

# PARLIAMENT OF KENYA

## THE SENATE

## THE HANSARD

Thursday 14<sup>th</sup>, March 2024

### Afternoon Sitting

*The House met at the Senate Chamber,  
Parliament Buildings, at 2:30 p.m.*

*[The Temporary Speaker  
(Sen. Abdul Haji) in the Chair]*

### PRAYERS

### DETERMINATION OF QUORUM AT COMMENCEMENT OF SITTING

**The Temporary Speaker** (Sen. Abdul Haji): Clerk, can we confirm quorum, please?

*(The Clerk-at-the-Table consulted with the Temporary Speaker)*

Serjeant-at-Arms, please ring the Bell for five minutes.

*(The Quorum Bell was rung)*

Serjeant-at-Arms, you can stop the Bell. We have quorum.  
First order, Clerk?

### HEARING AND DETERMINATION ON THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HON. (DR.) ROBERT MONDA, THE DEPUTY GOVERNOR OF KISII COUNTY

### PRESENTATION OF THE CASE OF KISII DEPUTY GOVERNOR

**The Temporary Speaker** (Sen. Abdul Haji): Very well. I think the defence is supposed to be calling a number of witnesses. Is the defence ready?

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**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Yes, Mr. Temporary Speaker, sir.

**The Temporary Speaker** (Sen. Abdul Haji): Who will you be calling in as a witness?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The Deputy Governor, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Abdul Haji): Senior Counsel, you have one hour, 45 minutes. I think that is the total for your examination, cross-examination, and re-examination. I presume.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): For this witness?

**The Temporary Speaker** (Sen. Abdul Haji): For the one witness.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): For the one witness?

**The Temporary Speaker** (Sen. Abdul Haji): Yes.

*(The Clerk-at-the-Table consulted with the Temporary Speaker)*

Okay, Senior Counsel, you had already consumed your time with the previous witness. Therefore, I am being advised that you have one hour, and 45 minutes to examine all your witnesses.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Temporary Speaker, Sir, could I request then for purposes of this witness, that I take 30 minutes and you designate a time for cross-examination, so that I can prepare time for the next set of witnesses?

**The Temporary Speaker** (Sen. Abdul Haji): Very well. That is in order.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What time are you giving for cross-examination?

**The Temporary Speaker** (Sen. Abdul Haji): Have you asked for 30 minutes?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Yes, for examination-in-chief. I think that for cross-examination, they need about 10 minutes or less.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Temporary Speaker, Sir, I wish to distance myself from the sentiments of the adversarial party. He had no instructions to enter my appearance. We seek an equivalent of one hour to deal with the culprit.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Temporary Speaker, Sir, a moment ago, my colleague was told that the use of the word 'culprit' is unparliamentary. I do not know why he is insisting on using that word and I ask for your protection for my client.

**The Temporary Speaker** (Sen. Abdul Haji): Senior Counsel, let us give you 30 minutes to examine your witness. For cross-examination, what has been precedence since the start of this hearing is that you will get 15 minutes. However, once we get to the cross-examination, we will check what the time will be at that time and decide.

Let us start with you, Senior Counsel, with your 30 minutes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Temporary Speaker, Sir, my colleague, Mr. Ndegwa Njiru, has repeated the use of the word ‘culprit’ against my client. I insist this time round that he apologizes.

**The Temporary Speaker** (Sen. Abdul Haji): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Temporary Speaker, Sir, I do not know why my senior is having a misconception of a simple English word.

The word ‘culprit’ in the Oxford Dictionary, simply means a person. I missed it, but I apologize. Apologies.

*(Loud Consultations)*

**The Temporary Speaker** (Sen. Abdul Haji): Have you apologised? Did I hear an apology at the end?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): No, he has not.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Yes, Mr. Temporary Speaker, Sir, I apologise for using the word “culprit” and I withdraw the same.

**The Temporary Speaker** (Sen. Abdul Haji): Okay. Senior Counsel, proceed.

*(The Deputy Governor of Kisii County  
(Hon. (Dr.) Robert Monda) took the Oath)*

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could you tell the Senate what you do for a living?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, I am the current Deputy Governor of Kisii County Government.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Are you a family man, a Christian and of what denomination?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, I am a Christian in the Seventh-Day Adventist Church. The Seventh-Day Adventist Church worships on Saturdays and I am a church elder in the same church for several years now.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What about family? Are you a family man?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, I am a family person. I have a wife, adult children, and several grandchildren.

I served as a Member of Parliament in the 10<sup>th</sup> Parliament of Kenya and was the Chairperson of the Standing Committee on Health. We came up with the Cancer Act and several other Acts that we amended and proposed. I also sat in the Standing Committee on Agriculture, Liaison Committee, and the House Business Committee.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you.

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Do you know why you are here before the Senate?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, I am aware.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could you confirm that you are aware that the allegations against you are what you summarized on Page six, and which is what you pleaded not guilty to when the charges were read to you at the start of this session yesterday?

Hon. Members, Paragraph six, Page E1 is in the deputy governor's bundle.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, I understand that I am here on reasons of impeachment on the said---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): No, no. So, for the grounds set out in Paragraph six, is it not so?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): In addition to that, do you confirm that you were also notified of other allegations against you, and those are allegations brought through a memorandum from one Mr. Benson Nyakaga, and that you have averred to at Paragraph 52, Page E9?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, Mr. Temporary Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): And that was from public participation?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You have summarized those allegations against you at Paragraph 48 of your affidavit at Pages E8 to E9.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. You maintain that all those allegations against you seeking your impeachment are not true?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, Mr. Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Now, in support of your defense, you are relying on all the witnesses that you have called.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You are also relying on your affidavit, which you have annexed to the bundle and availed to the hon. Members of the Senate on Page E1 to Page E16.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, Mr. Temporary Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You are also relying on your personal statement, which was also presented on Pages 162 to 172.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, Mr. Temporary Speaker, Sir.

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**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You are also relying on the affidavits of Ms. Anne Misati, at Page 63 and the affidavits of Mr. Namuel Mwanga, Kennedy Kashaba, and Joseph Kwaro at Pages 118 to 120.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, Mr. Temporary Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Together with all the annexes, the documents you supplied and the videos.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): That is true, Mr. Temporary Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Now, did you listen to the testimony of Mr. Joseph Misati?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, I did, Mr. Temporary Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Do you recall that Mr. Joseph Misati explained that some Kshs251,000 was given to you from his Cooperative Bank account?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, Mr. Temporary Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): And he referred to the M-Pesa accounts?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, Mr. Temporary Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Do you adopt that testimony?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): I do adopt that testimony, Mr. Temporary Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You also heard him say how money was pulled from his wife, Ms. Anne Misati, to the account of his son, Mr. Dennis Misati then passed to your account being a sum of Kshs249,000. Do you also adopt that testimony?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, Mr. Temporary Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Then, the claim is that you received Kshs800,000. The total of those amounts comes to Kshs500,000. What is your position about the balance of Kshs300,000?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, the balance of Kshs300,000 is understood to me and I do not know anything about it.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Did you receive any Kshs300,000 in cash at the office or the stadium from Mr. Joseph Misati and Mr. Denis Misati?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): No, never. Mr. Temporary Speaker, Sir, that has never happened.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Now, I want to discuss a few things then we move on. Could you confirm that in Paragraphs 16 to 24 of your Statement, you have explained the issue of your receipt of the Kshs500,000 that you just explained? In Paragraph 16, Page E5 to Page E6, you have explained the issue of the sum of Kshs500,000.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, Mr. Temporary Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The same way that Joseph Misati explained. Is that not the case?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): That is true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Let me ask you a different question from the testimony that you adopted. Let us move on then. What was the money for?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): The money that I got from Mr. Misati was a refund of the money I had given him earlier.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): When did you give him that money?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): I gave it to him in October or November, 2022.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, before this Senate, your position is that you were getting a refund of your money.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): That is my position.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Have you explained that in your affidavit?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): That is what I have explained in my affidavit.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Particularly on Paragraph 23-45 you have explained that it was a refund. Is it not?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): That is it.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): At Paragraph 26, you have explained about the owner of the Kshs500,000. Who was the owner?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, the owner of the Kshs500,000 is Mr. Joseph Misati.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Is there any sense in which you could say it belonged to Dennis?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): I heard about the mention of Dennis and the money from this impeachment Motion.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Did you see any documents or paper trails to suggest that this was money from Dennis?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. At Paragraph 24 and 25, you have made reference to the allegations that this story has been taken to the

Ethics and Anti-Corruption Commission (EACC). Can you see it? That the allegations of having received Kshs500,000 or Kshs800,000 has been reported to the EACC?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Yes. I see that.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): What do you have to say about that allegation? Were you aware of any EACC investigations?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I was not aware until the mention of it in the proceedings.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Okay. Have you been summoned by EACC to account for this Kshs800,000 or Kshs799,500?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): At Paragraph 27 you have stated that Mr. Joseph Misati came with his four sons to your place. At whose request was the visit?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): The visit was a request by Mr. Misati.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It was not you who summoned them as Dennis stated?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): No. I did not summon them.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. In Paragraph 27 you say that Dennis and his three other brothers sat at a distance from you and Mr. Misati.

Do you have a rough estimate of how far apart you were?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): We were in two different houses that could be 20 or 30 meters apart.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Different houses that could be 20 or 30 minutes apart?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): That is true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Is there any point at which you were in a congregation together with Mr. Misati and his four sons?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): When they entered my home, we sat in the main house and were served tea and then the two of us moved out.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): My question is; in the course of the visit, was there a point in which all of you were together talking or discussing anything?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): No. There was no point.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Both Mr. Dennis Misati and Joseph Misati confirm that?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): That is true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I would like us to move on to Paragraphs 29 and 30. What is your answer to the question raised by Dennis that this money was a bribe?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Pardon?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): At Paragraph 29 and 30, Dennis Misati says this was a bribe. Later on, he said it was a facilitation. What do you have to say to that allegation?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, the two allegations are a new thing to me. I do not accept it.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Did you receive a bribe from either Dennis, his father or both?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, I have not received a bribe from my friend Joseph Misati nor his son Dennis Misati.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Nor both of them jointly?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Nor both of them jointly.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): As you can imagine the counsels for the County Assembly are waiting to deal with you in regard to what you have said on Paragraphs 28 and 31. I would like us to look at it.

At Paragraph 28, you confirm that Mr. Misati mentioned to you that his son had applied for a job?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): That is true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Paragraph 28, E6 of the deputy governor's bundle. You said there was a conversation on that. Who initiated that conversation?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): This conversation was initiated by Mr. Misati.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What did he say?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): He informed me that he had learnt of a job opportunity coming up in Gusii Water and Sanitation Company (GWASCO), Kisii County,

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Did you promise him that you would get him the job?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): No. I did not.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What did you tell him?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I told him to let either of his sons to apply and the right process will be followed.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): In the HANSARD Pages 189-190, do you remember the long cross examination from my colleagues on Mr. Misati? This is in the County Government's bundle volume 1. There is the HANSARD of the events of the 29<sup>th</sup>, is it not?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes. Mr. Temporary Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I would like you to read the two last sentences at Paragraph 190, which states what you did in reference to Ms. Lucy Wahito, the Chief Executive Officer (CEO) of GWASCO.



**The Deputy Governor** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, I read---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Kindly read from the last sentence at the bottom of Page 189 into the first Paragraph at Page 190.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): “Like any other leader, this request came to me. Everyone, Hon. Members, know that Ms. Lucy in GWASCO, would work under and many other staff work under the Governor’s office where I am also the Deputy to the Governor. So, I indicated to Ms. Lucy asking her if they had such kind of jobs and she said yes. A friend is making a request that he gets his son a job, like everyone of us here would do. She told me, let us wait for the process and if he qualifies, we shall not deny him the job and the discussion ended there.”

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Apart from having mentioned to Ms. Lucy that time did you make any follow up on it?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Ms. Lucy said that you summoned her to your office on the 4<sup>th</sup> May. What do you have to say about it?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I am saying no. I did not summon her to my office.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What did she say in her original statement which you encountered at the County Assembly, when she called you after receiving the sum of Kshs100,000?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Can you come again?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): When you went to the County Assembly to defend yourself, Ms. Lucy had recorded a statement is it not?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): In the statement, she stated she had called you after receiving Kshs100,000. Do you remember that?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I want you to go the specific point at which she talks about the purpose of the money. She said she called you. What did she say was your reaction to that issue?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, she states verbatim. “In the morning of 29<sup>th</sup> May, 2023, I called the Deputy Governor and asked him what the money was.”

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Which paragraph is that? Please tell the House.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): This is on Page E7 Paragraph 38.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is in the Deputy Governor’s bundle. You have quoted verbatim what she says. She said, in the morning of 29<sup>th</sup>, I called the Deputy Governor and asked him where the money was, but he kept quiet. Is it not?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, Mr. Temporary Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): This was her original statement. She wrote another affidavit on 9<sup>th</sup> March saying that you told her the money was in respect to the request for a job for Dennis. Do you remember that?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, I remember.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Do you agree with what she said in the affidavit?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I do not agree with the statement in the affidavit.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Do you agree with what she said in the statement of 8<sup>th</sup> February saying you kept quiet?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, I also do not agree that I kept quiet.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Do you remember that conversation?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, Mr. Temporary Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What did you say?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I told her that the money was erroneously sent to her number and asked her if she could send it back.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I would like us to move on. Did you tell her it was sent to her erroneously?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It was meant for?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): The money was intended to go to another person called Gladys Aming'a who does transport business. I had given her an assignment to deliver building materials and I was paying for the same. The money was sent to the wrong recipient.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): There is the story of whether or not you tried to reverse the remittance. What do you have to say about the question of trying to reverse the remittance?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, I do not want to claim to be an expert in Information Technology (IT). I tried to reverse the amount but did not manage. I do not get the reason why I could not manage. Therefore, I stopped as I waited for Lucy Wahito to return the money to me.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Did you eventually get the return of the money?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Sorry.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Was the money returned?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, the money was returned to me.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): On which date?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): On 30<sup>th</sup> May, 2023.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Did you make any payments to Gladys Aming'a?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes. Once I realised that I had made a mistake by sending the money to a wrong recipient, I immediately remitted the money that Gladys Aming'a needed that morning to deliver the materials.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You have explained the payments in Paragraph 35 of your affidavit?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could you confirm that the remittances to Gladys Aming'a are in your M-Pesa statement on Pages 89 to 104, particularly Paragraphs 99 and 97? The sum of Kshs100,000 plus Kshs40,000 plus Kshs65,000.

That is in on Pages 99 and 97 in the Deputy Governor's bundle. You can use my bundle to look at it. On Page 99, is it true that you sent Kshs100,000 to Gladys Aming'a at 8.03 a.m. on 31<sup>st</sup> May--- Sorry, Kshs40,000.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, I sent Kshs40,000 as a second installment.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The first payment of Kshs100,000 was paid on which date?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I paid Kshs100,000 on 29<sup>th</sup> May at 9.17 a.m.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Are you referring to Page 99?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You made another payment which is captured on Page 97. How much is it?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, I made another remittance of Kshs65,000 on 24<sup>th</sup> June, at 1321hrs.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What were the payments for?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): The payments were for a consignment of building material I wanted to be transported.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What was your explanation for erroneously sending the money to Lucy when you meant to send it to Gladys?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, as I was picking the number to send the money, I erroneously picked the number for Lucy Wahito instead of Gladys Aming'a.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Why did you make that mistake? What could be the explanation for that mistake?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): It is because of how I have saved those numbers in my phone---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could we go to Page 117B of the Deputy Governor's bundle? Could you confirm what is on Page 117B?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): These are the contacts.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): This is your phonebook; the way you have saved the numbers?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could you confirm if the names of both Lucy and Gladys are there?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): How have you saved the name of Lucy?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): The name of Lucy is saved as; CO GWASCO Lucy.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What about the name of Gladys?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): CO Health Gladys Aming'a.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): How far apart are those two names?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): They follow each other.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): They are next to each other.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What do you have to say about the first two initials you have used to describe them?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I chose to have county government officers with the same identity for ease of reaching their contacts. This is the way I identified them in my phonebook.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What is the meaning of CO?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Chief Officer.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What do you have to say about the alphabet?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): The alphabet after CO is GWASCO which is followed by "H" standing for Health. That is the reason why they follow each other.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Your position is that "G" in GWASCO for Lucy's number is followed alphabetically by Health for the name of Gladys which resulted in the arrangement of the names.

I would like us to move to the issue of threats to Dennis Misati. Did you threaten Dennis Misati?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It is said that you sent the threat through his father. Did you tell Dennis' father to go and tell Dennis that you are going to do something against him?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Did you have any direct conversation between yourself and Dennis at any point?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I have not had any conversation with Dennis Misati.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Directly?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Never.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay.

Let us move on to the issue of county staff. It is said that you have county staff at your premises. Do you have them?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): True, I have county staff.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Are you entitled to those county staff from your understanding of the Human Resource (HR) Manual at the county and the Salaries and Remuneration Commission (SRC) Guidelines?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): How many people do you have?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I have my entitlement of six staff who are in my compound.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay, now let us move on because of time.

**The Deputy Governor** (Hon. Robert Monda): Mr. Temporary Speaker, Sir, I also have enforcement officers to provide security to my compound.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Now, do you assign yourself those staffs, both the enforcement officers and the other six staffs?

**The Deputy Governor** (Hon. Robert Monda): Mr. Temporary Speaker, Sir, I was guided to provide names for personal staff, which I did to the County Public Service Board (CPSB), and they were recruited. For the enforcement officers, immediately we were announced as winners, I found some officers at my gate. I have never known how they were sent there, and I have only found myself comfortable that they are giving me the security I need.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You did not determine the people who came to you?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I did not determine the people who should come and the numbers that should come.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): However, for the six you suggested the names and the CPSB assigned them to you?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): That is true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The issue on the arrest of your brother, did you get 20 people to go and assist the police to effect the arrest?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Who effected the arrest?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I reported to the police and I left it at that. I expect that it is the police who arrested my brother.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Do you know where they were kept? Was it at the county cells or at the police cells?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I did not get to know that.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Did you take out an Occurrence Book (OB) for your complaint?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, I did.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You have an OB?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay, I will leave it there. Now, it is said that you used the county staff to feed dogs, to dig a well, to maintain dairy, and to do farming. Let us start with farming. Do you recall that your brother after testifying when he was being re-examined said, neither you nor him is doing any farming?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, that he did say Mr. Temporary Speaker, Sir.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Is it true that you are not doing any farming?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I do not do any kind of farming in my Kisii rural home.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Nonetheless, Mr. Matundura, your brother Reuben had said that you use them for farming, and then came here and said, there is no farming. Is it?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, he has those two positions, which I do not know how he will explain it.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The well?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): On the well, I have not done a well in my home since I became a deputy governor. The well I have, was done in 2003.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): And dairy?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I do not keep any kind of livestock, be it a dog, cat, cattle or poultry. Nothing is in that Kisii home, possibly elsewhere.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): And dogs? They were saying that you have some staff serving as cooks for the dogs.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, if it were possible, I would have invited the House to visit our home even tomorrow. We go together with my brother, leading us to show us the details of what he has shown if it were possible.

**The Temporary Speaker** (Sen. Abdul Haji): Senior Counsel, your 30 minutes are up. I will give you two more minutes to wind up.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Can I request for five minutes, kindly, Mr. Temporary Speaker, Sir?

**The Temporary Speaker** (Sen. Abdul Haji): I will give you three minutes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay, let me try. Now, Dr. Monda, at Paragraph 48 and at Paragraph 52, it is said that you should not hold office for various reasons. I would like to just read what he said at Paragraph 48 and then probably respond to them as a bundle.

At Paragraph 48, this is on the allegation that you are incompetent and have abused office, one. Number two, that you are responsible for non-absorption of the budget. Three, that the budget was varied.

Four, that there is no use of senior staff mortgage provision. Five, that there is use of personal home for purposes of county functions, meetings and five, that you are not working with other leaders in Kisii County.

Lastly, that you are responsible for use of unofficial personnel in county matters. You have seen that?

**The Deputy Governor** (Hon. Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What do you have to say about those allegations? Let us start with the issue of incompetence and abuse of office. Do you admit that.

