



REPUBLIC OF KENYA

BOMET COUNTY ASSEMBLY

ASSEMBLY DEBATES

(OFFICIAL REPORT)

DAILY HANSARD

Tuesday, February 17, 2015

PLENARY

February 17, 2015 (Afternoon Sitting)

**COUNTY ASSEMBLY
OFFICIAL REPORT
Tuesday, February 17, 2015
The House met at 4.22 p.m.
[The Speaker (Hon. G. K. Korir) on the Chair]
Prayers**

COMMUNICATIONS FROM THE CHAIR

- ❖ **THAT THE SENATOR, HON. PROF. WILSON LESAN, IS WELCOMED TO THE SESSION**
- ❖ **RULING ON RELATION TO WHEN THE SPEAKER IS PRESENT BUT NOT ON THE CHAIR, AS HAD BEEN REQUESTED**

Hon. Speaker: Hon. Members, I would like to take this opportunity to welcome our Senator, Hon. Prof. Wilson Lesan to our session today. I had communicated last week that he will be able to be a special guest to this County Assembly today Tuesday the 17th of February 2015. Secondly, I had undertaken to give a ruling in relations to when the Speaker is present but not on the Chair as had been requested by Hon. R. Serbai and other Hon. Members. My ruling is that on 10th February 2015 during the official opening of the 3rd session of this County Assembly, the Speaker and the Members of CASB took an oath of office pursuant to section 34 of the Bomet County Assembly Service Act 2014. Hon. Members, a number of Hon. Members rose on points of order to question the procedure and the manner in which the Speaker of the County Assembly was sworn in and most of them were of the opinion that the Speaker and some members of CASB were not procedurally sworn in. Hon. Members, as a result of that, I undertook to give a ruling on the same so as to give clarity and order during such occasions. Hon. Members, the Constitution, the County Government's Act 2012 and our Standing Orders do not provide for a situation where the Speaker is present but is not sitting on the Chair but the said legislations and the Standing Orders only provide for instances when the Speaker is absent from the sitting. Hon. Members, for the sake of those who might not be aware of the relevant section, articles and standing orders, let me take this opportunity to quote the relevant section, articles and standing orders of the legislation. Article 178(2) of the Constitution of Kenya 2010 provides that '*a sitting*

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of the County Assembly shall be presided over by: (a) the Speaker of the Assembly; or (b) in the absence of the Speaker, another member of the Assembly elected by the Assembly. Section 9(4) of the County Government's Act 2012 states that *'at any time in the absence of the Speaker of the County Assembly or in matters that directly affect the Speaker, the County Assembly shall elect a member to act as Speaker as contemplated under Article 178 (2) (b) of the Constitution'*. Standing order 25(1) of our Standing Orders provide that *'the Speaker shall preside any sitting of the County Assembly but in the absence of the Speaker, the Deputy Speaker shall preside. 25(2) provides in the absence of the Deputy Speaker, any member of the Speaker's Panel may preside over the Assembly and in the absence of the members of the Speaker's panel pursuant to article 178(2b) of the Constitution, another member of the County Assembly elected by the Assembly for that purpose shall preside'*. Hon. Members, as it can be seen from the above quoted provisions, the drafters of the same legislations and standing orders didn't envisaged a situation where the Speaker is present but is not sitting on the Chair. However, since the issue has arisen and must be resolved, I want to reiterate that there is no precedent from the National Assembly or the Senate on the issue. I looked at the parliamentary practice and it doesn't also assist in our scenario. Hon. Members, I want to inform this Hon. Assembly that I have consulted far and wide on the issue, first with our mentors; the National Assembly and the Senate together with the other County Assemblies. From those consultations, none of them has a conclusive answer to our question. However, Hon. Members, I want to incline to agree with the advice given to me by Hon. Patrick Mariru, the Hon. Speaker of Laikipia County Assembly. In his wise counsel, the Hon. Speaker is of the opinion that the Deputy Speaker or any other member of the Speaker's Panel can take the Chair when the Speaker is being sworn in or swearing undertaking any swearing in ceremony. Hon. Members, Standing Order number one gives powers to the Speaker to decide on cases not expressly provided for and using that Standing Order number one, I rule that whenever such case occur, the Deputy Speaker, a member of Speaker's Panel or pursuant to article 178(2b) of the Constitution, another member of the County Assembly elected by the Assembly shall take the Chair until the Speaker resumes the Chair. At that point in time, the mace isn't supposed to be lowered down as suggested by some members. I therefore direct that the Speaker, Leader of Majority, the Leader of Minority and the Clerk of the County Assembly shall be sworn in afresh as the members of CASB pursuant to section 34 of the Bomet County Assembly Service Act 2014 on a date and time appointed by the Speaker. The other member, who is Linda Cheron representing the public was procedurally sworn in since the Speaker has resumed the Chair. That is my ruling on the same and I think the Hon. Members will put to rest the issue that have been raised by some members and I hope this will form a precedent on the same, thank you.

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NOTICE OF MOTION

- ❖ **THAT THE HOUSE URGES THE GOVERNOR OF BOMET COUNTY TO DISMISS MR. DAVID CHERUIYOT, THE COUNTY EXECUTIVE MEMBER OF FINANCE, ON GROUNDS OF INCOMPETENCE, GROSS MISCONDUCT AND GROSS VIOLATION OF PFM ACT AND THE CONSTITUTION**

Hon. Julius Korir: Thank you very much Hon. Speaker. I beg to give a notice of the following motion; that aware that section 40(1) of the County Government Act 2012 provides grounds in which the Governor may remove a member of the County Executive Committee, also aware that this Hon. House debated and adopted the report of the ad-hoc committee established to investigate the persistent use of overdraft by the County Government without the approval of the County Assembly; further aware that the committee recommended for the commencement of the removal proceedings from the office of the CEC, Finance, deeply concerned that Mr. David Cheruiyot in carrying out his role as the County Executive Committee Member of Finance has on a number of times misled this Hon. House on crucial county financial matters that he has repeatedly failed to adhere to the tenets of PFM Act 2012, this House urges the Governor of Bomet County to dismiss Mr. David Cheruiyot, the County Executive Member of Finance, on grounds of incompetence, gross misconduct and gross violation of PFM Act and the Constitution, thank you Hon. Speaker.

