approve this overdraft under section 119 and that was our belief that that section that we were addressing then.

We then went ahead and overdrew the account under section 119 and this was used specifically to pay salaries for both the members of the County Assembly, the Executive and workers.

---

May 5, 2015 (Afternoon Sitting)

I had explained to the committee that it was at a time when County Allocation of Revenue Bill had not been passed and that is the time we took this particular overdraft in order to settle the obligations of the government which were inevitable and that is why we took this and I have explained that we took under section 119 of the law and it went into assisting and we paid back immediately.

The second issue was uploading of the IFMIS. I have six sections in treasury and one of the sections is to upload data into IFMIS and that data that is uploaded into IFMIS is after passage by the County Assembly and indeed I would have expected every member of that IFMIS to upload the correct documentation and even when I saw the balancing figures in IFMIS it was balancing and I didn't have any doubt that everything have been done in IFMIS because I looked at the final figures they were balancing and I was only informed later on that some of the areas in IFMIS were not tallying; rather some areas have been reduced and some areas had been increased and we corrected this a few weeks ago. We went further to check critically on this and we have corrected.

I have also explained to the committee in length and that is the far I could go in terms of explanation.

Another issue regards to KES 61 million. This was also discussed. These is the money which was issued by TA for renovations of the County Government and this came in at the last two weeks towards the end of the year and it was not practical to use these money then. Therefore, these money were returned to Treasury and we put them to the following year and in the Appropriation Act for 2013/2014 we put these money into that particular Act and that was an Act that was passed by this Assembly and it had these money re-allocated to construction of buildings and infrastructure in the County and we went further to do the same, and I recently took it to Nakuru for verification and we have accounted for this.

In terms of cheques, I am responsible but I am not the one signing cheques and I have already instructed my officers not to overdraw these cheques and I have letter to that effect that they should not do cheques when the cash book is overdrawn and I also explained also to the committee that the cashbook that we had then was faulty because we had just started the County and a number of cases might have skipped the officers concerned. However, if I was the one signing these cheques I would have taken a lot of care to ensure that these cheques are not bouncing but it is not the intention of my office to make these cheques to bounce.

I had explained the other things earlier to the committee but I believe there was intention to break the law and all what we did was to ensure that we build the County Government and we improve the services in the County Government. For that I say thank you Chair.

---

May 5, 2015 (Afternoon Sitting)

**Hon. Speaker:** Thank you Mr. David Cheruiyot. I want to give the mover to make final remarks before in put the final question.

**Hon. R. Serbai:** In as much as I have read the report and the recommendation by the committee. First and foremost the CEC in his defence failed to tell us the whereabouts of the KES 177 million which we were given by the Transition Authority to run this County of which it was through this House that KES 105 million was supposed to be used by the County Assembly but all the same this County Assembly was only allocated with KES 136 million and the issue of overdraft does not come in there.

When the CEC talk about the IFMIS, I want to inform this House that the CEC changed the figures which were passed by the County Assembly.

The CEC also failed to tell us which Appropriation Bill is he using because he gave us two Appropriation Bills of which we are very much aware of.

In signing of cheques, the CEC is the principal man and is in charge of that particular office

And if there is anyone who is signing the cheques it's not the concern of this House but the concern of this House is; who is heading that particular department. He is supposed to be checking his subjects. That one should not be subject to this House.

The CE also failed to tell us the issues of car loan and mortgage. There are regulations governing Members of the County Assembly and also the Members of the Executive which were not also there. I believe the defence which the CEC gave is null and void.

There are quite a number of unprocedural borrowings which he is trying to explain as per the provision of KES 177 million and there should not anything to do with borrowing.

There was also an issue of KES 61 million which the CEC failed to tell us. There have been several meetings with the committees regarding the overdraft and which the CEC failed to hand over the crucial documents which were requested by various committees.

Somebody raised something about Bungoma. We went through with the Bungoma issue but the situation in Kericho is not the same in Bomet and we cannot talk about Bungoma and we went through.

Somebody also mentioned about the threshold for the removal. Section 40 as quoted by honourable Joyce is even one third, and we are over one third even including the nominated members, a third is 12 members and we are over 12 and we are meeting the threshold.

---

May 5, 2015 (Afternoon Sitting)

On the issue of bouncing cheques the CEC should have been in control on the cash flow so that his subjects should not be issuing cheques knowing that there are no funds in the account.

He also failed to tell us the issue of AIE (Authority to incur expenditure) which is going on in this County whereby to date those AIEs are no functioning.

The issue of stadium as explained by the honourable member and also the issue of distribution of resources is one thing which is wanting. There is no equitable distribution of resources in this County of which the CEC should have explained to us how he is addressing the issue of distribution of resources.

Lastly is about the CIDP which is also a map that is showing where the County is moving in terms of development; he failed to capture that and explained to us.

As I wind up, I find his defence as very shallow and is not responding to the question raised by the honourable members and I therefore request the honourable members to support the report and all other things which are there in that report for the benefit of this County as I had mentioned earlier on. We really need to support this report to save this County from where it is heading to because it is headed to a very wrong direction given that a number of projects are only existing in papers but when you go to the ground those projects are not there. You also find some simple messes. I want to urge all the members; because you were elected by your people to represent your people, this is the time to show that you are representing your people by voting for this report.

We were also sworn in to respect, uphold and defend the constitution. Chapter six of the constitution talks about integrity and other issues. In this report it raises quite a number of integrity issues and I urge all the members that kindly support this report and I can assure you that this County will move the way our people want it to be taken, thank you honourable Speaker.