**The Deputy Governor** (Hon. Robert Monda): I deny that I am incompetent and I have abused my office.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You do not admit that?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I do not admit.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What of the other issues of budget absorption, budget changes, use of senior staff mortgage, use of personal home, use of unofficial personnel and not working with other leaders? What do you have to say about that?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): As the deputy governor, all that I do is what is delegated to me by my Chief Executive Officer (CEO). Therefore, I consider the rest of the allegation should rest with my CEO of the county.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The CEO of the County? It is not you who is to ensure absorption of budget, use of staff mortgage and all those things?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Are they true?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I say yes, they are true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): They are true?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): But your position is that you are not the one responsible?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I am not the one responsible for ---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I have been given three minutes and in the last one minute I want you to go to the index at Page B2. Could you tell this Senate so that they look at it when they go back; what have you availed to them at Page 121 (i) to 142 (x)?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, on Page B2---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Let me lead you so that we save on time. Is it true that at Page 121 (1) to 142 (x), you have availed to this Senate evidence from the Controller of Budget showing that the Kisii County has not absorbed its budget since you came into office?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What number have you been?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): What number?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What position have you been in the ranking of the absorption of budget?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): In absorption of our budget, in our first year in office, we did 13.9 per cent of our development budget and in this coming financial year, in the first quota with did 1.7 per cent of the development budget. In a half a year, we have only managed up to December, 3.9 per cent of the development budget allocated to the Kisii County.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I see you are starting to disobey me. I am reading ---

**The Temporary Speaker** (Sen. Abdul Haji): Senior Counsel, your time is up.

Thank you.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could you give me just two minutes please.

**The Temporary Speaker** (Sen. Abdul Haji): I am really trying to manage time here.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Give me two minutes only. I will admonish my witness to just listen to me rather than --- I know he feels very strongly about this.

**The Temporary Speaker** (Sen. Abdul Haji): Just conclude in one-minute, Senior Counsel. One minute and no extension.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you very much, Mr. Temporary Speaker, Sir. Could you confirm that at Page 142 A to 142 H you



have also availed the Controller of Budget (CoB) Report on none paid bills that have accumulated in Kisii County?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): At Page 143 to 145 you have availed correspondence partly by Members of the County Assembly (MCAs) complaining about the part that was changed after it had been passed by the County Assembly and letters from the CoB?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): At Pages 155 to 157, you have availed a document by the council of elders for the Abagusii complaining about the way funerals have been desecrated?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): At Pages 145 to 154, you have availed to this House incidences of violence by which the Executive of Kisii County have antagonized the other leaders?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): That is true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Temporary Speaker, Sir, I had the intention of playing video. I know you have been very patient with me but let me just try. Would you give me one more minute to just ---?

I will leave it there and I am really grateful. You have been very kind to me. I know also my colleagues have not had an objection and I appreciate that. Thank you so much.

Mr. Deputy Governor, you will be cross examined.

Mr. Temporary Speaker, Sir, my client had said because of his age he might want to alternate between sitting and standing.

**The Temporary Speaker** (Sen. Abdul Haji): That is okay. Serjeant-at-Arms, you can please organise for a chair for the Deputy Governor, in case he needs to sit. Go ahead Counsel, you have 15 minutes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you, Mr. Temporary Speaker, Sir.

Good afternoon, H.E the Deputy Governor of Kisii County?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Good afternoon.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I hope you have been well represented in this proceeding, yes?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): And that prior to you putting in your defence, you went through the Motion of Impeachment. Yes?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): And that it is my assumption that you understood the allegations that are levelled against you. Yes?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Among those allegations, did you find the question of absorption of budget? Did you or did you not?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Please lead us. Please show us in the allegation on the Notice of Motion, where there is an allegation of the absorption of budget?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): No, Mr. Speaker, Sir. I am sorry on that.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you, you have answered.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you also see anything about the management of the county?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, in the entire Motion, I saw a report---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I am not asking a report. I am asking, did you see the question of the management of the County in the Notice of Motion that was---

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): No.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you see or not?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): I did not, in the Notice of Motion.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): It was not there. Correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): And therefore, whatever you have submitted in respect of the absorption of the budget and all those other issues of the funeral, are not relevant to this trial. Correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir. They are relevant.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Is it from the funeral that you are advised that you can extort people of Kisii County. Is it because of the wrangles in the funeral that you have conducted yourself in that manner? Yes, or no? It is a "yes" or "no" answer.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): No.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you. Let us go now to the issues of the evidence. I want you to have a look at---

Hon. Senators, I am referring to the first bundle, Volume one of the County Assembly's bundle of documents. I refer you to Page 184 of the bundle, which bears the County Assembly's HANSARD.

Confirm that you have been good friends with Mr. Misati. Yes?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, we have.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): And that even when you were a Member of Parliament (MP) at that particular time, you used to exchange favours. Correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Correct? Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): And even now you are still exchanging favours, like looking for jobs, looking for votes and even looking for the welfare of your children. Correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Correct.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): And that is what you have pleaded under Paragraph 13 of your bundle of documents. The document labelled as “DG”, the defence at Page four. Correct.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): I will first check on what you are reading.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Paragraph 13, at Page four of your defence, you confirm that you have perpetually been in the habit of giving each other favours. Correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, Mr. Temporary Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Therefore, you stand with the Paragraph C of your defence, and more particularly Paragraph C (III), Correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, Mr. Temporary Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): And therefore, these favours also included issues of campaigns and searching for votes. Correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, Mr. Temporary Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): And therefore, you heard the witness who came before you when the question was put to him whether he has been involved in your campaigns, he answered no. Correct? Correct or not? That, you heard the witness. Yes.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, I heard him.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): A question was put to him whether he is involved in your campaigns. Correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): In not giving---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Excuse me, Mr. Deputy Governor, did you hear that question being put to your witness?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): It was.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What was his answer?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): He has not known how much money---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): No, it is not about the money, it is about the campaign.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Read what he said.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You will not argue with me. You will answer my questions.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): I am aware of that.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you hear the question being put to your witness, whether he was involved in your campaigns?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you hear him answering that he has never been involved in your campaigns?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): But---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you hear him or you never heard him, Mr. Deputy Governor?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Temporary Speaker, Sir, could I request for your protection?

**The Temporary Speaker** (Sen. Abdul Haji): Senior Counsel, what is your point of order?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That, the witness is being practically denied a chance to answer.

**The Temporary Speaker** (Sen. Abdul Haji): Okay.

**Sen. Ali Roba:** Thank you, Mr. Temporary Speaker, Sir. The Counsel for the Assembly is misleading the witness. The witness was asked if he has used any funds to fund the campaign. He was not asked if he supported the Deputy Governor. Thank you, very much.

**The Temporary Speaker** (Sen. Abdul Haji): Okay, Senator. Senior Counsel, Mr. Kigen, what was your point of order?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): My point of order is that the witness should be allowed to answer the question, as opposed to being badgered and being asked to answer in the words that, my colleague wants.

This Senate is interested is investigative and the witness should be allowed to answer the question. I am requesting that he be protected from harassment.

**The Temporary Speaker** (Sen. Abdul Haji): Very well.

Counsel, proceed.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I am well guided, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Abdul Haji): Thank you. Please, proceed.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Kindly confirm that on the date which Mr. Misati visited you in your home, the same had been triggered by Mr. Misati. Correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): That is correct.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): And therefore, that he had come to visit you in search of a favor for his son. Correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): That is incorrect.

Let us look at the HANSARDS. Hon. Senators, I am referring to the County Assembly's HANSARDS appearing on the bundle of Volume one, at Page 189.

Would you kindly look at the statement--- Kindly confirm that you appeared before the County Assembly and tendered your evidence? Correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): That is correct.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): And therefore, you are the one who made the averments contained at that paragraph where you begin by-

“Mr. Speaker, just as a good friend, Mr. Joseph Misati and I, somewhere in April, I was made to know that there is an advert that has come up in GWASCO, and Mr. Misati, as a friend, could ask me that his son has also tendered his application.”

Yes?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, Mr. Temporary Speaker, Sir, only that this is in April.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): It is at that date that this favour was sought.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, this is in April and not in May when Mr. Misati came to my home.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): It is on this date that the favour for a job was sought by Mr. Misati in favour of his son. Correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): And I am saying it is correct to the extent that---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You have answered the question. Let us move to the next question. What did you tell him?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could the witness be allowed to answer?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): It is my witness, senior counsel.

**The Temporary Speaker** (Sen. Abdul Haji): Senior Counsel, let us allow the Counsel to proceed. We are also time constrained. He is trying to ensure that the witness sticks to the answers only.

Please. proceed.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): And which son were you referring to when you spoke about his son? You are the one who spoke about the son in the County Assembly. Correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): That is correct.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Which son, in particular, were you addressing?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): The son is Dennis Misati.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Was he present that day?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Which day?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Was Dennis present that day, when the favor was sought?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, Sir, I want your protection to put the statements clear because, he cannot be coming in a piecemeal and wanting me to pick---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Was he present or he was not present?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): I ask for your protection to put the case into perspective.

**The Temporary Speaker** (Sen. Abdul Haji): Okay, Deputy Governor, I will protect you. Senior counsel, go a little bit slow.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Yes, I will.

**The Temporary Speaker** (Sen. Abdul Haji): Ask the question and let him answer.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): It is a simple question. This day---

**Sen. Sifuna:** On a point of order, Mr. Speaker, Sir.

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Sifuna, what is your point of order.

**Sen. Sifuna:** Mr. Temporary Speaker, to help the witness, he should be assured that during re-examination by his counsel, Mr. Katwa Kigen, any explanations that he wants to give, he will have opportunity to do so. However, at this point of cross-examination, the Counsel for the County Assembly is allowed to ask yes or no answer questions, without stories. Senior Counsel, Mr. Katwa Kigen, you are doing us a disservice as a House by not advising your client that there will be that opportunity.

Mr. Temporary Speaker, Sir, guide them accordingly.

**Sen. Onyonka:** On a point of order, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Abdul Haji): You have not pressed the intervention, so I will not allow you.

Okay, Sen. Onyonka, you may have the Floor.

**Sen. Onyonka:** I would like to make a plea to my colleagues here. This exercise is actually not a court of law. This is a quasi-judicial political exercise. It is important that the stakeholders who are the voters of Kisii listen to the questions because they can see the body language and how the Deputy Governor is answering the questions. However, if you railroad with so many questions than he is unable to answer, somebody might think he actually does not know what he is doing here.

Mr. Temporary Speaker, Sir, I plead, the way you have ruled that you could even add him some more time so that he leads the deputy governor reasonably, within reasonable, time so that everybody can get what the questions are.

Thank you.

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Roba, do you have a point of order? I am not going to take so many points of order. This is the last point of order then we will proceed.

**Sen. Ali Roba:** Mr. Temporary Speaker, Sir, because of time constraints and there will also be an opportunity for the Senior Counsel to cross reference, if we have given a set number of minutes, like 15 minutes to the Counsel, then within that time, if the question only requires a “yes” or “no” answer, then we want to guide the Deputy Governor to be able to respond with yes or no because this is factual information as presented, so that he is able to take advantage of the time given.

Thank you.

**The Temporary Speaker** (Sen. Abdul Haji): Deputy governor, I would advise that you listen to the question and answer. If it is a yes or no question, just answer yes or no. Let the Counsel proceed with his question and after the cross examination, there will be a re-examination and your Counsel will be able to clarify. Can we proceed that way? Counsel, take him slowly.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I will.

Mr. Deputy governor, confirm that you confirmed before the County Assembly as evidence by the HANSARD, that you assured Mr. Misati that it was possible for you to assist his son get a job as it appears in the HANSARD.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Where is that?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): The same paragraph I was reading. You may read it in full.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Mr. Temporary Speaker, I was made to know that there is an advert that has come up in GWASCO and Misati as a good friend informed me that his son had also tendered his application. Was it possible for him to be assisted to get a job?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What did you say?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I said yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you. Who was to assist Mr. Misati’s son to get a job?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Myself.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you assist him in any way?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): No.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Let us look at the evidence again. Look at the same paragraph and read the subsequent paragraph where you are answering to Mr. Katwa Kigen's case. Are you seeing where Mr. Katwa Kigen is asking you? Did you talk to Lucy about the request about your friend? Can you see that paragraph?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, I see it.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Read the subsequent one.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): That is quoting myself. Like any other leader, this request came to me. Everyone, hon. Members know that Lucy in GWASCO would work under like many who work under the governor's office where I am also the deputy to the governor. So, I indicated to Lucy asking her if they had such kind of job and she said yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): So, to that extent, you made contact with Lucy confirming whether the job was available, correct?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): That I did.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you have a look at Lucy's affidavit appearing at Page 263 of the bundle of documents volume one by the County Assembly? Did you or did you not? Did you have a look at that affidavit, Mr. Witness?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You confirm that you made contact with Lucy, correct.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I have said yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Therefore, there are affirmations contained in her affidavits that you had a discussion about it are correct. Yes? To that extent they are correct that you made contact with her in that respect. Correct?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): To that extent yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you. When did you loan the Kshs500,000 to Mr. Misati?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): In October.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Do you have evidence of the loan that you advanced or you only have the evidence of repayment?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): No, I do not have.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What do you have? The evidence of loaning or the evidence of repayment?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I have evidence of repayment.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): There is a glaring lack of evidence of you advancing money to him, correct?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): That is correct.



**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You heard Mr. Misati claiming that in terms of your financial status, you are doing badly, correct? It was his evidence.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): That is incorrect

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you hear him state?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I heard him say that.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): So, do you trust his evidence anymore?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): In this particular instance, I do not hold to that particular statement.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Are you disowning your witness?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): No, I am not.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): So, what do you want the Senate to treat that piece of evidence to the extent that you are a pauper?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Do you want a yes or no answer?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): How do you want to the Senate to treat that piece of evidence and whom between you and your witness is lying?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): None of us is lying. There is a general statement made here that---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Excuse me, Mr. Witness. I want you to take a deep breath, recollect yourself and answer the question. Who between the two of you is lying? Your witness or yourself?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Once again, I am trying to answer but the advocate is blocking me.

**The Temporary Speaker** (Sen. Abdul Haji): What is your answer?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Mr friend, Mr. Misati, while standing here as a witness, talked about problems of politicians and he said most of them have challenges in terms of money. At that point he indicated that I may be one of them.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): So, I am asking, who between the two of you is lying? You have not yet answered the question.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Lying in what?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Misati alleges you are not doing well financially; you allege you are very well financially.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I have not said I am doing very well financially; I have said like any other politicians, I am doing as poorly as the others.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Okay, you have answered my question.

I want to refer the witness to the bundle of documents by the Deputy Governor as filed at Page 111. It appears a bank statement from Leah Nyanchiera Onsare. Do you know that individual?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, I do.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Who is she?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): She is my daughter.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Can you see an entry dated 18<sup>th</sup> August, 2023?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, I do.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What in respect to these proceedings does that entry relate to?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): It relates to a transaction between Mr. Misati and Leah Onsare.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Your daughter, correct?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You heard Mr. Misati indicate to this distinguished Assembly that you are the one who requested him to send to your daughter the Kshs200,000?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, I did.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Do you still claim to be doing well financially?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I am saying yes, I did.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Do you still claim to be doing well financially?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Temporary Speaker** (Sen. Abdul Haji): Counsel, your time is up. Your 15 minutes are up.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Temporary Speaker, Sir, I am well guided. However, we had many interruptions.

**The Temporary Speaker** (Sen. Abdul Haji): We stopped your time during the interruptions.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Temporary Speaker, Sir, this is a very crucial witness and carries the crux of the matter. We would better sacrifice our other 15 minutes and deal with the witness.

**The Temporary Speaker** (Sen. Abdul Haji): Can you give the Counsel an opportunity to speak, please?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): When we were dealing with our key witness, who was Dennis, the defense was given sufficient time to deal with that witness. They were granted at least one hour. Even if we do not get more than one hour, at least we should get one hour for dealing with the key witness.

**The Temporary Speaker** (Sen. Abdul Haji): Counsel, I may not be able to give you one hour. So, can you request for something reasonable? How many minutes should I give you?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Temporary Speaker, Sir, 30 minutes. I will try to do it within the 30 minutes.

*(Loud consultations)*

**The Temporary Speaker** (Sen. Abdul Haji): No. We cannot take too many points of orders. I have Sen. Omogeni, first on the list, while on this side, I have Sen. Cherarkey. Those are the only two points of orders that I will take so that we can move on.

Sen. Omogeni, please proceed.

**Sen. Omogeni:** Mr. Temporary Speaker, Sir, this is a *quasi*-judicial proceeding, and we want to be seen to be fair to both parties. This is the star witness. He is the one who is actually trying to defend himself and we need to get an opportunity to interrogate all the issues. We also have to give the Counsel enough time.

I plead, Mr. Temporary Speaker, Sir, that we allow him 45 minutes so that we do not seem to be to have been favoring one side to the disadvantage of the other side if somebody reviews our record.

**The Temporary Speaker** (Sen. Abdul Haji): Sen. Cherarkey.

**Sen. Cherarkey:** Mr. Temporary Speaker, Sir, you had made a ruling earlier on when the Counsel for the County Assembly requested to waive their cross-examination time. You made a ruling, and we agree they have a right to waive. So, if it is still their position that they waive cross-examining the rest, that time can be added to the star witness of the defense. I think they had said two witnesses. I think there is no problem because you had made a ruling that they can do that. They can still make that application and continue to cede the time that was meant for cross examination to cross examine the star witness because we really want to know what happened. You had made that ruling in the morning.

**The Temporary Speaker** (Sen. Abdul Haji): Okay. I will allow two more points of order. This time, I will take ladies.

Sen. Christine Asige.

**Sen. Crystal Asige:** It is Sen. Crystal Asige.

**The Temporary Speaker** (Sen. Abdul Haji): My apologies, Senator Crystal.

**Sen. Crystal Asige:** Apology accepted. Thank you, Mr. Temporary Speaker, Sir.

I wanted to say exactly what Sen. Cherarkey has said. There was a ruling in the morning, and we all agreed, amongst us, that we would allow the Counsel to reserve his time. He would remove it from two witnesses that he said he would then use that time on the star witness.

**The Temporary Speaker** (Sen. Abdul Haji): Thank you, Senator. On this side, let us have Sen. Orwoba.

**Sen. Orwoba:** Mr. Temporary Speaker, Sir, I understand that the ruling was made earlier, but two points have been raised prior on issues of technicalities, even from the County Assembly. When we deliberate in the Senate and give our final decision, it is imperative that we ensure that we are not giving someone the basis to go to court. We should not give them an opportunity to say that the procedures were not followed well, or that people, for instance, the County Assembly side, were under duress to waive away their 15 minutes.

Mr. Temporary Speaker, Sir, we are here and were here yesterday till midnight. If 15 minutes will be the difference between someone going to court to say that we did not follow the procedure, just allow them to prosecute the amount of time that they require. I believe they are only asking for 15 minutes.

**The Temporary Speaker** (Sen. Abdul Haji): Thank you, Senator.

Counsel, having been reminded that you had waived your time to cross-examine two other witnesses previously, I am being informed you have a balance of 15 minutes. You had already utilized your other 15 minutes. So, I will give you a further 15 minutes to see if you can conclude the questioning.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): We are most humbled, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. Abdul Haji): Okay.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Witness, where did you meet Madam Lucy Wahito? Did you call her to your office? Did you use your phone? How did you meet her? How did you speak to her?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): Mr. Temporary Speaker, Sir, I met Lucy Wahito at the stadium where we hold our offices.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): So, was it correct when she informed the Senate that she met you or you summoned her to your office?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): No, it was not a summon.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you call her to your office?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): It was a casual meeting out there. The Governor had a different function and I met her in that function.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you look at the pleadings of Lucy Wahito appearing at page 263 in her affidavit in the Bundle of Document volume I? Did you see that averment in paragraph 13?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): We are trying to look at it.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Of the affidavit.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): Which page is that?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Page 263.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): Paragraph?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): It is Paragraph 13. Sorry, Paragraph 5. I beg your pardon. Did you see Paragraph 5?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): Yes, I cannot read the number, but I can see the bottom paragraph.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Yes. Are those averments correct? That, the recruitment of the Commercial Manager was to take place in April. Correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): Yes, it is correct. That is the same time that you met Mr. Misati and the boys at your house. Correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): No.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I am asking, is April the same time you met them?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): That is incorrect, Mr. Temporary Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Which month did you meet them in your house?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): It was in May 28<sup>th</sup>.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Let us go to May, 28<sup>th</sup> now because you have taken us there. Would you recall the events of May, 28<sup>th</sup>?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): Events of the whole day or events of that visit?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): The events that relate to these proceedings.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): Yes, Mr. Temporary Speaker, Sir. There was a visit by Mr. Misati and his sons to my home.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): How many sons were in the company of Mr. Misati?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): Four.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): Had you previously met Mr. Misati in your house?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): Not once. We had met severally. Was it every time usual for him to be accompanied by his four boys?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): Not four. Sometimes two of them would come---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You have answered the question.