Hon. Speaker: So at least Hon. Members are aware now that Hon. Julius Korir has given a notice but Hon. Member need to be conversant with our Standing Orders that such a motion is a special one that requires to be supported by 9 Hon. Members; which is a quarter of the members of the County Assembly.

Hon. R. Langat: Thank you very much Hon. Speaker. I would wish to be informed looking at the order paper of today, I thought the Hon. Senator was supposed to come in as number 3 other than number 4 since he is bringing some message from the Senate office.

Hon. Speaker: Hon. R. Langat, looking at the standing order number 24, it is very clear when the Governor or the Senator or any important dignitary invited by the House to address the House. The moment they finish the address, the House will stand adjourned and therefore under the circumstances, we cannot transact other businesses after our Hon. Senator has given his address. Therefore, that is why the business had to come before that because we will be forced to adjourn if we give the Hon. Senator to give an address.

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STATEMENTS

- ❖ **SEEKING FOR A COMPREHENSIVE STATEMENT FROM THE CHAIRPERSON OF EDUCATION, SPORTS AND YOUTH AFFAIRS ON THE STATUS OF THE IMPLEMENTATION OF THE ICT PROGRAMMES AND THE YOUTH WORK PLAN**
- ❖ **SEEKING A COMPREHENSIVE STATEMENT FROM THE CHAIRPERSON OF TRADE, TOURISM, CO-OPERATIVES AND INDUSTRY ON THE STATUS OF EMBOMOS WOMEN CO-OPERATIVE SOCIETY**
- ❖ **SEEKING A COMPREHENSIVE STATEMENT FROM THE CHAIRPERSON OF EDUCATION, SPORTS AND YOUTH AFFAIRS ON THE VOTE HEAD CURRENTLY BEING USED ON THE ON-GOING CONSTRUCTION OF SIGOR HIGH SCHOOL, WORK PLAN USED IN THE CONSTRUCTION OF BOMET STADIUM AND WHO APPROVED ITS STRUCTURE AND ITS CONSTRUCTION AND HOW MUCH HAVE BEEN BUDGETED FOR THE SAME**
- ❖ **SEEKING A COMPREHENSIVE STATEMENT FROM THE CHAIRPERSON OF EDUCATION, SPORTS AND YOUTH AFFAIRS ON THE CRITERIA USED TO ALLOCATE VARIOUS BURSARIES WHICH HAVE BEEN AWARDED TO VARIOUS SECONDARY SCHOOL STUDENTS IN OUR COUNTY**

Hon. R. Serbai: Thank you Hon. Speaker for giving me this chance so as to ask some questions. Hon. Speaker, I stand to seek a comprehensive statement from the Chairperson of Education, Sports and Youth Affairs on the status of the implementation of the ICT programmes and the youth work plan. I would specifically wish to know the following;

- a) How much had been budgeted for the same
- b) What specific capacity building programmes targeting the youth have been rolled out
- c) Who are the beneficiaries if any

Thank you, Hon. Speaker.

Hon. Speaker: So that stands committed to the relevant committee and I hope they will be able to bring an answer within 14 days.

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Hon. R. Serbai: Thank you Hon. Speaker. My second question is that I do seek a comprehensive statement from the chairperson of Trade, Tourism, Co-operatives and Industry on the status of Embomos Women Co-Operative Society. I would specifically also wish to know the following:

- a) What is the current financial position of the society
- b) How much was collected from the members
- c) Where was the money deposited and how safe are the money

Hon. Speaker: So Hon. R. Serbai, that statement stand committed to the committed on trade, energy and industry and I hope the chair will be able to bring a substantive answer to this House within 14 days.

Hon. Joyce Korir: Thank you very much Hon. Speaker. My statement is that I do seek a comprehensive statement from the Chairperson of Education, Sports and Youth Affairs on the following:

- a) Which vote head is currently being used on the on-going construction of Sigor High School
- b) I am requesting for the work plan used in the construction of Bomet Stadium
- c) Who approved the structure and the construction for the same
- d) How much have been budgeted for the same

Hon. Speaker: Thank you Hon. Joyce Korir. So I think the Chair and the entire committee on Education, Sports and Youth Affairs have 14 days to get back to the House giving a comprehensive answer on what Hon. Joyce Korir has asked. So I hope the committee will be able to look for a sufficient time.

Hon. S. Towett: Thank you very much Hon. Speaker. I also wish to seek for a comprehensive statement from the Chairperson of Education, Sports and Youth Affairs on the criteria used to allocate various bursaries which have been awarded to various secondary school students in our county. I also request the Chair to supply this County Assembly with a list of the latest beneficiaries and a list of committee members if any which sits to distribute the said bursaries.

Hon. Speaker: Thank you Hon. S. Towett. The Chair and your committee on Education, Sports and Youth Affairs have 14 days to bring to this House substantive answers to what Hon. S.

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Towett has asked. So within those 2 weeks, the House should at least be appraised with the answers.

MOTION

- ❖ **THAT PURSUANT TO STANDING ORDER 190 (5)(A) AND (G), THE COUNTY ASSEMBLY ADOPTS THE REPORT OF THE COMMITTEE ON LABOUR AND PUBLIC SERVICE ON COUNTY STAFF RECRUITMENT AND ESTABLISHMENT**

Hon. R. Langat: Thank you very much Hon. Speaker for this opportunity that I move this motion that pursuant to Standing Order 190 (5)(a) and (g), this County Assembly adopts the report of the Committee on Labour and Public Service on county staff recruitment and establishment. Hon. Speaker, following the questions and complaints that the Hon. Members of this House have raised, you directed that the Committee on Labour and Public Service investigates the staff recruitment and establishment on behalf of the House. Hon. Speaker, you directed that we follow up with all these complaints and we managed to call upon the CPSB and the County Secretary who is in-charge of public service in this county and the County Attorney to show us the rules or the laws used for this recruitment to take place. On the 8th January 2015, the committee held a joint meeting with the CPSB members, County Secretary and the County Attorney. During the meeting, the Committee was able to raise several issues for clarification:

- a) Recruitment of County Enforcement Officers
- b) Complaints of non-payments of casuals or temporary employees
- c) Complaints of employees in office who were not yet engaged formally