**Hon. Speaker:** Thank you honourable Serbai, because we want to go to voting, I want to request the Serjeant-At-Arms so that any member who is outside can come and I will not allow any member who is inside to move out.

*The Serjeant-At-Arms rang the bell.*

**Hon. Speaker:** I request any two members to see whether there is any ballot inside.

*Honourable Sammy Chelule and honourable John Ngetich checked and confirmed that it was empty.*

---

May 5, 2015 (Afternoon Sitting)

**Hon. Speaker:** We are 15 members and since the Standing Orders is talking about the majority, unlike the Public Service Board where it is required that it is 75 per cent. It is just a majority of the members. I am now going to put the question and when I put the question we will be able to call your name and when your name is called you will be able to come and be able to tick the first part; there are two questions and the first is that; member for the proposed removal of the Executive Committee member Mr. David Cheruiyot. If it is YES then you just tick and you know the rules, you can't tick beyond.

Member against proposed removal of the Executive Committee member Mr. David Cheruiyot you have to tick within that box then thereafter we will be able to Count the votes and declare the results.

Clerk, do you have the list? I request Calvin (table clerk) that you will be able to...

I will put the question and after that the Clerk to read the names and then you come and pick the ballot paper, you tick it and you place it here. It is now my turn to put the question that pursuant to Standing Order 66 (6) and (9), this County Assembly adopts the report of the special committee established to investigate into the proposed removal from the Office of the Executive Committee Member Mr. David Cheruiyot.

Hon. Chepkemai Evaline – voted.

Hon. Hon. Chepkoech Leah - voted

Hon. Chepkwony John Kiprono - absent

Hon. Kipkorir Ng'eno Bernard - absent

Hon. Kipkorir Sammy Chelule – voted

Hon. Kipng'etich Samwel Bor - voted

Hon. Kipsiele Kirui Sammy - absent

Hon. Kirui Josphat Kiplang'at – voted

Hon. Kirui Leonard - absent

Hon. Koech Stephen Chang'morik - absent

Hon. Korir Joyce Chepkoech – voted

Hon. Korir Julius Kiprono - voted

---

Disclaimer: The Electronic Version of the Official Hansard Report is for informational purposes only. A certified copy can be obtained from the Hansard Editor.

---

May 5, 2015 (Afternoon Sitting)

Hon. Korir Philip Kiplang'at - voted  
Hon. Lang'at Reuben Kiprotich - voted  
Hon. Metet Robert Kipkurui - absent  
Hon. Molel John Cheruiyot – voted  
Hon. Mosonik William Cheruiyot - absent  
Hon. Ngeno Christopher Kibet - voted  
Hon. Ng'etich John Kipkirui – voted  
Hon. Rotich David - absent  
Hon. Serbai Robert Kiplang'at - voted  
Hon. Siele Philip - absent  
Hon. Towett Cecilia Chemutai - voted  
Hon. Towett Samson Kipkirui – voted  
Hon. Bett Robert Kipng'eno - absent  
Hon. Aurelia Chepkirui – (Nominated) absent  
Hon. Beatrice Chebomui - (Nominated) absent  
Hon. Bency Chepkorir Too- (Nominated) absent  
Hon. Hellen Chepkurui- (Nominated) absent  
Hon. Josphine Rotich- (Nominated) absent  
Hon. Nancy Chepkirui- (Nominated) absent  
Hon. Patrick Chepkwony- (Nominated) absent  
Hon. Rose Cheron Boiyon- (Nominated) absent  
Hon. Taplelei Rotich- (Nominated) absent  
Hon. Wilson Keter-(Nominated) absent

---

May 5, 2015 (Afternoon Sitting)

**Hon. Speaker:** Among the ten nominated honourable Wilson Keter was supposed to be here. Out of 26 members who were supposed to be here, 15 were there and I want to request at least two volunteers to be able to come forward and I request the Clerk to show votes. Two members; honourable Samson and honourable Sammy Chelule, you can count whether there are 15 ballots.

*The Clerk counted them.*

**Hon. Speaker:** Honourable Chelule can receive for YES and honourable Samson can receive the ones for NO.

*The Clerk counted them. 14 votes for YES and 1 for NO.*

**Hon. Speaker:** Thank you honourable Samson and honourable Chelule. I will again put the question that pursuant to Standing Order Standing Order 66 (6) and (9), this County Assembly adopts the report of the special committee established to investigate into the proposed removal from the Office of the Executive Committee Member Mr. David Cheruiyot and the AYES have it with 14 votes and the NAYS have 1 vote and I declare that the AYES have it. Pursuant to our Standing Order 66 (10), I will proceed to promptly deliver the resolutions to the Governor as per our Standing Orders where it is required to take further steps. Thank you very much members.

Despite the afternoon being a heavy one, I had request all the members that we need to really deliberate the matters with a lot of soberness but I want to thank you for being sober enough and for seeing the sense of what we have done. I know one honourable member honourable Big Five who was expelled for being disorderly and I want to request other members that let us not personalize some of these issues. You might not like what the Speaker is saying but at the end of the day you need to respect the Chair. Don't respect me as an individual but you need to respect that Chair and as we have been told, however much the Speaker to you might have communicated something which is not palatable to you we need to respect that and be able to challenge through other means. The House is adjourned until tomorrow at 9.00 a.m.

## **ADJOURNMENT**

*The House adjourned at 5.16 p.m*

May 5, 2015 (Afternoon Sitting)