So, what was so unique about this meeting for the 28<sup>th</sup> May, that he had to be accompanied by his sons?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): Nothing unique, according to me, Mr. Temporary Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you know that he was to be accompanied by the sons by the time he was paying you a visit?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): No, Mr. Temporary Speaker, Sir.

Prior to this meeting, had you met Dennis Mokaya Misati?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): No, Mr. Temporary Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Yet you say that you have been having a very good and healthy friendship with the family, correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): That is correct, Mr. Temporary Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): For 32 years, you have never met Dennis, correct? You do not know him and have never met him, yet you are friends with the father and you do not know his children.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): That is incorrect.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Do you, therefore, know Dennis?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): Mr. Temporary Speaker, Sir, allow me to explain---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): It is not explaining. I am asking you to answer the question. Is it normal for a family friend who has been friends with a family for 32 years not to know the children?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Monda): Mr. Temporary Speaker, Sir, you heard in this House in the morning that one of Mr. Misati's sons lived away for 13 years. Therefore, there was no way he could come with all the sons when one of them lived away.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You are wasting my time. Listen to the question. I want to discount the last 13 years of his life. Do not speak the last 15 years, apart from the 28<sup>th</sup> May, had you met Dennis before the 13 years?

**The Deputy Governor of Kisii County** (Dr. Robert Monda): No. Mr. Temporary Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Yet, you are good friends with the father for 32 years?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Has Mr. Misati's family met your children?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Have they grown up together?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Growing up together to what extent? They know each other.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): It is you, the good and loving father who has not met Mr. Misati's children?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Some of our children meet and some have not met. I cannot say that we have had that close relationship with all the children.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Witness, I put it to you that you are lying that you have never met Mr. Dennis Misati. Did you listen to the testimony by the father?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes. I did.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you hear the father confirmed that Mr. Misati's children know you very well?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes. That is what he said.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): So, who between the two of you is lying now?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): None of us because if the children know---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): No. I have not put a question to you.

Hon. Senators, permit me to go to Page 87 of the Deputy Governor's bundle of documents. As I deal with that aspect, permit me to co-relate that annexure with Paragraph 20 of his affidavit.

Mr. witness, it is in your evidence and testimony that you received Kshs249,000 from one Dennis Misati. Correct? I am putting a question to you. I have not asked you to read. Did you receive Kshs249,000 from Dennis Misati?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Page 5 of the Deputy Governor's defence. It is your averment that he had received that money from his mother. Correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes. Mr. Temporary Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): That Kshs249,000 was meant to pay a debt that you had advanced to his father?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): True.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Had you previously before this occasion ever advanced money to Mr. Misati?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): We are in that kind---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Had you advanced, yes or no?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes. I had.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): How much had you advanced before this occasion?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): I cannot give one figure.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Just give us an approximate a figure.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): We have had exchanges of money like Kshs100,000, even before I became Governor.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you, you have answered. During the repayment of that, did he pay you?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes. Mr. Temporary Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you involve his children in the repayment of that loan?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): No.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What was unique with this debt that you had to involve Dennis?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): I have not an involvement with Dennis from my end. I received my money from one Joseph Misati. How it transmits to me---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You received money from Dennis. Correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): I received the money from his mother.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): It is your averment, and you are trying to explain that the money was sent to Dennis from his mother. Is that correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): That is correct. I got it from the parent.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I am asking because you have averred through your affidavit.

**The Temporary Speaker** (Sen. Abdul Haji): Proceed, Counsel.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You have averred through your affidavit, that the money Dennis received was sent to him by his mother. Is that correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): That is correct.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I am asking a simple question. Previously, you never involved Misati's children in the repayment of his debts to you. Correct or not correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Incorrect?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You involved them previously?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): I have not.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): So, what was unique that Dennis was on this occasion involved in the repayment of the debt?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): I have said severally that it is not in my arrangement to have Dennis involved in transactions of his parents' money.



**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did it ring bells to you that day that Dennis has now been involved in the payment of Kshs249,000?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): No. I did not find---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you ask Mr. Misati why the money was being sent by Dennis and not the mother? Did you ask or you never asked?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): No. I did not ask.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): How did you transact upon receipt of the Kshs500,000? Did you send Kshs100,000 to Lucy?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes. That is true.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What time did you send her the money? Let us first go to the time you received this money.

Hon. Senators, we can go to Page 99 of the Deputy Governor's bundle of defence. It bears the M-Pesa statement. He has only one volume, labelled as DG. How many tranches did you receive from Dennis Misati?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Can we get the right directions because you talked of Lucy and now---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Mr. Governor, I have led you to pages 99 and 100 of your bundle of documents. Are you there?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Can you see the first entry where Mr. Dennis appears?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Can you see where he sent you Kshs150,000?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Which date was it?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): It was on 28<sup>th</sup> May, at 20:33:51.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Confirm that he sent this money while he was at your house?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Correct.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What time was it? Was it during the day or night?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): It was at night.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you need any money that day?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Of course, I needed my money back.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I am asking, did you say that you wanted the money in cash?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, I wanted the money in cash.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Whom did you tell that you wanted the money in cash?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Mr. Joseph Misati.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Joseph Misati came before this House and testified that the reason why this money was sent to Dennis was so that he could go and withdraw the money. Correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Correct.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Where was he to withdraw the money?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): At an M-Pesa shop.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Where exactly?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Keumbu.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): From Keumbu to your house, how many kilometres is it?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): About three.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Does Dennis have a car?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): No. If he has, I do not know.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you hear his father testifying that they needed a young man who could run very fast?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): That he said.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did Mr. Misati come driving in his car on that day?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes. Mr. Temporary Speaker, Sir.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): So, the money was sent to Dennis so that he could rush, withdraw and bring you cash. Correct or not correct, Mr. Witness?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Correct.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): He was to run faster than the car. Correct or not?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): The running explained by Mr. Misati was---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): It is you now. He is your witness. I want you to confirm and collaborate his evidence. Correct or not correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Correct.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you. Did you get the cash eventually?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): No. I am saying no.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Was your desire and the need to have the money repaid met when you received the M-Pesa from Dennis?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What time did you receive the second batch? You received it, for purposes of time at 20:33:52. Correct?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Second bunch?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Yes.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): It was 20:37:31.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What time did you send to Lucy? That is on the next Page which is 99.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): It was 21:24:13.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): How many minutes later? Approximately 40 minutes later, correct?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What was the need of you sending the money to Lucy at night on a Sunday?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I have already indicated that I intended to send the money to Gladys, but by error---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): What actions did you take? When did you notice the error?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): The next morning.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): The next morning because you slept, correct?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): You confirm that you immediately slept after sending the money to Lucy. Correct or not correct, Mr. witness?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I am not saying I slept---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Okay. I will lead you to the County Assembly HANSARD. As I look for the Page, did you appear before the County Assembly and do you confirm that you immediately slept after you had sent? Do you remember making that confirmation?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Kindly take us to the paragraph.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Hon. Senators, I am looking at Volume one, Page 191 where he is answering my learned Senior Counsel's question. In the last paragraph, he says; "I was due to give her Kshs100,000 and as I did, I erroneously picked the wrong number and sent Kshs100,000 then I slept without knowing the recipient was a different person."

Is that your statement?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): That is my statement.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you take these statements on oath before the County Assembly?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Do you still want to stand with the statement or discount it?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I want to stand with the statement.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you.

*[The Temporary Speaker (Sen. Abdul Haji) left the Chair]*

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

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, your time is up.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Madam Temporary Speaker, I am just about to be done. Allow me five minutes for me to debunk the lie.

**The Temporary Speaker** (Sen. Veronica Maina): I will give you two minutes to wind up with the questioning.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I will try my best, but I seek your indulgence.

Mr. Witness, look at where you sent money to Lucy. That is on Page 99 of your bundle of documents.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Can you see that at 23:27, you sent Kshs10,000 to Wilfred Momanyi?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, I did.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Was it the same day?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): It was the same day.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Were you asleep?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I slept---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Did you send the money while asleep?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): No.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you. Let us proceed. That was two hours later, correct?

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**The Deputy Governor** (Hon. (Dr.) Robert Monda): But you know---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Excuse me Mr. Witness, you are wasting my time. That was two hours later, correct?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, it was two hours later.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): At the same time, you also sent Kshs3,000 to one Joseph Orora, correct?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Where is that?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): That was the next day, correct?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, on 29<sup>th</sup>.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Had you noticed you had made an error at that time?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I did not.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): When you were sending Kshs10,000 to Wilfred Momanyi, had you noticed that you had made an error?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): No.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): When did you realise you had made an error? Was it after receiving a call from Lucy or on your own volition?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): It was Lucy's call.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): It was after you received a call, correct?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): On the same day at 9:17, you sent Kshs100,000 to Gladys Aming'a, correct?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Correct.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Had Lucy made the call at that particular time?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Do you know what time Lucy made the call to you?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I cannot recall the exact time but Lucy's confession here was that she called at 8 while in Kisumu.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): At that time, you had tried to make attempts to reverse the money, correct? When did you make the attempts to reverse the money?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): When I talked to Lucy is when I was---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): That was at 9.00, correct?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Show us in your M-Pesa statement where the attempts to reverse the money has been captured.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I did not make a successful attempt. It is not---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Excuse me. We understand that when you fail to reverse, you are given an M-Pesa statement or exposition---

**The Deputy Governor** (Hon. (Dr.) Robert Monda): That is what I am---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Excuse me, let me put this into context.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, allow him to answer and that should be your final question.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Proceed. It is in your statement that you claimed to have tried, but it was not successful, correct?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, I made that clear in this House.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Which Unstructured Supplementary Service Data (USSD) code did you use?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I have said I am not an expert in IT. Therefore, I was trying something I had not done before.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Which procedure did you use in your trials?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I tried to get somebody to assist me.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Who is that you tried to get?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): The people who were in my compound then. I did not get one who---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): We understand. You may name one person that you attempted to initiate.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): My wife.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Is she conversant with reversals?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): That is where we got a challenge. She is not.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): She is equally not conversant?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Daktari, confirm that you are a real doctor and not an imposter. You do not understand simple instructions.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, matters referred to here should remain on the subject we are discussing. My education is not a matter in---

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): But you are well educated. There is no doubt about that, correct?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Madam Temporary Speaker, I would like to protest that there is disrespect---

**The Temporary Speaker** (Sen. Veronica Maina): Counsel Kigen, you can resume your seat for now. Counsel Ndegwa Njiru, your time is up. We have indulged and overindulged on cross-examination.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): If you indulge me, I will only ask one question about the phonebook and I will be done. Only one question about the phonebook and how the mistake is alleged to have occurred.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, if I recall, there was cross-examination on that issue of the phonebook.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): We have not cross-examined on it.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, ask the final question and not add any other.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I am well guided, Madam Temporary Speaker.

Mr. Witness, let us go to Page 117 of your bundle of documents. That is the volume from the Deputy Governor. Please confirm that this is an extract from Witsource. Where did he extract this information from?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): From my phone.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Who extracted it for you?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I was assisted by somebody technical.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): When were you assisted?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): When I was providing the evidence here.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Was this a document that was typed or you directly downloaded it from your phone?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): It was done from my phone.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): It was typed, correct?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): It was not typed.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Which date was it done? Does that document bear a date?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): It does not.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Does it bear any print showing the source of the document?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): No, except that the names are listed there.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Except for the names, correct?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I put it to you that you are the one who did this to try and choreograph your story.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I am not the one.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Finally, when did Lucy return the money to you?

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, counsel. That marks the end of that cross-examination. This is now time for re-examining.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Madam Temporary Speaker, we had sacrificed - there is something that has not yet come out. Gladys is alleged to have received the money. We have not spoken about the story of Gladys.

If you could just give us five more minutes and we can subtract from the balance of the witnesses that we have, so that we deal with that issue. This is a very crucial witness. Remember, Madam Temporary Speaker, we start through cross-examination of our key witness for one hour, without interruption, but I am happy by the magnanimity of the Assembly. Only five minutes, from which will invite my friend, Mr. Mutuma, to conclude.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, this is a time-bound process.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Yes, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): You have been indulged over five times on your request for time. I think your frequent requests may not now be merging in with the time schedule that we have to complete the full exercise.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Yes, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): So. I will now allow the re-exam to be done by the Counsel.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): I am well guided.

**Sen. Thang'wa**: On a point of Order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): What is your point of order, Senator?

**Sen. Thang'wa**: Thank you very much, Madam Temporary Speaker. I think if I heard the counsel clearly, he is saying that they are willing to sacrifice more minutes from the other witness. If they think this is what will help their case, Madam Speaker, I would want to hear them. I also would want to remind the House, that if we are time-bound, we should also be thinking and knowing that also the assemblies are time-bound, if you know what I mean.

**Sen. Cheptumo**: On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Cheptumo you have a point of order?

**Sen. Cheptumo**: Madam Temporary Speaker, I also request you, because, if the counsel for the County Assembly is ready and willing to surrender a portion of their time,



and, they are saying that they have a critical area of evidence to cross-examine this witness - I do not want the House to be accused. I know we do not have time, but it will be a big issue if they never got the time to finalize a small area within only three or four minutes. I plead that you consider your ruling. I support what the Senator for Kiambu is proposing. It should be fair for this House.

**The Temporary Speaker** (Sen. Veronica Maina): Now that the issue is the same, I will allow one more intervention from Sen. Wambua and then I will make a ruling on it.

**Sen. Wambua:** Madam Temporary Speaker, it is the same plea. Listening to the counsel for the Assembly, they are not asking to spend more time than they have. They are just asking to spend their time differently. I heard another witness here say it is the way he manages his finances. So, they just want to manage their time differently.

I thank you.

**The Temporary Speaker** (Sen. Veronica Maina): In view of the mood in the House and the fact that you will just take your minutes from another witness, I want you now to make a proposition on how many minutes you want to take from your other witnesses, and then we allocate you that to finalize.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru) Madam Temporary Speaker, we will only take six minutes.

**The Temporary Speaker** (Sen. Veronica Maina): Six minutes, and the Secretariat will take away the six minutes from their other time schedule.

**Sen. Methu:** On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): Before you proceed on, Sen. Methu, and in under half a minute.

**Sen. Methu:** Thank you, Madam Temporary Speaker. I will take very little time. I thought then as part of the procedure, it is fair that the counsel would let us know which of the witnesses they are taking the minutes from, so that we know specifically from whom they are taking the minutes from so that we do not get the witness and then they backtrack what they had donated.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Methu, to allay your fears, I will ensure that we take out those minutes from either of their witnesses. We could even proceed from three minutes from each of the witnesses. He is taking six minutes, and the Secretariat can begin timing, and it will be strict.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you, Madam Temporary Speaker.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): From the 29th up to the 30th, did you try to call her to ask why she has not refunded your money?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I talked to Lucy, and she told me she was at the airport in Nairobi, landing for a meeting.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Yes. Which day did you speak to her?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I am explaining that I talked to Lucy on the 29th.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru) On the 29<sup>th</sup>?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): And the money was refunded on?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Lucy refunded the money on 30th May.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): The 30th, the next day.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru) I yield the witness to Mr Mutuma.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you, Madam Temporary Speaker, and good afternoon, Deputy Governor of Kisii.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Good afternoon.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): I have two or three questions on one line of questioning. You allege that the money you sent to Lucy was meant to be paid to one Gladys.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): And that is Gladys Aming'a, right?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Right.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): You have also indicated that it was meant for transport, for work that she had done for you.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Work that was ongoing.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): You forgot to mention that deliberately of course, that Gladys Aming'a is also a Chief Officer (CO) in the County Government of Kisii.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): That is true.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): You left that out. Is it that you forgot or you conveniently left that out?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I did not forget nor intentionally leave it out. Gladys Aming'a was doing business as a person and therefore she gave me a transport. I was not paying the Government of Kisii.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): So, you and Gladys were in business, correct?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. Have you had the opportunity to look at the statement that Gladys wrote when you first dragged her name into the County Assembly?

Hon. Senators, I am referring to Page 315 of the DG response. Have you had the occasion to look at that statement? Volume one, sorry. It is our Volume Page 315. This is quite crucial, Hon. Senators. Do you have the statement with you? Do you have the statement with you?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I have the statement with me, Madam Temporary Speaker.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. Gladys says that on 28<sup>th</sup> January, 2022, your wife made a request for her nephew to be granted a tender to supply non-pharmaceutical materials. Can you confirm that?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I cannot confirm that, Madam Temporary Speaker.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): You cannot confirm that? Gladys goes ahead to say that you called and forced her to grant the tender, and the tenders are cited and quoted in Paragraph 317.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Speaker, I request that we be taken through that averment.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): It is page 317 from page 315. Specifically, do you know one Osiemo Bernard Mogengo? Is that your nephew or the nephew of your wife?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I do not know that name.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): You do not know that name?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Do you know a company called Bispharm?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I do not know the company named Bispharm in this statement.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Gladys states that you influenced the issuance of this tender and promised that you would also give her an opportunity to supply you with building materials.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Speaker, I am asking that we be taken through that particular line where I am being led.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): All right. Can you read the paragraph on Page 315? The paragraph that begins, I became the Chief Officer. Volume one, Hon. Senators of the County Assembly's response, page 315. First, confirm at the top the person who swears that statement is Gladys Aming'a.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, the name is Gladys Aming'a.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Confirm that 0727455843 is the same number you sent money to, and that number belongs to Gladys. That number appears at the top.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Is that correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, let me refer.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): That is the same number.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, it is the same number.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Please confirm that the designation of this person sharing the statement is the Chief Officer Medical Services, Public and Sanitation, Kisii County Government. Is that correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): That is correct.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Can you read for us the paragraph that begins with “I became the chief officer on 28th of January...

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda):

“I became the Chief Officer on 28<sup>th</sup> January 2023, after being competitively recruited.”

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you. Jump to the next page, page 316, and begin with “Today 29<sup>th</sup> February, 2024---

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda):

“Today 29<sup>th</sup> February, 2024 while defending himself in the Impeachment Motion, mentioned my name by stating that he sent me money through M-Pesa in the month of May, 2023. I wish to put the record straight as follows---

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Proceed.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda):

“In the month, of May 2023, the Deputy Governor Governor's wife, Joyce Monda---

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Is that your wife? Please, confirm for record purposes.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): She is Ms. Joyce Onsare, not Joyce Monda.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Monda is yourself. So, it is correct if she is referred to as Joyce Monda.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Monda is my surname.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Proceed.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda):

“Who is known to me, called me and asked me to assist her nephew, who had two companies in the supply of medical drugs and non-pharmaceuticals. The nephew by the name Mr. Osiemo Bernard Mogengo.--Where do I stop?

**The Counsel for the County Assembly** (Mr. Elias Mutuma): I think you can stop there because the statement is clear, and Senators can read it.

That allegation is that the amount of Kshs100,000 you are paying to Ms. Gladys Aming'a was a result of you allowing her to work for you in exchange for the tenders that she had granted to the nephew to your wife. What do you have to say to that?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, I deny knowing that kind of position.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Deputy Governor, you were supplied with these documents in advance, correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, I deny having knowledge of that position.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): These are parts of the documents that the County Assembly supplied you with. Correct?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): No.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Are you saying that your Counsel does not have a copy of these documents? Is that what you are saying?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, my Counsel---

**The Counsel for the County Assembly** (Mr. Elias Mutuma): We know it is true and your counsel will respond. Have you made any attempts to respond to the allegations in that statement? You have not. You have not challenged that allegation that you had knowledge of.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Do you want me to respond?

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Yes, proceed.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, your time is now up.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker---

**The Temporary Speaker** (Sen. Veronica Maina): Please, give your final answer on that.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, the date this statement is being made is the day I was undergoing the impeachment on the Floor of the County Assembly and it is referring to that impeachment process where I had mentioned her name.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Have you responded to that allegation that you had knowledge of?

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

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Thank you, Madam Temporary Speaker. I just wanted him to answer the right question. Whether he has responded to these allegations because he had knowledge of them.

Proceed and answer. It is a yes, or no.

**The Temporary Speaker** (Sen. Veronica Maina): Deputy Governor, kindly respond to that question.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): No.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): So, Ms. Lucy Wachira was not the only person working with the County that you sought to influence. You have been influencing other county officers as well.

That is all for this witness. Thank you.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, Mr. Katwa Kigen, how much time do you need for re-examination?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Madam Temporary Speaker, could I request 15 minutes?

**The Temporary Speaker** (Sen. Veronica Maina): It will be 10 minutes, Counsel.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I will try, Madam Speaker.