Hon. Speaker, when we asked the County Attorney, he said that there existed a staff establishment within the county administration in the office of the Governor for the recruitment of the officers and therefore there was no requirement to seek approval from the County Assembly, however, the committee had a contrary view. Hon. Speaker, the committees were informed by the County Secretary that on the issue of the financial implication for the remuneration of the officers once absorbed, the county was to cater for the same through the supplementary budget. The committees were also briefed that the organization and structure of the CPSB was still being prepared and yet to be concluded. The County Secretary also confirmed to the committees that the County Government has not established its scheme of service for the employees and currently, the national scheme of service is being used. The CPSB informed the

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committees that the adverts were done locally through posters across the County and on the local radio stations. The board also confirmed that relevant communications between it and the County Secretary existed. CPSB reiterated that though it authorized the advertisement for the positions as requested by the County Secretary, the CPSB actually participated partially in the recruitment exercise since it had communicated to the County Secretary that the exercise be postponed to a later date. Hon. Speaker, on this recruitment of enforcement officers, the CPSB was given intent by the County Secretary but after looking at this intent, they found that there were certain arms of Government that had not been involved like the County Assembly to establish some of these offices. So the CPSB wrote a letter to the County Secretary urging him to postpone until the formalities were done. Hon. Speaker, the exercise continued without taking into consideration what was requested. In the irregular recruitment, the County Secretary confirmed to the committees that there were individuals who were not properly engaged and the County Government could not remunerate them. This arose in instances where the individuals were brought by senior officers and some CECs without passing through the CPSB. Hon. Speaker, there exists some “workers” who are in office and have been asking for their dues and the CPSB has said they weren’t going to be paid since they didn’t come in in the right manner. Some of those kinds of people are like what we found in the Department of Trade where one was engaged by the CEC and in the process, the individual claimed for his dues and he was told that he wasn’t engaged formally and as of this date the CEC has left. Hon. Speaker, on the complaints by casuals and temporary employees who haven’t been paid for several months, the County Secretary requested that particulars of the employees need to be provided so that proper action can be taken. Hon. Speaker, we tried very much to get to know whether actually there were these temporary employees but the County Secretary said names of these employees who haven’t been paid should be submitted and after searching for them, we didn’t find any. Hon. Speaker, there were also complaints on the persons with disabilities that they have been left out in recruitment. The committees were informed that their employment is progressively being achieved as required by law. Upon talking to the CPSB, County Secretary and the County Attorney, we found out the following; upon analysis of the facts laid before it, the committee finds that the recruitment of enforcement officers was marred with irregularities since the CPSB was partially involved. Hon. Speaker, when the executive gave out the intent, they also directed that panels were going to be formed in every ward but after the CPSB wrote a letter to them that the exercise be postponed, they continued despite the fact that the members of the CPSB were supposed to be the Chairs of such panels. So, that amounts to irregularity. Hon. Speaker, the second finding is that the CPSB hasn’t done any audit to establish the structure of the County Public Service which

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will subsequently inform the establishment of offices and the recruitment of staff. Hon. Speaker, there is no structure as of now yet we find people in offices and we haven't approved any structure in this County Assembly. Before any office is established, Hon. Speaker, there should exist an office through a structure which is not there. It seems that the CPSB might be lacking the technical capacity and the required independence to fully discharge its mandate as expected. Hon. Speaker, when we discussed with the CPSB, it seems like there is a lapse and that they may not understand what they are doing or they could be fearing or there is something else that is not very clear. So Hon. Speaker, the committee in its deliberations on issues raised made the following recommendations:

- a) That the recruitment of the County Enforcement Officers should be done afresh since the exercise was marred with irregularities
- b) The CPSB should embark on doing a comprehensive audit to establish the number of personnel in the county public service which will subsequently inform the establishment of offices and recruitment of staff
- c) The CPSB should be given sufficient technical capacity and the required independence so that it can fully discharge its mandate as expected.

Hon. Speaker, I want to urge this House to adopt the report so that the anomalies can be corrected. During the whole exercise when we contacted the interviews with these people, it looks like, they took advantage of the new systems which are not in place and engagements have been going on without being checked. So, I urge this House to adopt this report, thank you Hon. Speaker.

Hon. Speaker: Whose seconds? *Seconded by Hon. S. Kirui*

Hon. Speaker: Thank you. Let me now propose the question.

Question proposed and open for debate

Hon. B. Ng'eno: Thank you very much Hon. Speaker. I equally rise to support the motion but first let me congratulate the committee for coming up with a very good report. Hon. Speaker, Schedule 4(1) of the Constitution 2010 is very clear on the devolved and non-devolved functions. In relations to the functions that were devolved to the County Governments Hon. Speaker, I have tried to look for where these enforcement officers can fit in this Constitution but I have been defeated. On matters to do with security, I believe all of it lies with the National

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Government. Regardless of the name of the officers being played with, I must say that in simple terms that these enforcement officers are the security officers that are going to work within this County Government of Bomet, Hon. Speaker. Hon. Speaker, if you can see the advertisement that was made, you can look at the requirements and it is very clear that somebody should have scored a mean grade of D and above; the age of 18-28 years and the responsibilities are; enforcing the county laws and order. Number two is guarding access points and when we talk about that; based on my little interpretation, these people, every time a person is having a meeting and sometimes members of the public may not be satisfied with the comments and you raise an alarm these are the same people who will deal with you and you can be taken out of the place, Mr. Speaker. And you can see another responsibility is that he/she should be able to control the crowd and when we talk about controlling crowds, Mr. Speaker, it goes hand in hand with the requirement that somebody should be physically fit. So that every time anybody disturbs a county function they are going to deal with those who are not in agreement with what is going on. I can easily refer to these recruits as “*Jeshi la Mzee*” Mr. Speaker, if we can proceed, I was challenging that it is a function that should be carried out by the county government based on the procedure that was used to recruit these people Mr. Speaker, it was done with a lot of irregularities, first I was expecting that this Assembly be required to approve the positions since they do not exist in the first place. Number two Mr. Speaker; we can see the letter written by the secretary to the Service Board asking the County Secretary to post pone the recruitment. The public service board did their part but the executive went ahead and did the recruitment which is another irregularity and based on the letter that was written by the Public Service Board it is very clear they wanted a proper procedure followed. I support the report and request that we support it. It is one way of increasing the wage bill and increasing the recurrent and eating into development fund. Thank you.

Hon. Speaker: Honourable Chepkwony John.