I would like us to start with the issue of Ms. Gladys Aming'a. Was the statement from Ms. Gladys Aming'a part of the documents you were served with at the point of your appearance at the County Assembly?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): They were served when this Motion was presented to the Senate. Is that not so?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, Madam Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Have you had an occasion where you could have filed a response to that statement?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): There has not been any opportunity.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Now, I would like us to discuss the contents of that statement. My colleague repeatedly asked you whether it is true that you forced Ms. Gladys Aming'a to give a tender, and the first thing I would like you to confirm is whether you know this person mentioned in this statement; Mr. Osiemo Benard Mogengo.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, Sir, I do not know him.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): He is referred to as a nephew of your wife. Are you aware of that relationship?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, if he is a relative of my wife, my wife has not brought him to me for an introduction, so I do not know.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Now, you have been asked also whether you know two companies associated with the name Osiemo Bernard, namely: Peace Farm and Mobikem. Do you know the two companies?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): No, Madam Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You went through the statement together with my colleague on what he was referring to. Did you see anywhere where it is stated that you forced her to give any tenders to anybody?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Now, it is stated that the Kshs100,000 was in consideration of having given out tenders. Do you remember that allegation? You recall the question being put to you, that it is alleged that you were sending this money because you had influenced some tenders. Do you remember that?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Yes, that was the question.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What was the purpose of the Kshs100,000?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, the Kshs100,000 was part of the payment towards transport services that I got from one Gladys Aming'a for construction materials.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Now, I would like us to read what Gladys says and confirm whether she confirms that the payment was for services.

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Gladys says, and I read:

“---he paid me through M-Pesa for the supply of sand and ballast. I have since learnt that I made a mistake in giving the LPOs and I have never repeated it. That is all I wish to state.”

That is Ms. Gladys Aming'a.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, Gladys Aming'a very explicitly explains that the remittance of Kshs100,000 was a payment for services of transport and supply of sand and ballast. Is it not so?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): That is true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): And that is what you are paying for yourself?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): That is what I was paying for.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Does Ms. Gladys Aming'a, to the best of your knowledge, say anywhere that you personally told her to give tenders to anybody?

**The Deputy Governor of Kisii County** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, nowhere has she said that.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I would like us to move on to a different issue. You were asked to confirm that, indeed, you had a conversation with Lucy about the employment bid by Dennis Misati. Do you remember that?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, I remember that.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You said you mentioned it to Lucy?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, I mentioned it to Lucy.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): When you were taken through the affidavit of Lucy, do you agree with the way Lucy has explained that issue of how you met her?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): No, I do not agree.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): More specifically, did you summon her?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): No, I did not summon Lucy for this kind of discussion.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): For emphasis, under what circumstances did you meet Lucy when you mentioned this issue?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I met Lucy at a function, which we had with the Governor in the stadium where our offices are. I mentioned this position by my friend Misati.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Then it is said then that you are struggling, you do not have funds and you are a pauper. What do you have to say about that?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Poverty is relative. It depends on who is averring that. In the eyes of one, it could be that I am a pauper, while in my eyes I am the hon. Deputy Governor of Kisii County.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Let us talk about more in terms of your circumstances. Are you able to underwrite your liabilities and obligations?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): You are able to meet your obligations?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): In that sense, are you struggling?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I am not struggling.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): When Mr. Misati chose to say that you are struggling, was that a communication you had passed on to him? Had you told him that you were struggling or how did that come up?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): It is not my position. Mr. Misati made a general statement about his understanding of those of us who are politicians.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Questions were asked about whether or not you have involved children in the repayments of your debts in the previous relationship with Mr. Joseph Misati. On this day, did you know that Mr. Misati was coming with his children?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): No, I did not know.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Did you agree with Mr. Misati on how the children would be involved in him refunding the money you had lent him on October-November 2022?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): No.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Whose decision and judgement was it on how the money was to get to you?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): It was Mr. Misati's.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Misati chose how he wanted to send it to you?



**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I would like us to look at the HANSARD for the County Government, page 191, where you were asked whether you slept after sending the money. It is said that after you send the money to Ms. Lucy, you slept and that is what you said at the County Assembly, is it not?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I want us to confirm whether this is what is stated in the HANSARD.

“On that evening, I had to pay a debt of the transport I had used to ferry some building materials to my home to one Gladys Aming’a, who does transport business.

I was due to give her Kshs100,000. As I did this, I erroneously picked the wrong number and sent the amount then slept without knowing the recipient was a different person. The next morning before I took my breakfast, I received a call from Lucy informing me that I had sent her Kshs100,000.” Can you see that?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I can see that.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Does that statement indicate that you slept immediately or that you generally slept that night?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I generally slept without noticing that error.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Your point is that at a certain point in that night you slept, but not necessarily immediately after sending the money?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, that is the position.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Your statement to the County Assembly captured in that HANSARD is not in any way inconsistent with the contention that you sent some money two hours after you had sent to Ms. Lucy? It is not inconsistent?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, that is true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Had Mr. Misati visited you with his boys previously?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, with some of his boys, not all of them.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): But from time to time, he has visited you with his boys?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): That is true.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Was this visit unusual in any way?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): It was not unusual.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Both in terms of him visiting you and coming with his boys?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Did you at any point pressurize Lucy that you needed a job for your friend's son?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): No, Madam Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Madam Temporary Speaker, I would like to rest my re-examination there.

**The Temporary Speaker** (Sen. Veronica Maina): That is okay. Is that all for this witness? Counsels and hon. Senators, we will now proceed to raise the interventions or clarifications that Members may have. The board is full with over 15 Senators who are interested in seeking clarifications. I want to propose that we take four on each side.

Let us begin with Sen. Joe Nyutu.

**Sen. Joe Nyutu:** Thank you, Madam Temporary Speaker, for this opportunity. I want to seek very short clarifications from the witness. First, from the evidence of Joseph Misati, the friend, Misati, went to the Deputy Governor's home accompanied by his sons. They had a separate meeting with his sons at a distance. Why would grown men - the sons - accompany the father to a meeting with a friend to discuss matters that did not relate to the employment of Mr. Dennis Misati?

Second, when the witness sent Kshs100,000 to the Managing Director of GWASCO, and he proceeds to say in his statement that it was sent erroneously. That it was supposed to be sent to another lady, who is a Chief Officer within Kisii County Government and it took two days. Would the witness clarify because, normally, when you sending money through M-Pesa, then you will receive a message detailing whom you have sent the money to.

Is the witness being truthful when he alleges that he did not discover immediately that he had sent money to the wrong person? Even if he did, he alleges that he did not have the technical knowhow to reverse the transaction. Ideally, one would call the person you have sent the money erroneously to and request them - especially because this is somebody that is well known to you - to send the money back. This did not happen until the following day when the CEO called the witness herself.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Sen. Joe Nyutu, allow the witness to respond.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, Mr. Joseph Misati came with his four sons. At my age and his, we thought – which is normally the practice – that we leave the children aside and do business on our own. I did not have any special reason to accommodate the children in the discussions we held with Mr. Msati.

On question two, I sent money erroneously to Ms. Lucy, the Managing Director of Gusii Water and Sanitation Company (GWASCO). I have indicated that I slept without noticing the error. The next morning, Ms. Lucy called me and told me about the money. I asked her to send back the money, but she told me that she was at the airport flying to Nairobi from Kisumu. She asked me to reverse, but I did not have the technology of reversing the money. When she reached Nairobi, I talked to her and she told me that she was going to a crucial meeting and would transact later.

I will say this on the issue of reversing the money. When I received the statements in this impeachment, I learned that Ms. Lucy received the Kshs100,000 from me and immediately after spent Kshs5,000. Therefore, it did not remain. I will refer the Senators to the page where Lucy received Kshs100,000 and immediately after paid Kshs5,000, hence reducing the money from the Kshs100,000. I am guided by those who know that even if I tried to reverse, the reverse could not have been possible because there was less money. This is my response.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Wambua, proceed.

**Sen. Wambua:** Madam Temporary Speaker, allow me to engage the witness briefly. I will be done within two minutes. His Excellency Deputy Governor, what is the official title of one Lucy Wahito?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, the official title is Chief Officer. That is what I know. Some people exchange it with the Managing Director.

**Sen. Wambua:** What is the official title? She has a letter of appointment. Is she a Managing Director or a Chief Executive Officer (CEO)?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, I cannot take a position on her title.

**Sen. Wambua:** But you have saved her as Chief Officer?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, I have saved her as Chief Officer.

**Sen. Wambua:** You have said you made a mistake between Lucy and Gladys Aming'á.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**Sen. Wambua:** What is the connection in the typing for Lucy of GWASCO and Gladys Aming'á? You have to type for the name to pop up. In the keyboard of your phone, what is the alphabetical ordering of either of those names?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): When you look at what we have attached, Lucy and Gladys are next to each other.

**Sen. Wambua:** But you have to type the name for the name to pop up.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, I indicated earlier that I have tried to save staff under an easier way of accessing them, and this is why I have my way of accessing the officers of the county.

**Sen. Wambua:** Madam Temporary Speaker, I need your protection because, from Kisii County, there are many different ways of doing things. This one has a different way of typing names on a standard keyboard. When you type 'GWA' what is the connection with 'GLA'?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, I have indicated that when I type CO all the officers would be shown.

**Sen. Wambua:** Okay, I will rest my case there.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Then the rest of the names would follow.

**Sen. Wambua:** I will ask the next question, Madam Temporary Speaker, so that we save on time.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Wambua, it should be the last question.

**Sen. Wambua:** You erroneously, as you say, sent money to Lucy and did not realise that you had sent the money until the following day, which is questionable. That morning, you were called by Lucy and she said; ‘what did you send this money to me for?’ At least, you knew there is Kshs100,000 that you sent to Lucy, which is your money.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): True.

**Sen. Wambua:** You then went to the bank and withdrew Kshs130,000 to send to some other people, yet you had money which was with Lucy and you could access and use for the same purposes. Why was it easier for you – you are saying you are not tech-savvy, but you can withdraw money from the bank and not able to reverse money you have sent. Are you being selective in your tech savviness?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, I am not being selective. If you read my statement correctly, the money I sent to Lucy was in my M-Pesa. That morning, Lucy told me that I had sent her money and it was still in my M-Pesa. I did not go to the bank to withdraw any other money. I had some money in ---

**Sen. Wambua:** The money is not in your M-Pesa, it is in Lucy’s phone.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I am saying that I had more money in my account that could be enough to send another Kshs100,000. I did not send Kshs130,000 to Gladys. It was Kshs100,000 to Gladys after I discovered Lucy had taken Kshs100,000, which she had not refunded.

**Sen. Wambua:** Madam Temporary Speaker, I am okay.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Senator. Sen. Orwoba, ask your question in under one minute. Senators, reducing our questions to only two will help because several Senators are interested in clarifications.

**Sen. Orwoba:** Thank you, Madam Temporary Speaker. I only have two questions. When Joseph Misati was here and he was questioned on his relationship with you, on a business level, he said that at one point that you had an M-Pesa shop. Have you, at any one point, had an M-Pesa shop and if so, would that then conflict that you do not know how to operate M-Pesa, particularly reversals?

On the Assembly bundle Pages 283 and 287, it is stated that the Deputy Governor was buying land at Kshs500,000 per acre, which was negotiated down to Kshs200,000 per acre to help the children. However, in the sales agreement, it is written that you were to pay Kshs2.8 million by the end of October, which you clarified that you were not able to pay. After that, you actually paid Kshs500,000 to Joseph. Where did you get the money? Those two are conflicting.

**The Temporary Speaker** (Sen. Veronica Maina): Give quick short answers. Witness, give short quick answers to help us move faster. Do not give long narrations.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, I have never owned an M-Pesa business. What Mr. Misati averred to in his witness was his own M-Pesa business and not mine.

Number two, the hon. Senator has referred to a case that I saw in this House yesterday about an elder from Magenje Ward, who was selling land that he had owned in Transmara in Narok County.

Madam Temporary Speaker, she came to me and asked me if I can buy. When I attempted to follow up the documents, I realized the same land had a lot of encumbrances. There were people on that land. I do not know whether I should call them squatters or what, and he wanted me to go and use an auctioneer to remove those people and buy that land.

At that point, I said I cannot buy a case. If I am buying land its land and not issues; fighting with people. At that point, I said we cancel this deal. That is where the story of land rests.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. Agnes Kavindu.

**Sen. Kavindu Muthama**: Thank you, Madam Temporary Speaker. Mine is a follow up question on the M-Pesa to Lucy.

Madam Temporary Speaker, when he was giving his evidence, he said that he did not know how to reverse the money and he was looking for somebody to reverse the money for him.

I am wondering if he looked for someone for two or three days and could not get anyone who could reverse that money, even after Lucy had told him that the money was there and after he had confirmed. This raises a lot of questions.

Number two, he talked of not knowing his best friend's children and yet, when his friend was giving evidence, he said that there is even a time he called him to go and fundraise for the children's school fees.

Madam Temporary Speaker, I do not understand how I can be called by my best friend to go fundraise for his son or his daughter and not be familiar with the same daughter.

I thank you.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, witness.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, I have indicated that Lucy called me on the morning of May 29<sup>th</sup>. That is the time there was this conversation on the erroneous sending of money, and she was on transit.

I called her later when I asked her to send me back the money, but she was in Nairobi in a meeting. That is on same day of 29<sup>th</sup> May. She sent me back money the next day. So, the issue of three days does not arise. It is the next day.

**The Temporary Speaker** (Sen. Veronica Maina): The issue of children.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, and hon. Senators, on the familiarity of children, I am very good at knowing the faces of people once well exposed to me.

When I go to fundraise with my friend, I am not fundraising with the children. It is the adults whom I fund raise with. We sometimes do these fund raisings all of us hon. Senators, with the people in the village and the invited guests.

Therefore, we may have our children out there, some in school and some wherever they may be. I would want to still remain on the point that I cannot identify all the children of all my friends. It is not possible for anyone. I will be lying if I say that.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. Cherarkey.

**Sen. Cherarkey:** Thank you, Madam Temporary Speaker. I will be precise with an eye of a military marksman. One, Mr. Deputy Governor, can you table your evidence? Can you table your phone as part of the evidence now, so that we can crosscheck those numbers that you are talking about Wahito and Amiga?

Two, what is your relationship with other leaders in Kisii County? Three, who ensures that there is proper budgetary utilization of funds in Kisii County?

Finally, how do you feel that your brother testified against you and how do you feel when the father testified against the son, so that we get the feeling of what is happening?

Additionally, what is your relationship with the Governor, Hon. Simba Arati?

I thank you.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, as I respond, I will request that where I had missed some of the questions, the hon. Senator will remind me.

For tabling my phone, I will request for your direction Madam Temporary Speaker. I had left my phone with my security out here, if the Serjeant-at-Arms can get the phone for the view by the hon. Senators. That is my request.

**The Temporary Speaker** (Sen. Veronica Maina): Serjeant-at-Arms, you can assist him. We can just open the page where the list of names was downloaded as you answer the rest of the questions.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, I have no objection if they can be doing that.

My relationship with the Kisii politicians is the next question. I have been a politician for some time now. I can confidently say that I have very good relationship with my colleagues, politicians, in Kisii.

In the circumstances where we do not agree, we have sought to solve and make ourselves agree as politicians. I hope I have answered that. I have a very good relationship with my colleague politicians across the board.

On the issue of who ensures the budget of the Kisii County is used, I referred to it earlier. I will say that it is the Chief Executive Officer (CEO) of the county to ensure absorption of resources given by the national Government. The budget that you give us from this House is used effectively. That is my averment that there is a CEO to ensure we spend our resources.

On the issue of Joseph Misati and his son Dennis Misati and the situation of my brother and myself; it is very unfortunate that family members will have to move out of the family circles and come to solve their family disputes in the Senate.

I want to say here that I have felt so much embarrassed that a Member of Parliament (MP) in this country will find his way “that is myself” for some reason find a reason to come here and talk about family issues in the Senate. It is unfortunate. I regret the situation for both Mr. Joseph Misati, his son and myself and my brother, who was here yesterday evening.

On the question of my relationship with my Governor, His Excellency the Hon. Paul Simba Arati, I want to make it clear that we have had a strained relationship from the time we came into office on matters that are official.

Indeed, I am convicted that it is from that perspective that I am before the Senate today on a matter of impeachment, because of the official questions and discussions I have tried to hold with the Governor, but we do not seem to pull together. One of them is a question of budget absorption, where for two consecutive years, we have remained number 47 out of 47 in development resource absorption.

In the first year, we did 13.9 per cent of the resource absorption. In the next quarter, that is, the first quarter of this Financial Year, we have done 1.7 per cent of resource absorption. In the first half of this Financial Year, we did 3.9 per cent. These are the areas of---

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Deputy Governor, let me guide you. You should be responding to the question you were asked. I feel you have not responded to it. Respond to that question, please. The last question was about your relationship with the Governor, if I got it correct.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, I cannot hear you. Maybe they should raise the volume of your microphone, so that I can hear you.

**The Temporary Speaker** (Sen. Veronica Maina): The last question was about your relationship with the Governor.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, it is the same question I am dealing with. The relationship between me and my Governor has been deteriorating day in, day out, as we serve the people of Kisii County. I hope I have answered it.

**The Temporary Speaker** (Sen. Veronica Maina): Yes, you have.

Before we take Sen. Crystal Asige’s question, you have the phone now. Open the page which was downloaded and attached to the document. The Serjeant-at-Arms will present it to the Clerk’s Desk. Sen. Cherarkey can have a look at it.

**Sen. Thang’wa:** On a point of order, Madam Temporary Speaker. I remember last night, I was almost the last person to leave this Chamber. Today, I have been here since morning.

**The Temporary Speaker** (Sen. Veronica Maina): So, have the other Senators.

**Sen. Thang’wa:** Madam Temporary Speaker, with all due respect, allow me to ask my question. Those who asked questions in the previous session are the same people asking questions. Please, tell me why I am here. If we should have them ask questions, then we can watch like others at home.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Thang’wa, on a point of information, you have been in the House and that is the legitimate expectation of the people who brought you to the Senate; that you should be in the Senate attending proceedings.

You have been attending the proceedings, just like other Senators have also been attending the proceedings of this impeachment. I believe all Senators have an equal right to seek clarifications and ask questions.

We are using the dashboard that displays the names for prioritisation. When you want to seek clarification, you should press your button early because that is what we use. We use it as a guide on this side.

Having said that, we will allow more Senators who have not had a chance to ask the questions. However, all are equally entitled.

Sen. Crystal Asige, proceed, as the phone makes its way to the secretariat desk.

**Sen. Crystal Asige:** Madam Temporary Speaker, if that comment by Sen. Thang’wa was directed at me, I have to assure him that yesterday, I only spoke one time. So, I am not among those who spoke a lot yesterday.

Madam Temporary Speaker, I want to speak on behalf of the struggling politicians because I feel like I am one, where if I were to miss Kshs100,000 in my M-Pesa, I have to admit, I would definitely notice immediately. That is where my particular question will focus. If you allow me, I would like to engage the Deputy Governor.

Mr. Deputy Governor, could you kindly clarify how you make the M-Pesa transactions? Is it through the M-Pesa App?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes.

**Sen. Crystal Asige:** Great. So, you are somewhat tech-savvy. That has been confirmed.

I would also like to confirm the process through which you transact on M-Pesa. Maybe you will agree or disagree at the end. I am aware that when you use the M-Pesa app, you have to choose the person that you are sending money to or the recipient. The next stage is to put in the amount that you want to send. Then, you put your pin and then there is a pop-up that asks you to confirm that those details that you have input are correct before you either cancel or accept that transaction. That means you would have seen the recipient’s name pop up. *Inaitwa “Hakikisha”* in Kiswahili.

Once you have confirmed that those are the right details, you press accept. After that, as another Senator has said, you receive a transaction confirmation with the exact details, so that you confirm that you have sent the correct amount to the correct person at the said time.

With all of those different confirmation opportunities, I wanted clarification because you use M-Pesa App. You have to be tech-savvy to use it. How did you not see those confirmation pop-ups that came through the M-Pesa app for you to confirm whether you were sending the money to the right person?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, I have already averred that I missed those pop-ups and sent money knowing that I had



sent to the right person. I missed those ones you have named. I do not know how you send it. Mine asks for the name and the number, then I send.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Korir, proceed.

**Sen. Korir:** Madam Temporary Speaker, my question still hangs on the M-Pesa transfers, where the witness sent Kshs100,000 to Lucy Wahito on 28<sup>th</sup> and it was reversed on 30<sup>th</sup>. That is two days later. I would like to know whether there was an agreement between the Deputy Governor and Lucy Wahito.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, there was no agreement between myself and Lucy Wahito on anything. That is the way I got the question. There was no agreement.