Hon. J. Chepkwony: Thank you Mr. Speaker, I rise to make my contribution. I am of the contrary opinion to what the members have spoken given that I support the recruitment, the reason is the process has already been done and the recruits identified and being a tasking process due to the running over long distances to get employment. Given they have done that, for political differences let’s give the devil its due.

Hon. Speaker: Honourable Joyce.

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Hon. Joyce Korir: Thank you very much; I just wanted to know whether the honourable member is aware that we have the Public Service Board which is supposed to give us the structure for the recruitment to take place. No one in this House opposes the recruitment and the question is do we have the structure?

Hon. J. Chepkwony: Thank you Mr. Speaker, I will proceed and I will only defend the young citizens of this county given that even in the constitutions we do understand that the most disadvantage are youth. Given that the public service has done recruitment, I support. In my ward the recruitment was transparent and there was no corruption and I do support the recruitment of law enforcement officers to create employment for our youth. I do reject the report and support that the youth be recruited. Thank you very much Mr. Speaker.

Hon. Speaker: Honourable Joyce:

Hon. Joyce Korir: Thank you Mr. Speaker, I have stood to support the report that has been brought by committee. Mr. Speaker this is an issue that has been affecting this House. I just wonder how members of the public can best be served if a member is not in a position to understand his role honourable Speaker. Each and every member of this House is concerned with their people, remember 70 per cent are youth and we have been fighting for their employment and we have been raising pertinent question on structures and that is why we have the Public Service Board to do recruitment for fairness across the county and when the honourable member speaks and talks as if we are not concerned , I want to say it was floated and must thank the committee for the report since it has been sitting trying to inquire what the process was and what transpired until the recruitment was rolled out. Time has come for this county to do what is right. We have been fighting day in day out. Our budget has been challenged because of irregularities. Enough is enough and we need to rise to the occasion and show concern do that will help the members of the public in many ways and I want to say I support the report in totality. Thank you honourable Speaker.

Hon. Speaker: Honourable Josphat.

Hon. J. Kirui: Thank you for the chance to contribute on the report. I want to start by saying as a County Assembly we do oversight through committees and I want to thank the committee for the report and I am one person who loves this county and I also believe in its institution and believes that this county belongs to all of us and not to a few. I concur with the report that the committee has tabled and support it. We are setting a precedent that has to be emulated by

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coming MCAs. All members will agree with me we have been having issues with members of The Public Service Board. And it was just from the jaws that the board was saved from the jaws of this House as they were on the verge of being removed. And we want a situation where the powers of this board are respected by any institution in this county honourable Speaker. A situation where impunity reigns is not good honourable Speaker and we will not progress. And as such in this committee finding, I like the third recommendation that the County Services Board should be given the required technical support and independence it requires so that it can serve fully as expected. I believe the committee might have realized in their wisdom that there was lack of independence and technical capacity and taken for ride and it is quite disgusting when the exercise was carried out without the input of the Public Service Board. Mr. Speaker, if we do not support this institution very soon we will also be affected as an Assembly. As I close, I wanted to be counted among those who stood with this report and those who believe in the rule of law and I think the time that some institution they can have some leeway and we also note on the executive and as an honourable House. I am a member representing a ward called Ndaraweta and there were a lot of issues were realized about the recruitment and what I am against is the procedure of recruiting these people Mr. Speaker. We may not be able to throw the baby together with the bath water honourable Speaker, but we want to say that we love the young men who were recruited but we want the exercise to be done a fresh.

Hon. Speaker: Honourable Korir and then honourable Chelule.

Hon. Julius Korir: Thank you honourable Speaker. I also rise to contribute to the motion number eight by the chair person Committee on Labour. Honourable Speaker, I rise to support the report and I am also among those who were surprised by the turn of even especially and even though the report touched on the issues of casual staff but the most touching part of the report is the creation of enforcement office. Mr. Speaker, if you look at how and what happened and the committee had the County Attorney interviewed alongside the Secretary and the County Public Service Board Members. I will go direct to the recruitment on page two and it just says that ‘there existed a staff establishment within the county administration within the office of the Governor and therefore there was no requirement to seek approval from the Assembly. However, the committee had a contrary opinion. If you look at what the Public Service Board informed them on that the advertisement was done locally through posters and radio stations and it also shows that there existed relevant communications between the board and the county secretary. The information I am trying to pass as I contribute was the response by the CS, if you look at the letter dated 17; ref to intends received on advertisement made. The board considers that the

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recruitment was taken without the involvement of other relevant offices for the establishment of the office. I just want members to see the letter to the CS. Honourable Speaker; I want to say there seems to be a different network in this county for the creation, staffing and establishment of offices in this county that is why even the board could not advertise as required by the Act on the print media. This shows that this thing was done irregularly. If you look at how the board reacted, it said the exercise contravene section 60, which lays criteria of establishment of county offices and that means it was the board that was supposed to create the offices and not the county secretary or even the county governor. So Mr. Speaker, whether this exercise is done afresh or not we need to give time board to establish offices through the Assembly and we create office to give mandate and allocate funds during budget making and so when the committee recommended that these office be abolished and done afresh I support it. Mr Speaker, we still see abnormalities in the office of the CS, it came openly and was done to affect some people. There could be other offices created by him secretly. My suggestion is to support the report and give room to the board to create the offices and we need the intervention of this House because we have information that the recruits are to be at the Agricultural training centre to train and that is another problem and if we displace agriculture by an exercise created irregularly it is a crisis. So I support the report honourable Speaker and request the honourable House that this is a high time, we all know that the problems that we are facing at the end of the day we will carry the blame as an Assembly because we are allowing things to go the wrong ways and we are supposed to report the people. And with that I applaud the honourable member from Ndaraweta for supporting the motion. Thank you.

Hon. Speaker: Honourable Korir you are totally out of order. Honourable Joyce.

Hon. Joyce Korir: Thank you very much honourable Speaker. I want to inform the House and the Chair that the said recruits were given a list of things to purchase, called and stayed in the field for two days and were returned back until further notice; just there was no preparation and no allocation for them.

Hon. Speaker: Honourable Chelule.

Hon. S. Chelule: Thank you very much honourable Speaker. I also stand to support the motion. I know most of us those recruited are our people. I like it because my people got jobs. But this county is guided by the law, and this recruitment was not procedural as it had to come to this House. And if everyone was allowed to be doing things arbitrarily even us as elected leaders can

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even use our decision to recruit everyone. I support this report and I congratulate the committee for their work. Every committee should stick to the law and we will check the breaking of the law. Let us stick to the law and ensure that things are done procedurally. I like the honourable member who said that we need to move to this direction and we do not allow anybody to use his decision as if he is driving his House then by 2017 we will be somewhere badly.

Hon. Speaker: What is your question honourable Chepkwony?

Hon. J. Chepkwony: I have a simple question; I tend to wonder if the Public Service Board did not conduct the recruitment, who then did the recruitment? That is my question.

Hon. Speaker: The Chair will be able to answer that during his reply. Honourable Evaline, then honourable Samson

Hon. E. Chepkemoi: Thank you honourable Speaker, I stand to support the motion and I congratulate the committee for the recommendation. Speaker, article 62 says on the County Board that it has powers to establish and abolish the office approved by this House. Speaker there is a possibility of this county facing higher wage bill. What is the Executive doing right now, a number of old men being recruited in the executive and that will drive the wage bill up and will hinder development? So I support that we adopt this report so that any irregularities will not be encountered anymore. Thank you very much.

Hon. Speaker: Honourable Samson

Hon. S. Towett: Thank you very honourable Speaker. I also rise in support of the report that the committee has tabled before this House, and before I start giving out points to support the report I want to congratulate the committee. A number of reports have been done and members see other things and they vote against it and somewhere down the line we are the ones who will start complaining of issues that will be affecting us that had been raised earlier. If you look at the issue that this committee was looking at; it was four issues and not the issue of recruits but also the issues of casual workers in the county, some of the people have complained that casuals are not being paid and there is marginalization of the disabled. And we cannot just look at one item. Let us look at the goodness in totality and support it. Looking at how the committee carried out its works it contacted various offices and I am surprised that even the County Attorney does not understand the provision of the County Government Act that when offices are being created they need to pass through this House before the department goes forward to advertise. The comment

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by attorney leaves a lot to be desired. Item number two by the CS on the finance that there was no money and meaning that there are no salaries for this particular individuals this year if they are taken in. it really disturb me, why had it to be done in a hurry. I know there is an area where we are lagging behind but why didn't the county wait so that they start when offices are established formally and advertised. I know we are even supposed to have people within and we have residents who could be living far away from Bomet and they would want to come and fill these positions. There could be value in those positions but we may have left them out because they did not see the advertisement.

On the issue of irregular recruitment as it has been said, section 75 of the County Government Act provides for a corrective measure and it prescribes that if a department establishes offices irregularly then it has to regularize those offices and it can still disband the recruitment and then it can go ahead and re-advertise for those positions. Imagine the County Public Service Board that advises the County Government through the County Secretary and in response they were saying; we cannot continue advertising for these positions because there is a part of the County Government that had not been consulted but the County Government decided to disregard the advice of the County Public Service Board and if we are going to allow this to continue, do we have a future in this County? Will the County Public Service Board have anything to do going forward on their own? If they have been given powers and their powers are being taken away then it tells us we are moving nowhere as a County Government. On the issue of casuals who have been hired, I am also equally surprised that even the County Secretary is asking for proof that he needs to be supplied with a copy of a list of people who have been taken in as casuals and I am left questioning the departments; if the County Secretary did not give out the temporary appointment letters and if the County Public Service on the same did not give out the appointment letters for these people to work on casual terms then who has the powers to do this?

If you look at the County Government Act section 74, it tells us it is only the County Public Service Board which has powers to give out appointment letters for permanent established officers and even on those who have been taken in on temporary basis and even those who are working as volunteers. It is only the Public Service Board that has the powers unless it delegates its powers to someone else like the County Secretary but we are not seeing the correspondence from the County Public Service Board to show us that at certain point they delegated to the County Secretary so that he gives appointment letters to these persons who are working on various offices or departments on temporary basis.

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If these people have been working with us and they have not been paid then they have wasted a lot of time. They have not done anything meaningful even in their farms thereby it means they have not contributed something meaningful towards the general development of their families.

Does it therefore, means that we are going to say that because these people were not taken in through the formal procedure that they go away and they are not going to be paid anything? Can we hold the person who brought these persons in to carry the responsibility even if it means that this person pays for the time that these casuals have been working in these departments?

I am surprised that we are still talking about the drivers who were interviewed and they were not formally taken in but a few of them were asked to come in, they were given vehicles to drive and they had no appointment letters and they cannot therefore claim for payments because they have nothing to show but we are here and we saw them driving our vehicles and we were thinking that they have been given formal appointments. Does this tell us that these people are going to go away just like that? Something must be done. Correction must be initiated so that in future we don't see these things happening for the second time.

I think even the County Public Service Board needs to pull up its socks. It cannot sit and watch things happening the wrong way. They should start complaining if they see their powers being taken away they cannot just sit and watch. They should formally register their dissatisfaction and the wrongs that are happening so that corrective measures can be employed. With those remarks I want to support this report to be adopted as it is, thank you.

Hon. Speaker: The five last contributors, honourable Mosonik.

Hon. W. Mosonik: The purpose and the ultimate aims of this House are to either to accept or to reject. There is a document here that has been prepared by this committee on labour which I support because if we are going to allow things to be done during the night then we shall not have stamped our authority as an Assembly but this should set an example. We might have messed up with some issues before by not seeing but two years down the line let the Executive knows that we are better off than yesterday. This is because the enforcement officers will take away a lot of money which has not been created for and we are telling the Executive to do things in the most preferred way of following the laws and procedures. I support the motion and the County Public Service Board should stamp their authority and instead of leaving things to go the wrong way, and as an Assembly we are not targeting anybody and when we are handling these issues let us handle it in a sober way. It will either be rejected or it will be supported. I am saying

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that this is a document that has been done by a committee and the errors or the irregularities that have been pointed out should not be repeated anymore. We are sending a signal that we are better than when we came here, I therefore support this document.

Hon. Speaker: Honourable Molel.

Hon. J. Molel: I also rise to support the report of this committee. If there is a County Assembly which is oppressed and starved it is this one of Bomet. There is a reason why laws were put in place; the regulations are there to be followed. These kinds of regulations and laws were meant to put things to be sane. It is surprising that today there is an irregularity here and after the irregularity is corrected, recommendations are made and tomorrow there is another one which is created and by the same person who is causing all this mess.