The position was to send the money back and she told me to reverse. That is the position at which we left it.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Faki, proceed.

**Sen. Faki:** Madam Temporary Speaker, mine is also on the same M-Pesa transaction. When you sent the money on 28<sup>th</sup> of May, did you confirm that the money was sent?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, the money was sent.

**Sen. Faki:** But you did not confirm to whom it went? Is that what you are telling us?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I did not read the name to get to know who I was sending the money to. That is what I am saying.

**Sen. Faki:** So, you confirm that the money was sent to Lucy that same evening?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Yes, the money went to Lucy that same evening.

**Sen. Faki:** But it took her prompting for you to realise that it went to a wrong person?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): I slept without noticing that the money had gone to a wrong person. I woke up the next day and that is when I came to that understanding.

**Sen. Faki:** But it is your evidence that in the evening, you sent money. Did you confirm that it went to Lucy?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): No, it was erroneously sent to Lucy. That is what I am saying.

**Sen. Faki:** That is all, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Mbugua, you may have the Floor.

**Sen. Mbugua:** Thank you, Madam Temporary Speaker. Mr. Deputy Governor, I am following up on the charges of abuse of office. I refer you to your affidavit, Paragraph 59 A and B. You seem to suggest that your home is being used for official purposes without your permission. Is that true?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, can we go ahead with the question?

**Sen. Mbugua:** You seem to suggest that your home is being used for official government business without your permission because you are saying your input was not sought for. Is that true?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, this is not referring to myself. It is not my home that is used by anyone for official functions.

**Sen. Mbugua:** Okay, on (b), you suggest that the Governor's office is being used for official government business. Is there any government money which goes into the use of this office?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, I will not be able to confirm if government money is being used. The only response here is that government business is being transacted in the Governor's residence.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Onyonka, you may have the Floor.

**Sen. Onyonka:** Thank you, Madam Temporary Speaker. Dr. Monda, I have two follow up questions.

The question that you have answered about government business taking place, could you explain what that statement means? In other words, are you trying to say that each and every government transaction since the Governor took over in Kisii County has actually been conducted in the Governor's house? You, as the Deputy Governor, were you holding cabinet meetings in the Governor's house? If you can, I hope you explain what the government says in terms of where the Governor or the President should operate from?

The second question I bring to you is: Sen. Asige raised a very interesting question. I am not on a fishing expedition, but I thought you got confused. Do you know the difference between an M-Pesa App and M-Pesa *Kawaida*?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, I may be lost between the two.

**Sen. Onyonka:** Can you explain? Lastly, this money that you sent erroneously, have you ever sent any other erroneous money to anybody at any one time? Did you get a reversal or how did you claim that money back?

Thank you.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, with your permission, I may start with the Mpesa. I am lost between the M-Pesa App and what Sen. Onyonka called M-Pesa *kawaida*. I may be on the *kawaida* M-Pesa because I have not heard the difference between the two. I would have to refer when I leave this Senate.

On the matter of reversal, what did you ask?

**Sen. Onyonka:** Have you sent any other money than this money to anybody else before this exercise started or even now?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, I have done it. M-Pesa is a continuous process by everyone of this era. Therefore, I have sent and sometimes I have lost some money. Sometimes, when I am able to call and get

the money sent back, I have succeeded to get the money back. This happens all the time. I think my considered opinion is that it is for that reason that the Safaricom decided to have the two reversals and even sending back.

On the first question, the hon. Senator asked me to explain a little. All I know, once sworn into government, we are expected to transact government business in gazetted areas. For example, the Senate will conduct business in the designated Senate, which is this Assembly.

However, in my case and Kisii, once we came into government after being sworn in, this was in the presence of my 'Super Senator' Richard Onyonka, we did the swearing in---

**The Temporary Speaker** (Sen. Veronica Maina): Just to guide you, we do not have any super Senators, we are all Senators.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, I withdraw that and replace with Sen. Onyonka.

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senator is the official title.

*(Laughter)*

Can you continue with the answer?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, once you are sworn in, the office by the former governor was of course available. However, we did not occupy that, including my space as the Deputy Governor on grounds that my Governor would want to do renovations to those offices before we occupy them.

Therefore, we had to start operating from the holding rooms of the Kisii Stadium. We have remained in those holding rooms in the stadium until today, as I speak here. If I were to be impeached in this Motion, I would not have stepped into the official gazetted Governor's offices in Kisii as at now.

After a short while at the stadium, my Governor, His Excellency Simba Arati decided to start conducting government meetings in his own residence in Motonto village. This has remained the position of the Kisii County Government over many years.

Without imputing any wrong motive, we have found ourselves in a situation where even the Judicial Service Commission (JSC) visited Kisii and we were required to go to the rural home, where we went and had that meeting there. It was painful for me having the JSC conducting an official meeting in a private residence.

Madam Temporary Speaker, this is the scenario in brief in Kisii. The County Executive Committee Members (CECMs), Chief Officers and the directors will find their way to that home every day.

At some point, as I raised this matter, I started getting excluded from attending those meetings. I was totally not getting any information that there is any meeting going on anywhere, where the Deputy Governor can also attend. That is the scenario in Kisii.

I would want to stop there, hoping I have answered the hon. Senator's question. I invite this Senate to visit Kisii and see for yourselves the scenario we are in, in Kisii County.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you. Sen. Karungo will be the final one, then we will take a direction on the remaining. We have about 17 and we will have to take a direction on how we will go about it.

**Sen. Thang'wa:** Madam Temporary Speaker, I will be brief. Mr. Deputy Governor, why would your brother be so bitter with you that he would want you to lose your seat and go live with him at your father's farm?

The second question, yesterday, I asked Dennis, if he had got the job after giving the Kshs800,000 bribe, would he have told anybody or have gone to the police. His answer was, no, he would not have gone to any police. He would just be enjoying his job.

Now, in that line of thinking, would I be right to say, Lucy Wahito also came here because probably you did not give her all the money that she wanted out of the Kshs800,000? Out of the Ksh800,000, maybe she wanted Kshs400,000, and perhaps you gave her Kshs100,000. Then, there were two days of, are you sending more? Then, if you are not sending more, I am going to refund the money, and that is what happened? Would I be right to say so?

**The Deputy Governor** (Hon. (Dr.) Monda): Madam Temporary Speaker, I will start with that last question to say, no, the hon. Senator would not be right to say so, because we have not had a discussion with Lucy Wahito beyond the erroneous transaction of money.

The other one is about my brother, and I have said it is a sad scenario that the entire happening is simply intended to drag my name through the mud. That is all I would want to say. My brother is in that pain of not supporting me in the past in the elections, but I have continued to win. After the elections, my brother has not been happy and he believes the campaigns continue beyond the time we were elected.

So, he will wish that I am impeached for him to feel better, because I would have lost the seat I won against his wishes. If you refer to the Kisii County elections, you will see many clips showing how my brother campaigned hard against me, but then I floored them and those who were floored will always be looking for grounds to continue fighting.

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, we have now finished the slots that we had allocated, but I have about 17 requests for Senators who need clarifications. We have to take a direction because we have five witnesses who still have to give evidence, be cross-examined and re-examined

**Sen. Methu:** On a point of Order.

**Sen. Osotsi:** On a point of order.

**The Temporary Speaker** (Sen. Veronica Maina): What is your point of Order? Before you do the points of order, I want us to take a direction as a House, whether we add three slots. Both Majority and Minority Leaders are here.

Sen. Methu, please, proceed, followed by Sen. Osotsi. Sen. Osotsi, in the meantime, raise your point of order. Resume your seat. I invited you to use the Dispatch Box. You move first.

**Sen. Osotsi:** Madam Temporary Speaker, I think you directed that Dr. Monda's phone be checked to confirm the phone list attached on the documents. We need to dispense with that, because the document raised many concerns from the Members and from the Counsel as to its authenticity.

In addition, understanding the Computer Misuse and Cybercrime Act, particularly Section 23, that talks about false publication of computer information. So, I think that would be a very crucial aspect to deal with before we proceed.

**The Temporary Speaker** (Sen. Veronica Maina): I had directed that the phone on the page, which has been downloaded and attached to the documentation, be presented to the Clerk and Senator Cherarkey, who had raised that issue, was to be there to see that page. He is not in the House, so I am holding it. It will still be done.

What is your point of order, Sen. Methu? I have given direction and it will be checked.

**Sen. Methu:** Hon. Temporary Speaker, since you had already given direction, that you shall take four from each side, I think it is fair that we stick to that direction that you had given. However, I would be of the proposal that, since we have five more witnesses, for the rest of us who are on that dashboard, because I know I am one of them, you give us priority in terms of getting clarification from the other witnesses that will be coming, so that we can avoid the question that had been raised by Sen. Karungo Thang'wa of the same people speaking over and over.

When we get the next witness, you can get another eight, then we remain with a few more others so that everybody can speak to this matter.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Hamida, proceed on a point of order only, then I give a direction. We take consensus.

**Sen. Kibwana:** Thank you, Madam Temporary Speaker. I would like to request, if you could give the few of us who have not talked at least more time. Give us at least 20 minutes for each side, so that we can proceed, because he is the main witness. We have not exhausted our questions.

**The Temporary Speaker** (Sen. Veronica Maina): Twenty minutes for each side would be too much. Hon. Senators, we either take a few more or proceed on with the witnesses and give priority to the Senators who have not had their issues addressed.

Sen. Mohammed, please, proceed.

**Sen. Faki:** Madam Temporary Speaker, I think the direction which was given was that the Deputy Governor (DG's) side had three hours to present their case together with the cross-examination and conclusion. Has that now changed because I have seen we did about two hours in the morning and we have done another two hours now? The way we are managing our time, I do not think we are going to conclude this matter before midnight.

**The Temporary Speaker** (Sen. Veronica Maina): That is definitely the concern here.

**Sen. Faki:** You need to give direction, so that we know the timeframes of what we are doing, because yesterday, there was a timeframe, which was presented and accepted by the Plenary. We are now digressing from that timeframe.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Sen. Mohammed. I will take one more point of order, then I give a direction.

Sen. Roba, please proceed.

**Sen. Ali Roba:** Thank you, Madam Temporary Speaker. Considering the Deputy Governor is the key person and the issues that have been raised around his removal from office, I think it is only fair if, even if you limit the time to one question, the Senators that want to raise some questions to the Deputy Governor be given in that regard.

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, in view of the time constraints, but noting that this is a key witness and the impeachment is on the Deputy Governor, I will give an opportunity to three Senators on this side, three Senators on the Majority side, a total of six Senators, and each should take only one minute.

Beyond one minute, I will request the Clerk to switch off the microphone, so that we do it in under 10 or 12 minutes and move on to the other witnesses.

Sen. Enock, please, proceed.

**Sen. Wambua:** That is well guided, Madam Temporary Speaker. However, in the same breath you should also require of the witness to respond decisively to questions without expounding on anything.

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, I want to request and guide that even your questions be precise. Do not give narrations or two paragraphs of a background. Just ask a specific question and the witness is duly guided to give specific precise answers to the questions that are asked.

If it is a question of 'yes' or 'no,' just say 'yes' or 'no.' I will now request Sen. (Dr.) Boni Khalwale to ask his question..

**Sen. (Dr.) Khalwale:** Thank you, Madam Temporary Speaker. The Deputy Governor, Robert Monda is my friend. I am the only one in this House who was his colleague in the 10<sup>th</sup> Parliament.

Listening to you, my old friend and colleague, it is your word against the word of your own witnesses. Young Dennis Misati has told us and proved that he gave you Kshs500,000. You have refused. It is your word against his.

Joseph Misati has said that you went to him for money, you were broke. You have refused. Your word against his. Gladys Aming'a has a document here where she demonstrated that you were doing business with her. You have refused; her word against yours. Finally, Lucy Wahito has---

*(Sen. (Dr.) Khalwale microphone went off)*

**The Temporary Speaker** (Sen. Veronica Maina): What is your question, Sen. Boni? It is over. It is one minute.

**Sen. (Dr.) Khalwale:** On Page 264, she acted---

*(Sen. (Dr.) Khalwale spoke off record)*

You are innocent by telling the House. Do we believe it?

**The Temporary Speaker** (Sen. Veronica Maina): Witness.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, to answer these questions from my friend, Sen. (Dr.) Khalwale, Mr. Misati has stood---

**The Temporary Speaker** (Sen. Veronica Maina): What is your point of order, Sen. Wafula? Use the Dispatch Box.

**Sen. Wafula:** Madam Temporary Speaker, is it in order for my senior brother, Sen. (Dr.) Khalwale, to show signals that he is already making decisions and judging the innocent doctor without due process coming to a conclusion? Let us be impartial as hon. Senators and allow the defence and the accused to come on board and elaborate themselves.

**The Temporary Speaker** (Sen. Veronica Maina): Following the point of order, let me give direction.

The witness can concentrate on the question that was posed in the last sentence, that whether he should be believed or the other witnesses should be believed. Just that question.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, there has been mention of several names of witnesses who have been here, Dennis Misati, against the word of his father, Joseph Misati.

My averment is that Joseph Misati and I are on the same page and so, we have not pulled off in different directions and I hope my friend, Senator, is listening to me. Joseph Misati is talking a different language with the son. It is not me who has said we are not talking the same language with Joseph Misati. Misati refunded my money and that is the position between us.

Regarding Gladys Aming'a, I have not deviated that I gave her the contract to deliver building materials to my home. That is the position I have taken. I paid her what was due to her. For Lucy, the GWASCO Managing Director, we are on the same page that I sent money to her erroneously and she reversed the money to me.

There is no more that she has said about me other than that she has two statements. One, she says that I said nothing when we talked on phone on the same money, and on the affidavit, she said something else. So, I have not deviated from what all these witnesses have said. I have a position about them.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Sen. Hamida.

**Sen. Kibwana:** Thank you, Madam Temporary Speaker. Mr. Deputy Governor, the young man, Dennis really broke down. They lost the family business and his wife also had a miscarriage. Is your conscience clear that there was no fraud by extorting money from him to get a job? That is the first one.

This is the second one. There has been so much---

**The Temporary Speaker** (Sen. Veronica Maina): Leave it at one question, Sen. Hamida for this last Session.

**Sen. Kibwana:** Just one more, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): Leave it at one question. Everyone needs a little chance to ask.

**Sen. Kibwana:** Thank you, Madam Temporary Speaker.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Dennis Misati broke down. I was here yesterday and I saw it. Again, Dennis Misati was on record that he has not talked to me at any one time about the job he was looking for. He got all the story about the job from his father. The father was here today morning.

There is no way I can know that Dennis sold a business or suffered any loss, yet the only link between me and Dennis is the father, who said today in the morning that he is not privy to any business lost, nor Dennis having money to come and give me as a bribe or calling it something else, but not inducement.

Madam Temporary Speaker, I cannot speak for Dennis Misati. He can only speak about his father through whom he indicated he got every communication from me.

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

**Sen. Kinyua:** Thank you, Madam Temporary Speaker, in a county a Deputy Governor is number two in command. He is telling us that he sent money erroneously to a person he has saved as Chief Executive Officer (CEO), who is a junior officer in terms of command.

I am trying to understand is this: Was it so hard for that officer to reverse or send the money immediately, which ended up taking two days. I have listened to him saying that the officer said she could not reverse the money immediately because she was at the airport, and then from the airport, she entered a very serious meeting. I still do not understand. That is the only part I do not understand and I need clarity.

**The Temporary Speaker** (Sen. Veronica Maina): Deputy Governor.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, that is very true. Lucy is a junior officer in the company where she works, a company created between the Kisii and Nyamira Counties. She works under a board of management.

I am the Deputy Governor. If indeed I was to look for jobs from the board, I then would have been able to reach the board of management because that is where the marks for anyone looking for a job are awarded. It is not the CEO.

Madam Temporary Speaker, I find this assertion far from what it should be. They were to talk to the Management Board.

Madam Temporary Speaker---

**The Temporary Speaker** (Sen. Veronica Maina): Make your answers precise and short. That is what we have guided.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): The Senator mentioned something about the sending of the money. I mentioned here that from the records that are in the bundles before the Senate, I realized that Madam Lucy Wahito used the same money that she was supposed to have refunded immediately, on the morning of 29<sup>th</sup>.

Even if she was to reverse the money, she did not have the same amount of money to reverse to me until 30<sup>th</sup> when she finally reversed it. On some kind of loan --- If *Fuliza* was there on 29<sup>th</sup>, why did she let it be below Kshs100,000 which she was to reverse to me? I hope I have responded.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. Betty Montet.



**Sen. Betty Montet:** Thank you, Madam Temporary Speaker. Mine is just a quick one. You said the Kshs100,000 you were sending to Ms. Gladys were for services rendered to you on transport. Have you brought any evidence to show such as an invoice or a demand notice either on phone or written to you demanding that payment placed?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, I do not have those documents. However, in the statement given by Ms. Gladys, she is confirming that she transported the materials as my affidavit indicates. So, we are in agreement with Ms. Gladys that she transported materials for me and it is in record in the documents before this House.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. Munyi Mundigi.

**Sen. Munyi Mundigi:** Asante, *Madam Temporary Speaker*. Yangu ni machache. Bw. *Deputy Governor*, wewe ni mwenye Kaunti. Unajua shida zote zilizoko Kisii. Mambo ya kutumia mtu pesa kisha akurudishie ni vitu imefanyika kwa muda mrefu, bora pesa ilirudi.

Lakini nitakuuliza swali kuhusu mambo ya hizi pesa zingine. Wakati tulikuja Kisii kuhusu wafanyikazi, kulikuwa na shida. Mimi ni mmoja wa wafanyikazi wa *labour*. Unajuwa mambo yote mazito yaliyokuwa Kisii. Mliachisha watu kazi. Ndio haya mambo yasifike Kaunti ya Kisii na kisha hapa, hakuna kile ungefanya ili umalize haya maneno hapo mbeleni?

**The Temporary Speaker** (Sen. Veronica Maina): Proceed.

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, this matter has been speeded up very quickly by--- I will call it my Chief Executive Officer (CEO). He is part and parcel of this impeachment movement. That is because they want to get rid of me because of the issues I have raised on the management of the County.

It could have been managed if we sat together as the leadership. However, my CEO determines whether that kind of meeting can take place or not.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. Okiya Omtatah.

**Sen. Okiya Omtatah:** Thank you, Madam Temporary Speaker. Your Excellency Deputy Governor, I have a small concern that is disturbing me. Yesterday, a video was played here of a poor lady who ekes out her a living by selling *mutura*. She was accusing you of having taken money from her. Many others came up. However, I am taking this particular one because it seems to have evidence; that it was made during public participation forum.

Did you have a chance to respond to that allegation? For somebody who is poor to claim that you took so much from her is a very painful experience for me. It is one thing that is going to guide my decision making---

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, the clips that were played in this House ran around the bursary and that I have been soliciting for bribes to give people bursaries.

There are committees that run bursaries in counties and not the Deputy Governor. If you got a report of Kisii, the last bursary that was given in the last year financial year

was Kshs3,000 per student. What sense would it make for a parent to bribe a Deputy Governor with Kshs12,000 or Kshs20,000 to get Kshs3,000? Does it economic sense? Does it look like something is happening?

Madam Temporary Speaker, the clips played here were all choreographed to simply implicate me. Where they have been indicated to have been taken, you will get in the same report you have--- For instance, I report Masimba. Masimba is the headquarters of Masimba Ward. It is indicated in the report that when the team doing public participation reached Masimba, there was nobody to attend the public participation.

However, at the end of the report and the clips played here, I realize there is a gentleman, who is a *bodaboda* rider, whom I know in person and we have taken food together in my house, claimed to have come to me to get bursaries. I have never sat anywhere in a committee releasing bursaries to the beneficiaries. This was simply meant to augment the claim that Monda takes bribes.

If you look at the timing of the public participation---

**The Temporary Speaker** (Sen. Veronica Maina): I want to guide you once again to keep to the question and give short and precise answers. So, rest it there.

Sen. Tobiko will ask the final question then we will move to the next witness.

**Sen. Tobiko:** Thank you, Madam Temporary Speaker. I want to put it to the Deputy Governor that his friend, Joseph Misati, said that he is financially struggling. In that case, could this be the reason the Deputy Governor is soliciting money in order to assist in the job placement of Misati's son, Dennis?

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Madam Temporary Speaker, I have severally responded to that question earlier. That averment was generally done by Mr. Misati that politicians have their challenges in terms of resources in the kind of work they do. He also said that he would expect that I am also one of those suffering in terms of resources.