I don't want to blame the person who caused of all these problems but I want to blame whoever is responsible with the person who is doing oversight.

If we agreed today that we take our role as honourable members as far as oversight is concerned then this thing will cease to exist. As one of the members has said that I am thankful that our youths were employed yes, even the youths from my place were employed, but the question is, was the due process followed?

I now confirm what some members were saying in this House that whatever the CEO is thinking today is right and what he will think tomorrow is right.

I am tired if people are repeating mistakes knowing that it is un-procedural. The way the County Public Service Board is arguing here seems that there is a lot of pressure or a threat from somewhere. The other time we excused them hoping that they will repent and hoping that they will not repeat the same mistakes, here they are again creating a vacuum for somebody to occupy illegally.

I am requesting these honourable members that we stick to our roles and set a good precedence so that when we leave this place we will be remembered for the good foundation that we laid down as the founders of the County Assembly.

I want to say that all these irregularities; and I want somebody to show where it there is a section that allows the Governor to recruit, as the County Attorney has said in this report, I have not seen it.

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I want to urge my fellow members that we rise up and start a new year with new things. Thank you, I stand to support the report.

Hon. Speaker: Honourable Cecilia.

Hon. C. Towett: I also stand to support this report, and as a member of the labour Committee, I want to say that the whole process for recruitment was un-procedural.

One is that there was no budget that created for the same exercise and problems started from the first day when it was advertised. I want to give an example of my ward where I have Itembe location of which they thought the exercise was going to be carried out like the one for the National Government and instead of going to Chepalungu Sub-County they went to Silibwet in Bomet Central Sub-County. Most of them were left out. We are not against the exercise and especially the fact that we want our youth to be engaged but the whole procedure was not proper and I want to say that the same exercise can be repeated once again because even the way they constituted the panel at the ward level was not proper because the persons who were in the panel were the persons who did not balance the people whom they gave an opportunity in this recruitment exercise. I stand to support this report so that it can be repeated once again, and more so, if it is repeated since there is no budgetary allocation, thank you.

Hon. Speaker: Honourable Leah.

Hon. L. Chepkoech: I want to thank the Committee on Labour and Public Service for giving us a wonderful report. The reason why I am supporting this report is because of the analysis that the committee has given us.

I saw where it is saying that the exercise did not involve the County Public Service Board and this is not the first time that the County Public Service Board has messed up with this recruitment. I am saying this honourable Speaker because when we go back to the recruitment of drivers the County Public Service Board never exercised their powers and this gave us a lot of problems because we saw our youth being pushed everywhere...

Hon. Speaker: Yes honourable Joyce

Hon. Joyce Korir: (Rose on a point of order) I want to correct the honourable member who is saying that the County Public Service Board is not doing their mandate. They carried out interviews for the drivers and they gave out their list but it was rejected in the other side and a

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number of drivers were removed from the Executive side. The same thing with the process that is going on right now, they rejected it and we have a letter that they wrote that they were not part of the process and these are the processes that are being done by the County Secretary and the CECs. It is not the CPSB that has a problem but it is the Executive side.

Hon. Speaker: Proceed honourable Leah.

Hon. L. Chepkoech: I was not yet through explaining why the CPSB has failed us. I am saying this because I am seeing the CEC members are practicing the work of CPSB of which all these problems originated from.

Another thing is that us as the Legislature we have failed a lot. Instead of stopping the exercise which is not correct we are saying that let us leave this one for this time and then we stop the subsequent ones and I am requesting the honourable House that we have to do something this time so that each and every other member will exercise their powers in this County Assembly.

I also want to say something about the casuals in this County that sometimes you can find somebody has worked in this County Government for more than three years and the person has not yet been confirmed and sometimes you can find somebody who was brought in by a CEC member or any other person working in this County and the person will only work for three months and then the person is confirmed.

Some two weeks ago we realized some roads inspectors were being chased home; about five or seven of them, and they are chasing these roads inspectors home yet they were not the ones who failed to do the works of the roads. We have the CEC member for roads, engineers who have failed us because they are always in their offices but they are not moving around to inspect the works in this County and the blame was rested on these youths who were send home.

I want to urge this House to wake up and carry out oversight. It is bitter to find our youths being chased here and there.

In this County you find a CEC today is in Agriculture, tomorrow he is in Trade sector, is this really correct. I want to urge this House that let us support this report and then we see the way forward, thank you.

Hon. Speaker: Honourable Siele.

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Hon. P. Siele: I also want to register my concern on this document which I support. I am also a member to this committee where there were three items that we need to see out of this document to do with disability and casuals.

Despite the fact that the exercise was conducted well but the procedures were not followed. They have been saying that they will address the issue of persons with disabilities progressively but it has not been addressed and we need your interventions on the same. It is a challenge always when we are in our respective places they have been asking us every other time even though there are people who are representing them; honourable Hellen and honourable Keter and since I am representing all the people in my ward in I am always being asked but I have no answer for these people.

There was allocation that we made for these people and we are not seeing it but it is high time that we need a concrete answer for the same that have these people benefited or not. They have been saying that they are benefiting in bursaries but I am not able to account for it and if that is the case, if there is an allocation that has been made for these people meant for bursaries or to support them in buying them whatever they want to assist themselves then it has to be shown clearly because it has been budgeted for and it has been a song every time.

Honourable members we are the pioneers of this House and we want to put things right.

On the same breath the process of recruiting and the County Government is innocent of the same and somebody has worked in a particular department to an extent the CPSB is ignorant of the same and we wonder if the CPSB has lost their role. It is high time to bar them from proceeding or to disband the body.

Every other time we are talking of irregularities for example on the issue of drivers where they were recruited and they were left aside. I don't believe the same people were placed on particular jobs and the exercise has been done and they are claiming that they have done their exercise.

I am pleading to the honourable members that it is high time that you intervene. The issue of casual workers, I appeal to you honourable members, despite the fact that they don't have the temporary letters that they were given, I don't think that this honourable House is able to leave them the way they are and they have been working for almost three years. It is for us to intervene so that these people are going to get their rights. I support it.

Hon. Speaker: Honourable Langat.