*(A Member spoke off record)*

Mr. Misati did not speak for me that I am asking for money from anyone. I have not asked for money from anyone to solve the financial challenges of politicians.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Senators. Unfortunately, we have to move on because we have five other witnesses who have not given evidence. Senators who have not found time now, you will get an opportunity.

The Hon. Deputy Governor's team, whom are you calling next?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Madam Temporary Speaker, next, we are calling hon. Lillian Gor. I just want to indicate that considering the constraints of time, we are electing to drop two witnesses and apart from the next witness, we will be calling two more and then we close.

**The Temporary Speaker** (Sen. Veronica Maina): That is very good. We appreciate that. So, let us have the next witness and that will save our time and questions. The witness may take the stand and be sworn in.

Counsel, how much time do you need with this witness? We hope it is below 30 minutes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Yes, Madam Temporary Speaker. It will take 20 minutes.

**The Temporary Speaker** (Sen. Veronica Maina): 20 minutes?

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): However, my colleagues have seven minutes in cross-examination. They gave up their seven minutes.

**The Temporary Speaker** (Sen. Veronica Maina): Yes. We are aware of that. The Secretariat marked it.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Madam Temporary Speaker, if you may allow me, we gave our time for two witnesses. Only two witnesses are the ones that we waived our right of cross-examination. Therefore, if those two witnesses then are not appearing before the Senate, it then discounts our arguments because they are not coming. We only dropped two witnesses, which my learned friend has also agreed to drop, not this particular witness.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Madam Temporary Speaker, the election on the time they gave up was for two witnesses who are named and they are still coming. So, the seven minutes that were ambiguous will now count to this third witness.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, proceed with your witness. Use your time wisely. Those decisions will be made by the Chair.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Most obliged Madam Temporary Speaker.

*(The witness for the Deputy Governor (Hon. Lilian Gor)  
was ushered into the Chamber)*

*(Hon. Lilian Gor took the Oath)*

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Hon. Lilian Gor, you can just introduce yourself to the Chamber.

**Hon. Lilian Gor**: Thank you, Madam Temporary Speaker. My name is Hon. Lilian Anyango Gor. I serve in the Kisii County Assembly, as a Member of the County Assembly (MCA). I also sit in the County Assembly Service Board (CPSB) representing the Minority Coalition.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Hon. Gor, you swore an affidavit that appears on Pages 204-206 of the bundle labelled DG. Is that true?

**Hon. Lilian Gor**: Yes. Madam Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Madam Temporary Speaker, I am referring to this bundle. I will take you quickly to your first assertion in Paragraph 3 of that affidavit, where you say that you opposed the Motion for impeachment on procedural and substantive grounds.

**Hon. Lilian Gor**: Yes. Madam Temporary Speaker, I was part of the proceedings on the day the Motion was moved. I had the privilege. The Speaker gave me an opportunity and I opposed on grounds that the Motion had not been properly placed

before the House and that there were other substantive grounds that would not then allow the Motion to be fairly administered before the House.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Okay. I will take you to the notice of the 13th February. It appears on page six of the DG bundle.

**Hon. Lilian Gor:** Yes. Madam Temporary Speaker, I am there.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Can you see that notice? This is what was presented before the County Assembly?

**Hon. Lilian Gor:** Yes. This was the notice presented before the County Assembly on the 13<sup>th</sup>.

**The Counsel for the Deputy Governor** (Mr. Michuki): It is Page five. That is the one dated 13<sup>th</sup> February.

**Hon. Lilian Gor:** Correct.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Okay. Was this the sum total of the notice that was served upon the Chamber?

**Hon. Lilian Gor:** Yes, Madam Temporary Speaker. What appears on Page five of the document is the Notice of Motion that we received in the County Assembly.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Were the signatures and any supporting evidence produced?

**Hon. Lilian Gor:** Madam Temporary Speaker, on the day that we had this as a Notice of Motion, we did not have the opportunity to see it, and neither did the Speaker refer to any signatures on that particular day.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Okay, and this is a Notice that started these whole proceedings?

**Hon. Lilian Gor:** Madam Speaker, that is correct.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): From your knowledge as a MCA, was this Notice up to par? Was it in accordance with your Standing Orders?

**Hon. Lilian Gor:** Madam Temporary Speaker, both our Standing Orders and Section 33 of the County Governments Act direct us on what a Notice of Motion and impeachment should be. It specifically refers to two items, the grounds and particulars of the Motion. Therefore, what we had on the 13<sup>th</sup> was the grounds. We did not have an opportunity to go through the particulars of the Motion.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Thank you. Just in the emphasis of time, I will now move you to the HANSARD with regard to 21<sup>st</sup> February. It appears in volume one of the County Assembly's bundle. I am referring to which page of that particular bundle? The numbers are at the bottom.

**Hon. Lilian Gor:** Kindly clarify which page you are referring to.

**The Counsel for the Deputy Governor** (Mr. Michuki): The numbers at the bottom, where we have Henry Moracha introducing a Motion.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, can you guide us the page?

**Hon. Lilian Gor:** This is 122, thank you.

**The Counsel for the Deputy Governor** (Mr. Michuki): It is on Page 122 of Volume 1.

**Hon. Lilian Gor:** Yes, I am there.

**The Counsel for the Deputy Governor** (Mr. Michuki): Can you explain to the Senate what Motion the Majority Leader moved before the County Assembly on the 21st of February?

**Hon. Lilian Gor:** Yes, Madam Temporary Speaker. On Page 122, it says it was an adjournment of debate on Motion on removal from office by way of impeachment of His Excellency, the Deputy Governor of the County Government of Kisii, moved by our Leader of Majority, Hon. Moracha.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): I now ask you to look at that HANSARD. Was that Motion for adjournment allowed? As a Member of the Chamber, maybe you can inform the Senate.

**Hon. Lilian Gor:** Madam Temporary Speaker, usually when a Motion is moved, we expect that it is seconded. Thereafter, a question will be put by the Speaker. However, here I do not see any Member of the Assembly who seconded the Motion.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): So, the Motion in question was not seconded?

**Hon. Lilian Gor:** Madam Temporary Speaker, no, it was not.

**The Counsel for the Deputy Governor** (Mr. Michuki): Was that Motion then debated?

**Hon. Lilian Gor:** Madam Temporary Speaker, there was an attempt to do a debate.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Was it finally passed?

**Hon. Lilian Gor:** No.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Did the adjournment happen?

**Hon. Lilian Gor:** Yes. At the end of it, there was an adjournment as per the Communication from the Chair on that particular day.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Okay. Now, we will move to public participation that we have been informed took place at the instigation of the County Assembly. It appears on Pages 56 to 58 of the Deputy Governor's bundle. This is submission from the public participation. Can you see it?

**Hon. Lilian Gor:** On Page 56, the document is headed; "Submission on the Public Participation."

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Who is this submission from?

**Hon. Lilian Gor:** The document is dated 26<sup>th</sup> from Benson Nyagaka Misario.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Have you had a chance to go through this particular submission by this citizen of Kisii County?

**Hon. Lilian Gor:** Yes, I have had an opportunity to go through this submission.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Have you seen the issues he raised with regard to the County Executive?

**Hon. Lilian Gor:** Yes, quite a number of issues were raised.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Have you referred to these issues in your affidavit?

**Hon. Lilian Gor:** Yes, I have referred to a number of them.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): I will take you to the first issue you referred to in Paragraph 7 of your affidavit. This relates to the senior staff mortgage.

**Hon. Lilian Gor:** Yes, I am there.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Who initiated this senior staff mortgage that you referred to?

**Hon. Lilian Gor:** The senior staff mortgage facility is a directive of the SRC and that was communicated through a Gazette Notice. That is a benefit that anybody who is a County Executive Committee Member (CECM), deputy governor, or governor within our country, Kenya, is eligible to have access to.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Did the County Assembly of Kisii operationalise a senior staff mortgage?

**Hon. Lilian Gor:** Yes. The County Assembly of Kisii is mandated to approve any borrowing or borrowing arrangements within the county. It went ahead to approve a borrowing of about Kshs90 million to senior staff for mortgage facilities that would facilitate the actualization of that SRC Gazette Notice.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Have these senior staff been able to enjoy this Fund that you discussed?

**Hon. Lilian Gor:** To the best of my knowledge, they have not.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Why is this?

**Hon. Lilian Gor:** Part of it is because of the approval process. Instead of being domiciled at the committee level as was approved by the County Assembly, the process is no longer with the committee because it is discussed elsewhere. That has hampered the process of getting access to the mortgage.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): What do you mean by “elsewhere”.

**Hon. Lilian Gor:** One of the CECMs confided saying that the document is not within the County Executive’s Office, but it is stored in the Governor’s palatial home.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): On that note, let us move to the next issue, which is the use of the Governor’s home as an office. Is this a fact that you have personal knowledge of that the Governor uses his house as an office?

**Hon. Lilian Gor:** Yes, because I have personally received an invite to go and have an official meeting and discussion within the palatial home.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Is this a known fact in Kisii County, that, that is his office?

**Hon. Lilian Gor:** Yes, it is a known fact. In fact, we have had access to videos going around on social media, confirming that the Governor is comfortable with discussions on government matters being held from his residence.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Okay.

In the interest of time, we will move on to the issue of ghost workers. You indicated that there were media reports about 13 or 14 ghost workers.

**Hon. Lilia Gor:** First of all, one of the few things that were done the moment we got the new government---

Procedurally or as a way of caution, instructions were given to a body that was supposed to evaluate Human Resource (HR) issues and many other reports, including pending bills. That information was communicated to us in one of the forums in the stadium. The executive said that there are issues within the county that would be resolved by a few instructions that he had issued.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): From this investigation, was there a report that was produced?

**Hon. Lilian Gor:** At one point, I saw on social media information that there was a report. However, as a Member of County Assembly (MCA), I have not had access, neither do I know where the report is. As a County Assembly, we have not discussed the report at all.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): So, it has never been tabled before the County Assembly.

**Hon. Lilian Gor:** It has not been tabled.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): That brings in our next issue, which is the Kenya Medical Practitioners Pharmacists Dentists Union (KMPDU) case that appears on Pages 192 to 187 of the Deputy Governor's bundle. Did this case arise out of this alleged hunt for ghost workers?

**Hon. Lilian Gor:** What I am aware of is that in the social media, there was an official document from the County Secretary that was going around indicating that about 700 workers had been given show cause letters.

Quite a number of them were members of the KMPDU. Therefore, since they had received the show cause letters, the KMPDU as an organization went ahead to find a way they could support and have their members listened to.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Did this case, therefore, cause the county to utilise funds to defend this baseless case?

**Hon. Lilian Gor:** Yes. The county had to defend because it was the respondent.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Is this tied with this unknown report on ghost workers?

**Hon. Lilian Gor:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Okay.

I will now take you to Pages 158 and 160 of our bundles. These are pictures we saw of MCAs' votes concerning the Motion that was before the County Assembly. Let us start from Page 158.

**Hon. Lilia Gor:** Yes, I am there.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): You can see that this is the ballot. Can you confirm this is a ballot you had regarding the Impeachment Motion before the Country Assembly?

**Hon. Lilia Gor:** I can confirm that this is a sample of the ballot paper that we had there.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Can you confirm that this is a staff of the Identification (ID) card of one Karen Nyamoita from the Country Assembly and this is her picture?

**Hon. Lilian Gor:** I can confirm that this is the ID and this is her picture.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): You can confirm that this is her picture and that there is a similar picture of a similar MCA on Page 159?

**Hon. Lilian Gor:** Yes.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, you have five minutes. We will be strict on the time. So, condense your questions to what you truly want to hear.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Noted, Madam Temporary Speaker.

Do you confirm that this is the same case at Page 160?

**Hon. Lilian Gor:** Yes.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Why would MCAs take photos of their votes and distribute them in this manner?

**Hon. Lilia Gor:** To the best of my knowledge, MCAs were avoiding instances of being de-whipped. Previously, they have had instances where if they act against what they have been instructed to, then they are de-whipped from committees and face grievous challenges within the Assembly. I sympathize with these grievous challenges within the County Assembly. I sympathize with these members. They may not have been happy to do this, but they were making sure their lives are safe.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): So, they were acting under instruction?

**Hon. Lilian Gor:** Correct.

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Thank you, Madam Temporary Speaker. That is all for this witness. I will hand you over for cross-examination. Maybe now we can take direction as to the time.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Counsel. I shall now give direction. Two witnesses have been dropped, which saves on time. However, we are still not doing so well on time. I will allow cross-examination by Counsel. How many minutes do you need?

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Madam Temporary Speaker, two minutes.

**The Temporary Speaker** (Sen. Veronica Maina): Good. Let us have it in two minutes.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): The rest I shall reserve to use in my submissions at the close.



Good evening, *Mheshimiwa*.

**Hon. Lilian Gor:** Good evening, *Wakili*.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): You have referred us to Pages 157-160.

**Hon. Lilian Gor:** Correct, Madam Temporary Speaker

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): What is the source of this information? Where did you get it from?

**Hon. Lilian Gor:** I have read it from here.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Madam kindly answer my question. Where did you get this information from?

**Hon. Lilian Gor:** I got the information from this bundle.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Do you know its source?

**Hon. Lilian Gor:** I got the information from the bundle.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Do you know the source of this information?

**Hon. Lilian Gor:** The source of information is this bundle. That is my understanding.

**The Temporary Speaker** (Sen. Veronica Maina): She has given an answer. We shall take that.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Are you trying to say that the Senate has been sitting for the last two days over 48 hours in vain?

**Hon. Lilian Gor:** That is not my testimony, Sir.

**The Temporary Speaker** (Sen. Veronica Maina): Any re-examination? I believe you will take a very short while.

**The Counsel to the Deputy Governor** (Mr. Kelvin Michuki): Madam Temporary Speaker, I have just one question. Hon. Gor is this the first time you have seen those photos?

**Hon. Lilian Gor:** Madam Temporary Speaker, I have seen these photos on the Kisii County, Members of County Assembly (MCAs) *WhatsApp* platform.

**The Counsel to the Deputy Governor** (Mr. Kelvin Michuki): Thank you, Hon. Gor.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Methu, do you have any intervention or questions?

**Sen. Methu:** Madam Temporary Speaker, I just need clarification from the witness. From your evidence this afternoon, you say to the best of your knowledge the photos were being taken by the MCAs because there are always consequences if they do not vote in a certain manner, especially de-whipping. I want to know from whom these instructions come from and what are the instances - to the best of your knowledge as an MCA - that people have been de-whipped for voting in a certain way.

**Hon. Lilian Gor:** Madam Temporary Speaker, we have two MCAs who are currently de-whipped from their committees. They belong to the Orange Democratic Party. These members also share the same political party with our Excellency.

They have no platform to contest that which is happening. Currently, we have a member who has gone for eight months without an allowance. An MCA only earns Kshs89,000 and it is fully committed in mortgages and loans.

As a member who sits in the County Assembly Service Board (CASB), I have received several complaints and I have had to go and extent of sitting down with this member who has suicidal thoughts because of that matter. That is why I thought it wise to come and testify about it because it something close to me, but I have no control over it.

**Sen. Methu:** Madam Temporary Speaker, so that I get an answer to that particular question, I am not asking a different question. Is that for the two members: one of them has not had a salary for the last eight months? Is it as a consequence for a vote that he or she took?

As a member of the board, it is puzzling because you are the person that processes salaries for the MCAs.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Methu, did she talk of salaries or allowances?

**Sen. Methu:** Madam Temporary Speaker, let me use the word benefits. That would make more sense. That the member has not been enjoying benefits in the last eight months. Is it because the member from the Orange Democratic Party voted in a certain way?

**Hon. Lilian Gor:** Thank you, Madam Temporary Speaker. The reason Members did this was because they did not want to go against instructions. One of the reasons this Hon. Member has gone without salary for eight months was because he went and talked against the position of his leader within the party.

So, yes, we fear that when we do anything against that position, we shall be victimized and sent away from the Assembly. Despite the fact that the Standing Orders state that a member should at least be in one standing committee, this member we are referring to is not in any committee.

This is an elected member. This means that the people who have sent him to the Assembly have been denied the opportunity to have their views presented in the Assembly.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. Omogeni.

**Sen. Omogeni:** Mheshimiwa, we sit here so that you assist us with information that will help us make a determination that is fair and just. On the four counts that the Deputy Governor of Kisii County is facing, I have listened to your testimony, but I have not heard you respond to any of those four charges facing the Deputy Governor.

Do you think what you have told us this afternoon is relevant to the business before us? Secondly, I have read your affidavit, which was sworn on the 11<sup>th</sup> March, 2024. However, all the things you have said about the MCAs who have in the past been threatened by the Governor and lost certain positions; two of them you say and some have been punished by being denied allowances; all that information appears nowhere in your affidavit.

Is it that you have just had an afterthought? How comes you did not include such crucial information in your affidavit? As I said, ours is to get evidence that assists us in arriving at a determination relevant to the charges that are facing the Deputy Governor of Kisii County.

**Hon. Lillian Gor:** Thank you, Madam Temporary Speaker. The Senator has asked me if the information is relevant to this distinguished assembly. Yes, to the best of my knowledge, it is important and relevant. One of the items that were presented through public participation was the observation and that is whose content I am referring myself to.

If this, then was a matter that was referred to the Assembly courtesy of a public participation activity; then these observations that have come from the people of Kisii County and their views are relevant in this observation, unless we want to believe that their views are irrelevant to this discussion.

Secondly, the information appears right now and it was not part of the affidavit. I was responding to the questions as presented to me by Wakili. I was expounding as he had requested me to.

I thank you.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Kisang, proceed.

**Sen. Kisang:** Thank you, Madam Temporary Speaker. The witness before us should focus on giving us evidence that will assist the Deputy Governor to be saved or not, instead on focusing on the fight between the Deputy Governor and Governor. It will not help in any way.

That is what I wanted to say. This is not a clarification. Basically, I was making an intervention, so that we do not waste a lot of time on local politics. What is before us is the Kisii County Assembly impeaching the Governor.

This House is determining whether they were right to impeach him or not. The witness is supposed to give us something that assists the charges in front of this House.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Sen. Kisang.

Sen. Faki, proceed.

**Sen. Faki:** Thank you, Madam Temporary Speaker. Lillian, to which political party do you belong?

**Hon. Lillian Gor:** Madam Temporary Speaker, my party is Kenya National Congress.

**Sen. Faki:** Therefore, you are in the opposition as far as Kisii County Assembly is concerned? Minority, sorry.

**Hon. Lillian Gor:** Yes, Madam Temporary Speaker. I represent the minority coalition.

**Sen. Faki:** It is your evidence that you opposed the Motion procedurally and on substantive grounds, but your opposition was defeated.

**Hon. Lillian Gor:** Yes, Madam Temporary Speaker. In my own right, I opposed the Motion. This is part of the Kisii County Assembly HANSARD.

**Sen. Faki:** Thank you.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Orwoba, proceed.

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**Sen. Orwoba:** Madam Temporary Speaker, I wanted a clarification from the Member of the County Assembly (MCA). From your submissions, it seems that you do not have confidence in the institution that you represent which is the County Assembly. Would I be right to say then that you take the same position with the earlier submissions that part of the HANSARD is not correct?

**Hon. Lillian Gor:** Madam Temporary Speaker, I am confident of what the County Assembly does. I have reservations about decisions and a few things that are not done procedurally. I raised them then and I am still raising them now.

**Sen. Orwoba:** Madam Temporary Speaker, it is important to be clear. Lillian, are you here as an MCA or in your capacity?

**Hon. Lillian Gor:** Madam Temporary Speaker, I am a MCA and in my capacity as a resident of Kisii County.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Sifuna, you just pressed your button. This should be the final submission.

**Sen. Sifuna:** Madam Temporary Speaker, I was not going to say anything to this witness. However, there is an allegation that has been made. I wanted to know from the witness if there is any documentation that you have presented before the Senate with regard to your averment that Members of the Orange Democratic Movement (ODM) party have previously been punished for going against a party position. You would have to show me the party position and the MCAs that were affected. Do you have any such material before the Senate today?

**Hon. Lillian Gor:** Madam Temporary Speaker, I can name two members of the ODM party who have been disciplined. Currently, I do not have any documents I have brought before this House.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Chute, proceed. This should be the final intervention.

**Sen. Chute:** Madam Temporary Speaker, I do not have anything for the witness. I have a question for the Legal Counsel for the Deputy Governor. From yesterday till today, the issues that are before us are what Dennis, Lucy, and the Deputy Governor have said.

I want to believe that the issue of influencing employment by the Deputy Governor is clear. The Deputy Governor has agreed that he asked Lucy to employ Dennis.