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Hon. R. Lang'at: I thank all the members who have contributed towards this motion and I want to set the record straight. I wish the Leader of Minority was in so that I tell him who employed these people. It is a reserve of the County Public Service Board but in this case the CS is directing them on what to do. When we read the letter from CS it says that he was supposed to be declaring vacancies only but he is giving direction that this is to declare to the board the above 250 vacancies of enforcement officers of job group 'D' to be urgently advertised through an internal advert which should be displayed in the notice boards of all Sub-Counties and Wards.

He is already directing the CPSB on what to do yet that is not his work.

It also says, "The recruitment of officers should be done at all Sub-County headquarters on Friday". This is the CS directing the Board on what to do. I thought he was supposed to declare and tell them to continue with the process. It should be done on Friday 19th December, 2014 in a transparent and open process. "Please note that panels will be constituted in consultation with the Board to carry out the exercise", which are these panels? "Each panel will be chaired by a member of the Board; he is giving directions on an area which he is not supposed to be giving directions. The Chair and all the members are supposed to be giving out the process they are going to follow. That is one irregularity that we have noticed. In response, the CPSB secretary wrote this letter, "in reference to the intent received reference BC/70/2/1 and dated 12th December, 2014 for the above position and subsequent advertisement made. The Board considered the process to have been undertaken without the involvement of other arms of Government and for purposes of establishment of offices and other budgetary provisions; this is advise being given by the County Secretary to the board, and I know they must have discussed this at length as they say, as provided for in section 60 and 62 of the constitution which tells us how to establish offices and what to follow in section 62 when establishing offices. It says 'when establishing offices you must consider whether there are other offices doing similar jobs and there must also be financial consideration where the wage bill does not supersede the development', this is as per the County Government Act. The County Public Service Board Secretary wrote that the intended recruitment should be postponed to a later date to allow the process to commence afresh as per section 75 of the County Government Act. Let it not be construed that the Committee is against the recruitment, rather it is against the process where some people are given undue advantage; this is what the County Secretary said when he wrote so that the process could move in the right way; so they recommended for the process to stop and start afresh. We looked at this objectively and we were not after anybody and we are wondering who this is bringing the idea of the Panel and the process of the constitution of the Panel and if

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panels can be created are geared towards a certain point then the purpose is giving to be achieved. This was to be an objective way of doing things and it was to be a process initiated by the CPSB and not an outsider. I urge the House to adopt the report and we correct the anomaly in the process and there is nobody who does not want our youth to be employed but we want the process to be correct so that the correct people can benefit and not people brought in illegally. I thank the members for their contributions despite that there was one dissenting voice but I hope the report will go through; vote for it. Thank you.

Hon. Speaker: Thank you. I now put the question.

(Question put and agreed to)

Hon. Speaker: Pursuant to Standing Order 24, I welcome the Senator to address the County Assembly and I urge you to observe the Standing order no. 24(3) which states that when the Governor, Senator or any visitor is giving an address to the County Assembly he shall be heard in silence and heard and the address shall not be followed by any comment or question. Let me welcome our honourable Senator to give his address.

Sen. W. Lesan stood up to address the House.

Sen. W. Lesan: Thank you. Honourable Speaker, the Deputy Speaker, the members of County Assembly of Bomet, it is with great pleasure that I rise to address the County Assembly for the second time since its inception. Let me thank the Speaker for performing his constitutional duty for inviting me to address the County Assembly. Secondly, I want to express my gratitude to the Majority Whip, Minority Whip as well as the respective Deputies for the good work. I wish honourable as you steer the Legislative and Policy agenda of the House as per section 8 of the County Government Act 2012 and also for being in this House this afternoon. Allow me to say that as provided for in article 176(1) of the Constitution, the County Assembly is formed and plays a very important role to the benefit of the citizens such as in representation where members of the public should benefit from public hearings organised frequently by the County Assembly. To perform this constitutional responsibility let me urge members of this County Assembly to be people of integrity as is clearly stipulated in chapter six of the Constitution; the litmus test for this is the honesty in all dealings which all members should undertake and which without doubt should be within the law. Mr. Speaker Sir, I believe that as Kenyan Citizens they should be patriotic and on a similar note are patriotic to the County. Let me say our experience as we approach the second year of the existence of the County Government, you must agree with me

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that a lot has transpired and consequently it is important to reflect on the performance of the County Assembly and while doing this, the Assembly should not shy away from positive criticism. I also understand that the County Assembly has had myriad of challenges due to inadequate physical facilities i.e. functional debating chamber and inadequate office spaces, research materials and personnel. Despite the challenges of implementing the Constitution for the first time, some challenges should never have arisen such as the change of the Speaker midstream. But that being the case I cannot avoid giving credit where due as the honourable members of this House have passed bills and policies that have made it possible for the citizens of the County to access several important services. Mr. Speaker Sir, there are many bills which you have passed the money bills as follows; the Bomet County Appropriation Bill, Bomet County Finance Bill 2014 and Bomet County Revenue Collection Bill. These bills have a great bearing on the tranquillity as they have a great bearing on how funds are collected and disbursed and special attention should be paid to Bomet County Revenue Collection Bill 2014. Other areas of importance where appropriate measures should be considered are; Environment and the Habitat, Environmental degradation, pollution and disposal of non-degradable synthetics which have serious impact on the economic activities and health impact on fauna and flora. Bills should be developed to curtail these problems. Another area of concerns is agribusiness which is a driving activity and is facing challenges in the way of marketing and value addition. The organisational structure of management concerning the County and National Governments is an emotive issue which is specific to tea and tea growing counties and you honourable members need to look at the legislation and perhaps domesticate it to specifically address home issues in areas of marketing and value addition. Similar action applies to horticulture. There is also the issues of land, and whereas land cuts across; it is a matter of coordination between the National and County Governments in development of legislation and the issue of leases is currently topical and the Land Commission is currently mandated by the current constitution to legislate on it and the County Assemblies have a role as well to develop legislations to safeguard local interests and encourage foreign investments

The Oversight Role of the County Assembly

As far as this is concerned, the County Assembly has direct contact with the people through public participation and this is the core element of the devolution and it makes all developments people driven and the Assembly should pay special attention to the voices of the people in order to develop budgets reflecting the aspirations of the people and these aspirations are collated together in the CIDP. The CIDP informs the budget and I thank the County Assembly for