Number two, the transfer of funds as Dennis has said is clear that funds were transferred. Dennis transferred Kshs49,000 and Kshs150,000. Lastly, he transferred Kshs50,000 at 2043hrs. At 2124hrs which is 41 minutes after Dennis had transferred this money the Deputy Governor transferred Kshs100,000 to Lucy.

Looking at Article 75 of the Constitution—

“(1) A State officer shall behave, whether in public and official life, in private life, or in association with other persons, in a manner that avoids--

(b) compromising any public or official interest in favour of a personal interest.”

Let me also refer you to---

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Chute, can you conscript your question to the clarification you are seeking?

**Sen. Chute:** Madam Temporary Speaker, will I be wrong if I said that he is guilty as charged looking at Articles 75 and 76 of the Constitution? I will read Article 76 of the Constitution.

“(1) A gift or donation to a State officer on a public or official occasion is a gift or donation to the Republic and shall be delivered to the State unless exempted under an Act of Parliament.

(2) A State officer shall not--  
(b) seek or accept a personal loan or benefit in circumstances that compromise the integrity of the State officer.”

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Methu, what is your point or order?

Sen. Chute resume your seat.

**Sen. Methu:** Madam Temporary Speaker, I would not have wanted to disrupt my senior, Sen. Chute. However, I would want your guidance on whether what he is reading has any nexus with the witness who is on the witness stand.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Chute, I would urge you to restrict yourself to what has been adduced by the witness who is in the dock right now.

**Sen. Chute:** Madam Temporary Speaker, I am referring this question to the Legal Counsel.

**The Temporary Speaker** (Sen. Veronica Maina): On account of the evidence she had adduced.

**Sen. Chute:** Madam Temporary Speaker, on account of what the Deputy Governor has said earlier.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Chute, I am giving you guidance that you restrict yourself to the witness on the stand. You can address that question to the Counsel based on the evidence the witness has given.

**Sen. Chute:** Madam Temporary Speaker, much obliged.

**The Temporary Speaker** (Sen. Veronica Maina): That marks the end of the evidence from this witness. Counsel, call your next witness. I hope we keep to the same timeline; fast and not repetitive.

**The Counsel for the Deputy Governor** (Mr. Ochoki): Madam Temporary Speaker, the next witness that the hon. Deputy Governor is going to call is Thomas Obare. For the record, Counsel for the County Assembly had waived their right to cross-examine him. We will take 20 minutes and will need some assistance with some videos, which we would wish to have the hon. Senators take a look at it.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, I gave guidance on the cross-examination. Stick by that guidance because two witnesses have been dropped from the list of witnesses, we rescued some time. In line with Article 50, it is to allow a level of cross-examination to be clear that all issues are taken on board. Let the witness take the stand, be sworn in, and proceed.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Madam Temporary Speaker, I request for your audience for a moment. I had an assistant who was assisting the witness navigate around the documents, but he was bereaved.

The person who was replacing him and assisting is outside, and I am told I must seek your permission for the substitute. I kindly request for the accommodation, that you allow the assistant to come and help navigate the documents.

**The Temporary Speaker** (Sen. Veronica Maina): Serjeant-at-Arms, allow the Counsel to have a substitute who can assist. Where is the witness?

*(The Witness for the Deputy Governor (Hon. Nyaboro Obare Thomas) was ushered into the Chamber)*

**The Counsel for the Deputy Governor** (Mr. Ochoki): Madam Temporary Speaker, the witness is already present. He can be sworn in.

*(Hon. Nyaboro Obare Thomas) introduced himself and took the oath)*

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Madam Temporary Speaker, the evidence of this witness can be found at page 198 to 200 of the bundle titled “Deputy Governor”.

Kindly introduce yourself. Tell the honourable House your name and what you do for a living.

**Hon. Thomas Obare**: Madam Temporary Speaker, my name is Obare Thomas---

**Sen. Omogeni**: On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): Just hold on. Sen. Omogeni, what is your point of order?

**Sen. Omogeni**: Madam Temporary Speaker, you know that I am one of the most patient Senators and I sat here when the last witness was presented and adduced evidence. I was struggling to see the relevance of the evidence that was being tendered before us.

Now, I am rising pursuant to Standing Order No.2 of the Third Schedule, as read with Standing Order No.32 of the Third Schedule. This exercise we are undertaking is time bound. We must finalize by midnight tonight. We have a very important task to undertake as Senators.

Under Standing Order No.2, the only reason why we are seated here is to make a determination on whether the particulars of the allegation against the Deputy Governor have been substantiated. That is the only business that is making us sit here from 9.00 a.m. to midnight.

Now, in wisdom, when we enacted our Standing Orders, we put Standing Order No.32, which says that-

“Where on a particular question or matter, including but not limited to questions of evidence, materiality, relevance, competency or admissibility and any questions

consequential or incidental thereto, no provision has been made in the Standing Order or in these Rules, the Chairperson of the Committee shall rule on the question or matter and the ruling of the chairperson shall be final.”

Now, looking at the time, it is 6.30 p.m. and counsel have not made their closing submissions. We have not retreated to Plenary for Senators to make their final submissions.

Madam Temporary Speaker, if you read the affidavit of Hon. Thomas Obare - and I have nothing against my good friend, Thomas Obare - he is making allegations touching on issues of budget as passed by the County Assembly, that is Paragraph eight. He talks about how the budget was passed and how the Governor conducts ---

**The Temporary Speaker** (Sen. Veronica Maina): On which page is that on the document?

**Sen. Omogeni:** That is at page 198. It does not make any response to the four allegations that are facing the Deputy Governor of the County of Kisii.

If you go to paragraph nine, which is at page 199, it says, the Governor has refused to settle pending bills. If you go to paragraph 11, it is talking about militarization, radicalization, gagging of Kisii County youth, *et cetera*. If you go to paragraph 12, it is talking about the Governor lying that he has built 128 Early Childhood Education (ECD) classes, which is not true and page 200 is the attestation page.

Madam Temporary Speaker, you cannot take 67 hon. Members for a ride because what is before us are allegations touching on money that was allegedly given to the Deputy Governor as a bribe or abuse of office in terms of using county enforcement officers to effect arrest of his brother. The evidence that is here has got no relevance to the issues at hand. It is not material to the allegations being investigated by the Senate. We do not have time and we are being taken for granted.

I therefore invite you to invoke Standing Order No.32 of the Third Schedule. Set a precedence here that when we are sitting here as a *quasi-judicial* authority, we should restrict ourselves to the allegations that have been made against either the Governor or the Deputy Governor and then we make a determination whether there is substantiation or none.

If there is none, we set the Deputy Governor free. If there is substantiation, we send the Deputy Governor home so that we save time. Therefore, I invite you to invoke Standing Order No.32 to rule that this particular evidence has got no relevance to the issue at hand.

**The Temporary Speaker** (Sen. Veronica Maina): Are you sure you want to refer to Standing Order No. 32?

**Sen. Omogeni:** Standing Order No.32 of the Third Schedule. You can call it Rule 32 of the Third Schedule if not Standing Order, which gives you discretion, so that you allow us now time to listen to counsel and we also hear our colleagues making their own observations, then we retreat to pass a verdict.

**Sen. Orwoba:** On a point of Order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): What is the point of order, Sen. Gloria, under half a minute? If we entertain so many points of orders, we will never make any progress on the same issues that you are complaining about in terms of time.

**Sen. Orwoba:** Madam Temporary Speaker, actually, I had this point of order at the point where we had the last witness before this one. I even approached you to tell you that some of these things; the relevance towards the charges is not there.

We are actually spending time executing matters of local politics, of fights between politicians and not addressing the four charges that we have.

In the interest of time, because yesterday we left the Chamber at midnight, I do not think that this House, and looking at how the Senators are taking these matters very seriously, we would like to spend the energy that is left to deliberate on the accusations and the matters that have been brought before us. So that, if we can be allowed time to discuss whether or not a budget was implemented or not. We do not need to discuss whether or not the Governor or the Deputy Governor is fighting who and who. It has nothing to do with the four charges that we have.

Therefore, please, I urge you, if possible and not because we do not want to hear the witness, in the interest of time, we can forego this witness.

**The Temporary Speaker** (Sen. Veronica Maina): Hon. Senators, let me give a direction on this matter.

**Sen. Sifuna:** On a point of order, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): What is your point of order, Sen. Sifuna? That is the final one and then I will give a direction.

**Sen. Sifuna:** I will be very brief. I really have a lot of respect for senior counsel, Mr. Katwa Kigen. However, he should also be honest with the House.

Madam Temporary Speaker, you have been referred to certain paragraphs by Senior Counsel, Sen. Okongo Omogeni. I want to refer you to paragraph five, as to why these witnesses are being called. These witnesses are not being called to answer to any of the four allegations. They are being called to respond to governance issues that arose from public participation.

Therefore, if the counsel for the Deputy Governor are going to be fair to us, indeed these witnesses are not going to respond to any of the material allegations against the Deputy Governor. It would be fair to the House and it is not about the question of time because the Standing Orders actually allow you, Madam Temporary Speaker, to rule out evidence that is irrelevant.

What we are saying is, the Deputy Governor's counsel should really examine and ask themselves if they have run out of witnesses to respond to the four allegations so that, these other stories that we want to be told by this other witness is really irrelevant.

We can sit and listen to it, but in all honesty, it will not answer because I have spent time on this bundle. I have read this affidavit and they are trying to respond to matters that came up during public participation and not the allegations that were raised against the Deputy Governor, which are four.

I thank you.



**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Madam Temporary Speaker, if counsel for the Deputy Governor can kindly get a minute to respond to what the hon. Senators were addressing before you make your decision.

**The Temporary Speaker** (Sen. Veronica Maina): I will give the counsel one minute to respond to the materiality of the evidence beforehand and then I will give a direction.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Thank you, Madam Temporary Speaker. I am honoured to respond to my Senator and my Secretary General whom I hold in the highest regard. You will notice that the Deputy Governor has four hours to present his case.

Concerning the relevance or irrelevance of the matter, I believe, with a lot of respect to the hon. Senators, that it is possible that there could be positions that have been taken. For us, the Hon. Deputy Governor would wish to have the House understand fully the nexus of this Impeachment Motion, because this is politics. That is why the Deputy Governor has instructed me to respectfully request that--- The witness who has just stood is extremely important to his case.

If you are to look at the charges as read to the Deputy Governor---

*(Loud Consultations)*

**The Temporary Speaker** (Sen. Veronica Maina): Senators, let him finish.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Yes, if you look at the charges as read, it may not be direct evidence responding to the charges. However, it is good that the hon. Senators understand the background and reasons as to why the Impeachment Motion against the Hon. Deputy Governor was moved.

*(Sen. Orwoba spoke off record)*

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Orwoba, I have given direction. Can you maintain silence as the counsel is addressing us?

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Thank you for the protection, Madam Temporary Speaker. I was just indicating and telling the House that it is extremely important for the Deputy Governor, that evidence relating---

As I said, this is politics. It is extremely important, especially the witness on the dock. There are videos that we intend to play that show what has been happening in Kisii County. That cannot be said to be irrelevant. My colleagues, for the County Assembly, will have an opportunity to cross examine the witness on the contents of his evidence. With that, there will be no prejudice whatsoever suffered by either the County Assembly or anyone save for time.

Madam Temporary Speaker, to save time, you will notice that we have already dropped two witnesses. We are all litigation lawyers and are told to read the mood of the judge or the court. We have heard what the Senators have said and we will consult, but I beg that you allow the witness who stood to proceed with his evidence.

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Thank you very much.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, you have listened to the feel in the House, which may not be a misplaced observation because it is in order for Senators who are sitting as arbiters to listen through the evidence, sift that evidence and find its relevance towards the claims that are laid against the Deputy Governor.

I will guide you in this manner. Since the evidence has not yet been adduced before this House, the impeachment proceedings are against the Deputy Governor and the charges are already laid out. You have done very well to drop off two witnesses who maybe you were of the opinion that they may not be too material to the charges that have been laid against the Deputy Governor.

I will now guide you to take the shortest time possible. Whatever evidence you adduce, let it relate to the charges that are before this House against the Deputy Governor. If you take less time, we will take less minutes in cross-examination. That will be in order. The Governor is not going through any impeachment proceedings here. Relate your evidence to the charges that are before the Senate. I will allow you to proceed with that witness, but make sure that your evidence is material and relevant to the charges before this House.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): With your permission, Madam Temporary Speaker, I have been specifically mentioned by my learned friend, Sen. Sifuna. Could you allow me to say one thing, even if you are to designate only one minute to me?

**The Temporary Speaker** (Sen. Veronica Maina): We have said you proceed, but make sure the evidence relates to the charges that are before the House.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): This same argument was raised as a preliminary issue before the Speaker and he determined that the evidence can be laid.

You will recall that the County Assembly Counsel had taken objections to the paragraphs we are referring to. On our part, we were countering it by saying that we are responding to what came from public participation, which formed part of the charges against us.

If you are ruling that it has to be only on the four counts, which was an argument we had, we would like to know that the Senate is going to exclude the entirety of the public participation. That is because it is the entry point of the two witnesses we are calling.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, I have not restricted you. If you view that it is relevant to the charges before the House, I have allowed you to proceed. You are now using your time wrongly because you should already be giving the evidence that the witness has. I have only guided that you save this House's time by ensuring the evidence is relevant.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Thank you.

**The Counsel for the County Assembly** (Mr. Mwangi Ndegwa): Madam Temporary Speaker, I may seek your guidance. Should the County Assembly note that

whatever evidence is being led by counsel does not square out the charge, could we raise the objection?

**The Temporary Speaker** (Sen. Veronica Maina): No, do not. Let them lay their evidence. These Senators are competent. They can tell what is relevant and what is not.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Thank you, Madam Temporary Speaker.

Hon. Obare, kindly proceed to introduce yourself.

**Hon. Thomas Obare:** Thank you, Counsel.

Madam Temporary Speaker, my name is Thomas Obare, the Member of County Assembly (MCA) for Bobasi Boitangare Ward. I am also a graduate of Economics from the University of Nairobi.

Thank you.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Confirm that the affidavit we are referring the House to, between pages 198 and 200 of the Deputy Governor's bundle was sworn by yourself.

**Hon. Thomas Obare:** I confirm.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Confirm that you were in the County Assembly of Kisii when the Motion that has been brought to this House was debated.

**Hon. Thomas Obare:** I confirm.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Are you a resident of Kisii County?

**Hon. Thomas Obare:** In my introduction, I said that I am the MCA for Bobasi Boitangare Ward, therefore, a resident of Kisii County.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Are you able to tell this House whether you participated in the deliberations of the County Assembly and whether you did challenge anything with regard to the proceedings of the House when the same was being debated?

**Hon. Thomas Obare:** I confirm that I challenged the propriety of the Motion unsuccessfully on grounds including it being out of time, Counsel.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Thank you. You are here as part of the witnesses who are giving evidence in support of the Deputy Governor. Are there any issues arising in Kisii County that you would like this honourable House to get to know about?

**Hon. Thomas Obare:** Madam Temporary Speaker, I confirm that I participated in the debate on the Impeachment of the Deputy Governor. I confirm that the debate is as a result of what is happening in Kisii County.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Thank you, *Mheshimiwa*. You have heard the mood of the House. Let me go straight to the point. In your affidavit, at paragraph eight, you have sworn and told the House that the budget that had been passed in the County Assembly was altered. Is that the correct position?

**Hon. Thomas Obare:** I confirm.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Did your colleagues and yourself protest the fact that a false budget was submitted to the Controller of Budget (COB)?

**Hon. Thomas Obare:** I confirm.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Are you aware whether those are the issues that the Deputy Governor has been in support of? Has he been in support of the MCAs who have been raising such an issue?

**Hon. Thomas Obare:** I confirm that the Deputy Governor has been raising the said issues: the alteration and mutation of the budgets passed by the Assembly and it forms part of the impeachment complaints.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Thank you. Confirm that the letter that the County Assembly did is the one that is at page 145. Let me be sure. I will entirely rely on the DG's bundle. Take a look at page 143 to 145 B.

**Hon. Thomas Obare:** I confirm the letter, and I am a signatory to that letter.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Is that the letter that you sent to the Controller of Budget (CoB)?

**Hon. Thomas Obare:** Yes.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Has there been any response to that letter?

**Hon. Thomas Obare:** There was a response to the CECM Finance and Economic Planning on the same.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Confirm that the hon. DG is fully in support with the contents of this letter.

**Hon. Thomas Obare:** I confirm.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Did you receive any response from the CoB?

**Hon. Thomas Obare:** No. The response was to the CECM Finance and Economic Planning.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Are you aware of a correspondence from the CoB to the CECM Finance and Economic Planning.?

**Hon. Thomas Obare:** Yes, we are aware.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Is that the letter that is in page 145B?

**Hon. Thomas Obare:** 145B

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Take a look at 145B. Is that the letter?

**Hon. Thomas Obare:** I confirm that it is the letter.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Are you able to expound to the House on the contents of that letter that is in page 145B of the DG's bundle?

**Hon. Thomas Obare:** 145B is a response from the CoB to the CECM Finance and Economic Planning asking him to explain the variances that were in the budget passed by the Assembly and the budget uploaded on the CoB portal.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Thank you. Just confirm to the House of what is happening because you told the House that you are a resident of Kisii. Are you aware of any radicalisation or gangs coming up in Kisii County? What is your take and what is the Deputy Governor's take in respect of that particular aspect as contained in paragraph 11 of your affidavit?

**Hon. Thomas Obare:** I confirm that the Impeachment Motion before this Assembly is as a result of what has been happening in Kisii. We have had instances where no one is supposed to question or ask any question in regards to issues of governance in Kisii County. Kisii County has one supreme leader and anyone person who differs with the supreme leader has to be taken through what the DG is being take through.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Just proceed.

**Hon. Thomas Obare:** I also confirm to this House that this is not only happening to the DG but almost all leaders from Kisii County, that if you disagree with the CEO of the county, then by all means possible, you have to be dealt with. That is why we are here today.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Because of time, let me refer you to page 155 to 157 of the DG's bundle. Are you able to tell the House what that is and the relevance to the Motion?

**Hon. Thomas Obare:** I can see this is a newspaper pullout. It talks about what Kisii elders said about Governor Arati's remarks to reconciliation talks.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Basically, in aspect of the violence and chaos in Kisii county, there have been attempts to reconcile leaders. Is that what you are telling the honorable Senate?

**Hon. Thomas Obare:** I confirm that there have been attempts to mitigate the violence and the altercation that has been happening in Kisii but then we have not been able to have those talks.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): So, the article at Page 155 to 157 relates to the attempt to reconcile. Is that correct?

**Hon. Thomas Obare:** Yes, counsel.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Do you have any other videos especially the ones that you are referring to in paragraph 11B that you would wish to show the House as we rest not to take a lot of time?

**Hon. Thomas Obare:** Yes, the videos were submitted. I hope that they can be played in the Senate.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Madam Temporary Speaker, I request that the videos that we ---

**The Temporary Speaker** (Sen. Veronica Maina): How long are the videos?

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): They are five minutes but there are a number of them. There is a final one which is around 50 seconds. Those are the last ones that we will play and we will rest our case.

**The Temporary Speaker** (Sen. Veronica Maina): Play the video.

*(A video clip was played)*

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Hon. Obare, I believe you have had an opportunity to see the videos.

**Hon. Thomas Obare:** I have had an opportunity to look at the videos.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Are you able to tell this honorable House what the videos are about exactly?

**Hon. Thomas Obare:** Can it be played?

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Madam Temporary Speaker, if we can kindly have that first video played.

*(A video clip was played)*

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): That is a different clip but because of time, if you can, allow me refer the witness to paragraph 12 of his affidavit because we could have played that one.

I do not know whether it is possible to go back. What is this about 128 Early Childhood Development Education (ECDE) classes built in Kisii?

**Hon. Thomas Obare:** Madam Temporary Speaker, the President visited Kisii County on 16<sup>th</sup> December, 2023. The video that has been played before this House is our Governor---

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): It has not been played. It is going to be played.

**Hon. Thomas Obare:** That is our Governor explaining that he has built 128 ECDE classes, a point that we challenged---

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): It can be played then we proceed.

*(A video clip was played)*

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Thank you. Were you present when His Excellency the Governor----

**Hon. Thomas Obare:** I was present during the function. I raised a question thereafter asking for the information on the ECDE classes because I knew it is a lie.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Is that information in the letter that you did on page 174 to 176 of the DG's bundle? Just take a look at page 174 to 176.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, you have five minutes to finish.

**Hon. Thomas Obare:** That is the letter I did to the chief officer on the same.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Can I proceed, Madam Temporary Speaker?