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developing realistic budgets. However, I am surprised that some budgets which are neither supplementary nor budgets passed by this House are implemented and it is the responsibility of this ensure that budgets passed are implemented accordingly and any amendments must be through the Assembly and appropriate consents obtained. As per article 183 of the constitution, the County Assembly, while preserving the separation of powers, may exercise oversight over the CEC members and any other executive and I want to tell the honourable members that if they are to be effective in representing the oversight role they must be independent and alive to their constitutional powers to point out noncompliance. All Governments have legislations that clearly spell out the implementation procedures and the PFM Act is the most elaborate in the Constitution and thus is an effective tool is over sighting the implementation of any programme. Still, I note with sadness that the despite the good job by the County Assembly, reports from the Auditor General and Controller of Budget raises numerous queries on the administration and management of financial affairs in Bomet County. These queries have not been answered or explained to the Senate that has oversight role, as explained in article 96 of the Constitution of Kenya. Mr. Speaker, I take great exception to the fact that the Governor of Bomet has not complied with these requirements, and as result of court injunctions. The moral authority to govern is derived from being accountable and I want to ask the Governor of Bomet on the floor of this House to comply with the summons from the Senate and appear before the Senate Committee and be accountable to the people of Bomet. There are certain areas of concern raised in the reports of the Auditor General and let me just give a few examples. It was noted that the County Government did not charge recurrent expenditure to the respective core sectors or departments which made it difficult to ascertain how much individual departments incurred in the period under review. The County spent KES 59.1 million as cash transfers for the elderly an item in which no funding has been requested or approved for by the Controller of Budget. This implies that cash approved for specific activities as per submitted work plans in departments were channelled to this activity. I also want to note the frequent access to overdrafts facilities without approval. It is the work of this honourable House to ensure that all affairs in the County, especially funding is channelled through the County Assembly. Among the challenges faced by the residents of the County is the issue of employment, and as I sat here in the afternoon, I had the privilege of listening to a report from your labour committee and I am impressed that the County Assembly is starting to grow its teeth and I am sure that it is soon going to fight and ask that the County Government becomes responsible on its duties when it does its work. I am aware that some offices were not properly established nor incorporated some element of equity among the sub counties and it is the mandate of this House to ensure that CPSB does not establish

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irregular, unnecessary positions and ensure the element of equity is exercised. All appointments should follow due process in the process of evaluation of candidates, and let me point my experience as regards the establishment of positions and recruitment of persons; the Senate of Kenya has since impeached one Governor and one of the reasons for impeachment was employment of individuals without establishing the offices first, and such activities done in the County is in gross violation of set rules and penalties include impeachment of Governors. I am looking at the County Assembly and the might with which it can impose itself on the County of Bomet. Let me say the process of procurement in the County has not been clear and is not in concurrence with laws passed in the county i.e. the process in which road construction tenders are awarded in the County is opaque and 30% of the allocation was supposed to go to youth women and persons with disability and on looking at the records, this was not attained...

Hon. Speaker: Order members; I had said the Senator should be heard in silence as per our Standing Orders.

Sen. W. Lesan: Mr. Speaker, they are not speaking anything but thumping their feet; as I end, I want to say disbursement of bursaries is ill-defined and it is the Assembly that determines how funds or otherwise are disbursed in the County. I urge the Assembly that do not fail, and you cannot afford to fail, and lastly you should not fail at all in you mandate. In conclusion, the road ahead is rocky as we have answers we are yet to answer in our performance in the last two years and as your Senator, I promise to mobilise regular financial resources to ensure that the County Government and County Assembly are adequately funded for efficient delivery of service and rapid economic growth and transformation of the County of Bomet. I shall endeavour to ensure the resolution of any disputes through dialogue as per article 189 of the Constitution. I will support the County Assembly of Bomet as its develops the laws and policies of the county and together we shall eradicate the vice of corruption and uphold transparency and accountability, and this is not debatable and I believe that together we shall be equal to the challenge as this Assembly has men and women who I believe can help deliver to the residents of Bomet a better county for a better life for each individual and family in Bomet County; and with these remarks, once again, allow me to more sincerely thank you for listening to me and I wish you well as you embark on this historic journey. Mr. Speaker, I have come to the end of the message I had come to present in the Assembly, and I thank you and the honourable members of the House for listening to me, and I am sure in the coming years if we tackle some of the issues here, I believe we shall be equal to the task and some of the tasks that we need to perform in the county require people of integrity and have no divided loyalty and we serve one interest which is not

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conflicting, and if we do this; we shall deliver just service to the people of Bomet County. Thank you.

Hon. Speaker: Thank you honourable Senator for your address to the County Assembly of Bomet. We really appreciate your coming to the County Assembly and we hope we will be able to engage more, especially since the members of the County Assembly have always wanted to pass a message to the Senate, and we hope that with our continued engagements we will be able to play our oversight roles, and we did say during the opening of the Third Session of the Assembly that we have learnt our mistakes and we will not repeat the mistakes and we really want to thank you for your continued support to the Assembly, and you have always been open when we call upon you for research, and even for consultations and we hope this will extend to the Third Session of the Assembly of Bomet. Thank you. Honourable Ng'eno

Hon. B. Ng'eno: Thank you. I rise to table the speech by the Senator at the County Assembly on Tuesday the 17th of February 2015.

Hon. Speaker: It is now the property of the House.

Hon. B. Ng'eno: Thank you. Upon tabling it, I give a notice of motion that pursuant to Standing Order 24(2), the thanks of the County Assembly be recorded for the exposition of public policy in the address of the Senator.

Hon. Speaker: Thank you. The notice has been given; honourable Kirui.

Hon. J. Kirui: Thank you. I wanted to seek the procedure on the tabling of the report or the speech; is it improper to be tabled by any other member?

Hon. Speaker: Honourable Majority, I know you wanted the right of being the Majority Leader in the House. The Standing Order 24(4) reads that whenever the Governor or the Senator delivers an address, a member may, as soon as practicable thereafter, lay the address on the table of the County Assembly following the reading of such as address. If you have an issue we should have amended our standing orders since it says a member.

Hon. J. Kirui: Thank you. I wanted to know the right process; this being the first time it is done

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Hon. Speaker: Thank you. The notice of motion has been given; the House Business Committee will allocate date and time for the debate, and as per our standing orders, it should not exceed four sitting days. Thank you. We appreciate what the Senator did today.

ADJOURNMENT

Hon. Speaker: There being no further business to be discussed; the House is adjourned until tomorrow at 9 a.m.

The House adjourned 6.27 p.m.