**The Temporary Speaker** (Sen. Veronica Maina): Proceed.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Thank you. I believe the assistant to the Senate has just shown me 10 minutes a minute ago and the Chair is indicating five. If we can just play the video clips.

**The Temporary Speaker** (Sen. Veronica Maina): What is your point of order, Sen. Sifuna. Make it short.

**Sen. Sifuna:** Madam Temporary Speaker, I heard your direction very clearly to Counsel for the Deputy Governor. You allowed them to proceed but gave them a caution that the material they present must be relevant to the issues before this House.

If indeed there is material like the one they are playing, nothing stops the witness who is an hon. Member of the County Assembly from bringing a separate impeachment Motion against Simba Arati for lying in public. That is not why we are here.

Madam Temporary Speaker, for you to continue to allow irrelevant material to be played is really an abuse of this process. This is because they are abusing the process to achieve nefarious political ends. This is something that we cannot allow in this House.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Madam Temporary Speaker, just allow me. I notice the objections that are being raised. I will concede and possibly just ask the witness whether in all his videos---

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Sifuna has raised a question based on the ruling I had made a few minutes ago.

Counsel, I want you to use your skills and competence to sift your evidence and present what is relevant to the charges to make it easy for us to come to the end of this process. Please, proceed and keep yourself relevant to the topic.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): I am well guided, Madam Temporary Speaker. I will drop our request to play the other videos and just seek a clarification from the witness on what is contained in all these other videos, in brief, for purposes of the House.

**Hon. Thomas Obare:** Madam Temporary Speaker, what is contained in these videos are explanations as to why we are here. That is why, when Sen. Sifuna asked the relevance of these videos, I can confirm that the Impeachment Motion before us is a political process. It has nothing at all to do with the four charges presented against the Deputy Governor.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Are you trying to tell the House that there are external forces that have held the Kisii County Assembly captive?

**Hon. Thomas Obare:** I confirm.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Anything as we finish ahead of time?

**Hon. Thomas Obare:** Even from the reports of the public participation, you could clearly see that it was one-sided. Therefore, it depicts the kind of Assembly that we have in Kisii; an Assembly that is held captive and is under instructions.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Thank you, Madam Temporary Speaker. I do not want to take more time than you have been gracious enough to allow us.

With that, I am done with the witness.

**The Temporary Speaker** (Sen. Veronica Maina): Let us have cross-examination for few minutes.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): We have nothing to cross-examine on.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you. Do you still wish to call your final witness?

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Madam Temporary Speaker, I do not know whether there is any Senator who wishes to seek any clarification from the witness. I will possibly request for a minute or two with the team and the client, so that I am able to answer you. I may need to consult.

**The Temporary Speaker** (Sen. Veronica Maina): Let me reconfirm whether they are Senators who would wish to say something. Sen. Gloria, please, proceed.

**Sen. Orwoba:** Madam Temporary Speaker, I would like to seek a clarification. The witness has said that the County Assembly is under instructions, purportedly from the Governor. I would like to know from the witness whether the Deputy Governor was also under instructions from the Governor to send Kshs100,000 to the Managing Director of GWASCO.

**Hon. Thomas Obare:** Madam Temporary Speaker, the Deputy Governor responded to his case.

**The Temporary Speaker** (Sen. Veronica Maina): Yes. That question would have been responded to by a different person.

Yes, Sen. Kisang.

**Sen. Kisang:** Madam Temporary Speaker, mine is a quick one. Generally, if you go through the affidavit, there is nothing that is related to the charges before us. However, I would like to find out from the MCA because the role of MCAs and ourselves is to oversight counties. Does the witness have any evidence? He has said that if you question the Governor on governance, you will be dealt with. I do not know if he has any evidence.

As MCAs, they should start the process of impeaching the Governor if they have an issue with him. I do not know why he is bringing in the Governor in this particular issue yet he is not under any arrest?

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Kisang, let him respond.

**Hon. Thomas Obare:** Madam Temporary Speaker, I wish to respond.

We have done part of our oversight role, in as much as those who are doing the oversight role are called criminals. For instance, writing that letter to the Controller of Budget (CoB) was part of our oversight role.

**The Temporary Speaker** (Sen. Veronica Maina): In the interest of time, I will request that we move to the final--- Counsel need a minute to confirm.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Madam Temporary Speaker, I have already consulted. We will call one last witness, Hon. Amos Begi Onderi, whom my senior, Mr. Katwa Kigen, will lead in evidence. He will be here in a minute.



**The Temporary Speaker** (Sen. Veronica Maina): Sen. Mandago, you have not pressed an intervention button and that is why I am not giving you the space.

**Sen. Mandago:** Madam Temporary Speaker, I would like to inform Sen. Kisang.

**The Temporary Speaker** (Sen. Veronica Maina): He is not on his feet anymore. How will you inform him?

**Sen. Mandago:** Okay. Allow me to ask---

**The Temporary Speaker** (Sen. Veronica Maina): We have already closed on that and moved on. Sen. Mandago, you are a ranking Member of this House.

**Sen. Mandago:** It is important for this House to know that when Senators ask some of these issues and we have been in the field as the people in support for devolution, they should also give us some of information.

**The Temporary Speaker** (Sen. Veronica Maina): You will get a chance---

**Sen. Mandago:** The MCA who was the Chairperson of Health Committee at the County Assembly of Kisii was dewhipped for accompanying the Committee on Health.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Mandago, you know the rules and procedure of this House. You will have a chance with another witness to state those issues. What you have stated is not official.

Counsel for the Deputy Governor, are you ready?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Yes. I am waiting for the Serjeant-at-Arms to usher in the witness.

**The Temporary Speaker** (Sen. Veronica Maina): How long are you going to take?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): We need about 20 minutes.

**The Temporary Speaker** (Sen. Veronica Maina): You could make it shorter.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Yes, I can.

**The Temporary Speaker** (Sen. Veronica Maina): Make it 10 minutes because there is still a long procedure before we finalise.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay.

**The Temporary Speaker** (Sen. Veronica Maina): Let the witness be sworn in.

*(The Witness for the Deputy Governor(Hon. Amos Begi Onderi) was ushered to the Chamber)*

*(Hon. Amos Begi Onderi) took the Oath)*

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could you do a brief introduction of yourself, your name and what you do for a living?

**Hon. Amos Begi Onderi:** Madam Temporary Speaker, my name is Amos Begi Onderi. I am an MCA in Kisii, serving my second term.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): We have been asked to make your testimony as brief as possible.

Hon. Senators, the affidavit is at page 201 of the Deputy Governor's bundle. If you could be shown page 201.

**Hon. Amos Begi Onderi:** Yes, that is my affidavit.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Confirm that the affidavit running from pages 201 to 203 is your affidavit.

**Hon. Amos Begi Onderi:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Have you had an opportunity to look at it and adopt it as it is?

**Hon. Amos Begi Onderi:** Yes, Madam Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I would like to go straight away to paragraph three of your affidavit. Could you confirm this is what you say at paragraph three: "I am one of the MCAs who opposed the Motion for lack of adequate evidence and fatal procedural defects?"

**Hon. Amos Begi Onderi:** Absolutely correct.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Do you recall that there were objections at the start of these proceedings and the Speaker made a ruling?

**Hon. Amos Begi Onderi:** Yes.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Part of the questions that had been raised for determination was whether or not the Motion was out of time and whether it had particulars to the notice. Do you recall that?

**Hon. Amos Begi Onderi:** That is correct.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Another thing was that it was a matter of fact, which would be determined after hearing the evidence?

**Hon. Amos Begi Onderi:** I agree.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Is that an issue that is relevant to these proceedings?

**Hon. Amos Begi Onderi:** Yes, to the extent that---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Just let me lead you, if you do not mind. When was the Motion moved?

**Hon. Amos Begi Onderi:** The Motion was moved on 21<sup>st</sup> February, 2024.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): When was the notice issued?

**Hon. Amos Begi Onderi:** The notice was issued on 13<sup>th</sup> February, 2024.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The notice having been issued on 13<sup>th</sup> February, 2024, what was the latest period under the Standing Orders of Kisii County Assembly, that this impeachment proceedings should have been concluded?

**Hon. Amos Begi Onderi:** By 23<sup>rd</sup> February, this Motion should have been disposed of.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): With that and considering all the evidence that has been relayed, when was the public participation?

**Hon. Amos Begi Onderi:** Madam Temporary Speaker, the public participation was done on 26<sup>th</sup> February, 2024.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Was it within the time allowed in the public participation?

**Hon. Amos Begi Onderi:** It was outside the timelines.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** With how many days?

**Hon. Amos Begi Onderi:** By about three days or so.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** When was the debate on the impeachment canvassed and votes cast?

**Hon. Amos Begi Onderi:** The Impeachment Motion proceeded for deliberation and disposal on 24<sup>th</sup> February, 2024.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Was that within time?

**Hon. Amos Begi Onderi:** It was outside timelines.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** How many days?

**Hon. Amos Begi Onderi:** By about six days.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** You heard the Mover of the Motion, hon. Siocha, readily admit it?

**Hon. Amos Begi Onderi:** He did admit.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Is this one of the issues you raised?

**Hon. Amos Begi Onderi:** I have raised that matter on the HANSARD, if you dare to look at it.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Why would you say if we dared?

**Hon. Amos Begi Onderi:** If you looked at it, Madam Temporary Speaker.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** As it were, when you stand here, the point you are prosecuting is that it was out of time. This is an issue you prosecuted at the County Assembly?

**Hon. Amos Begi Onderi:** It is an issue already prosecuted at the County Assembly.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** The next issue is the notice which was issued on the 13<sup>th</sup> February, which you are referring to. Could you confirm that notice is the one to be found on page 5?

**Hon. Amos Begi Onderi:** Yes, this is the Notice of Motion.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Did that notice have details and particulars as required by Standing Order No. 60?

**Hon. Amos Begi Onderi:** No, it only had grounds and if you look at it, those grounds have been referred to as charges. It did not have particulars of the allegations.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Hon. Siocha told the Senate directly that it had grounds and details, that it was over and above the notice that is at page 5. Do you recall anything like that?

**Hon. Amos Begi Onderi:** The truth is, it did not have particulars of the allegations and it did not have the signatures supporting the notice. If Hon. Siocha said that it had details and particulars, it would be a lie to this Senate.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** The other issue is whether the Motion was moved as required procedurally for impeachment of a governor or a deputy governor.

**Hon. Amos Begi Onderi:** It had many procedural issues.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Was it an issue you raised?

**Hon. Amos Begi Onderi:** I have raised it, not once but twice.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** It is in the HANSARD, is it not?

**Hon. Amos Begi Onderi:** It is captured in the HANSARD.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** I have been given 10 minutes so we trust that the hon. Senators will look at the HANSARD and where you have made your contributions.

What is your point in saying that the Motion was not properly moved?

**Hon. Amos Begi Onderi:** In usual circumstances and this Senate will agree with me, that the Notice of Motion should be in the same format and content. If you looked through the Notice of Motion, you will realize the manner in which it is drafted is completely different from the Motion itself.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Your position is that the Notice that was moved on 13<sup>th</sup> is different from the Motion that is dated 21<sup>st</sup> February, which is on page 6?

**Hon. Amos Begi Onderi:** Absolutely different.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Apart from that, did you have any other contention about the propriety of the moving of this Motion for impeachment?

**Hon. Amos Begi Onderi:** Ordinarily, we needed to have formed a committee where the Deputy Governor would have been heard as it is contemplated in the Standing Orders and that report supplied to the Deputy Governor. However, all those were ignored.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** So, no committee was formed?

**Hon. Amos Begi Onderi:** No committee was formed to look into the matter of the Deputy Governor.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Did the Assembly at any time before they invited the Deputy Governor on 29<sup>th</sup> determine which charges? Did they ever sieve or evaluate the allegations made by Hon. Siocha as captured on page 5 and 6, before inviting the hon. Deputy Governor?

**Hon. Amos Begi Onderi:** Unfortunately, from 13<sup>th</sup> to 29<sup>th</sup>, the Deputy Governor had a single audience on 29<sup>th</sup> which was the last day of the Motion.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Before that?

**Hon. Amos Begi:** There was no audience to the Deputy Governor.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Neither the Assembly nor the Committee had evaluated those charges?

**Hon. Amos Begi Onderi:** Yes, he only had one audience.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What of the provisions of Section 15 of the County Governments Act?

**Hon. Amos Begi Onderi:** Section 15 of the County Governments Act outlines how petitions are presented to the County Assembly in line with the Standing Orders.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What Standing Orders are you referring to? In the HANSARD, you said Standing Orders No. 197 and 198. Is that it?

**Hon. Amos Begi Onderi:** Yes, those ones outline how petitions come to the County Assembly.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It remains your position based on the HANSARD that indeed the Motion was not properly moved?

**Hon. Amos Begi Onderi:** Absolutely.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I would like us to move to a different issue, which you have covered in your affidavit. I would like you to go to paragraph 5. Are you there?

It is on page 201. In paragraph 5, tell the honorable. Senate what you were responding to in the rest of the body of your affidavit.

**Hon. Amos Begi Onderi:** In paragraph five, I am responding to the report that was tabled before the County Assembly and issued to the Clerk and the Speaker and copied to the Deputy Governor. I accessed it when the Deputy Governor labelled his documents on allegations that have been brought to the Assembly on a Petition. This is the basis and my primary stand on which I have sworn the affidavit.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): What was the nature of that presentation to the County Assembly?

**Hon. Amos Begi Onderi:** It was through a Petition.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): On what kind of forum?

**Hon. Amos Begi Onderi:** It originated from public participation.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): That public participation set of complaints is the one at page 56 of the Deputy Governor's bundle. Is it not?

**Hon. Amos Begi Onderi:** Yes, Madam Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Do you remember the name?

**Hon. Amos Begi Onderi:** Yes, Benson Nyagaka Misario.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): So, you have responded to those issues that came through public participation?

**Hon. Amos Begi Onderi:** It is on that basis that I swore the affidavit.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Okay. Starting with the public participation, did you agree as a Committee on the funding of that public participation?

**Hon. Amos Begi Onderi:** Unfortunately, no. The Speaker indicated that we will move to public participation but he did not give the details of that public participation and it did not come out who was going to conduct that public participation.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Considering the pressure of time, let me lead you. So, was funding provided for?

**Hon. Amos Begi Onderi:** I came to realize later that it was done by His Excellency the Governor.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I am asking that from the County Assembly, did you agree as a County Assembly that we are dedicating so much money from the County Assembly funds?

**Hon. Amos Begi Onderi:** Unfortunately, no.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): It was not agreed on. Did you define the questions that you were going to pose and invite public participants to canvass?

**Hon. Amos Begi Onderi:** Not to my knowledge.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Did you determine who was to preside over that public participation?

**Hon. Amos Begi Onderi:** No, Madam Temporary Speaker.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Have you seen the report?

**Hon. Amos Begi Onderi:** I have looked through the report but the report---

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): The first question I am asking is whether the report is signed.

**Hon. Amos Begi Onderi:** No, it is not signed or adopted.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): There is a reference to videos that came out afterwards. Is that issue of videos captured in the body of public participation report?

**Hon. Amos Begi Onderi:** No, they are not. The video is not mentioned.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Do you know where the videos ---

**The Temporary Speaker** (Sen. Veronica Maina): Counsel, your time is up. Ask the last question.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Yes, Madam Temporary Speaker, could I request for five minutes kindly?

**The Temporary Speaker** (Sen. Veronica Maina): Just one question, Counsel.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I have about three. Please, allow me three questions.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you, Madam Temporary Speaker.

Paragraph eight in 202, is it true that in that paragraph you have addressed one of the issues that came from public participation?

**Hon. Amos Begi Onderi:** Yes, that was accusing the Deputy Governor on absorption of the budget.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** What is your testimony on behalf of the Deputy Governor on that allegation?

**Hon. Amos Begi Onderi:** That allegation should not be placed on the Deputy Governor but on the Governor himself.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Why?

**Hon. Amos Begi Onderi:** The Governor under the County Governments Act is the CEO of the County Government and for a long period, we have not been able to absorb the budget as it is revealed by the Controller of Budget (COB) reports and I have outlined that there.

The Deputy Governor has equally been asking these issues.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** How is that relevant to these proceedings?

**Hon. Amos Begi Onderi:** For the insistence of asking those questions, that is why the case was brought to this House.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** This impeachment is because he has been on the conscience of the Office of the Governor?

**Hon. Amos Begi Onderi:** Absolutely.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** There are annexures on the issue of the budget absorption. Is it not?

**Hon. Amos Begi Onderi:** Yes.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Could you confirm that those are the ones on page 121 – 142?

**Hon. Amos Begi Onderi:** Yes, 121 to 122 are reports from the Controller of Budget on county government budget implementation review reports---

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** What position has Kisii County been ranked in terms of absorbing their budget?

**Hon. Amos Begi Onderi:** In the first nine months of 2022/2023, Kisii County is last. In the first half year 2023/2024, Kisii County Government is ranked number last, 47 out of 47. In the Financial Year 2022/2023 which is the full year report, Kisii County is ranked number last on development expenditure as a percentage of total expenditure.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** Thank you. The last issue is paragraph nine. You are making a serious contention at paragraph 9. What are you saying at paragraph 9 at page 202?

**Hon. Amos Begi Onderi:** I am making a contention that this Motion was single-handedly sponsored by the Governor himself.

**The Counsel for the Deputy Governor (Mr. Katwa Kigen):** What are you saying at paragraph (a)?

**Hon. Amos Begi Onderi:** I am saying that during public participation, despite the fact that there was no money coming from the Assembly, the Governor himself funded

Members of the County Assembly (MCAs), those that are friendly to him, by sending Kshs20,000 to each of them and telling them to delete those messages.

He proceeded to send between Kshs40,000 to Ksh50,000 to all those MCAs that were participating in the public participation using the cell phone number of the Deputy Speaker of Kisii County Assembly.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Lastly on paragraph (c)

**Hon. Amos Begi Onderi:** On paragraph (c), I am also looking into issues of public relation (PR) to the clergy: A day to the voting, the Governor held a meeting with the clergy and indicated that this Motion was going to be dropped but it was, unfortunately, not. I realized it was a PR exercise.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you. On paragraph (d), the last one.

**Hon. Amos Begi Onderi:** Paragraph (d) is the most interesting bit.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel Katwa Kigen, that should be your last question.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I am okay with that. You will just allow me to refer him to the annexure and I will be done.

**Hon. Amos Begi Onderi:** Paragraph (d) is where all MCAs that were in support of the impeachment Motion were instructed that they should take their photos and forward them to the Governor and to the phone of the Deputy Speaker.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): For what purpose?

**Hon. Amos Begi Onderi:** For purposes of confirming whether they have been able to vote, and confirm loyalty?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): At page 158 to 161, you have given pictures that were sent to the Governor.

**Hon. Amos Begi Onderi:** Yes.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you, Counsel Kigen. It is time for cross-examination.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you, Madam Temporary Speaker. One of the Hon. Senators was asking whether you have been dewhipped. Have you?

**Hon. Amos Begi Onderi:** Unfortunately, yes, I have been dewhipped. I am a member of the Orange Democratic Movement (ODM) committee. Not just me but together with the other members. I have been dewhipped from all the County Assembly committees but I am already in court.

**The Temporary Speaker** (Sen. Veronica Maina): Counsel Kigen, it is time for cross-examination.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Thank you, Madam Temporary Speaker. I really appreciate your accommodation. That is all on the questions I had. I want to remind my agitated friend that he had said he was not going to ask any question to this witness and ---

**The Temporary Speaker** (Sen. Veronica Maina): Just leave it to him.



**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): Do you wish to take some time to cross-examine?

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Only two questions. You have testified to issues of the budget. Do you know the charges before this Assembly?

**Hon. Amos Begi Onderi**: I do know.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Do they relate to the evidence you have given? Is there any issue of the assumption of budget?

**Hon. Amos Begi Onderi**: They relate to the extent that is what has caused the Deputy Governor to be here.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Is there any question about absorption of budget?

**Hon. Amos Begi Onderi**: Of course, there is not.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): I do not have other questions.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Madam Temporary Speaker, can I re-examine?

**The Temporary Speaker** (Sen. Veronica Maina): I will give you one minute for just one question.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Could you explain the relevance of the question of budget absorption to these impeachment proceedings?

**Hon. Amos Begi Onderi**: For me, it is a question that the Deputy Governor has consistently asked and the Governor is not comfortable with those questions. As a result, it is the reason why he is before this House. It is part of the reason.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): I hand over the witness to the hon. Senators. I know you are in a hurry to leave but just wait, there are a few questions you will be asked.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. Beth Syengo.

**Sen. Beth Syengo**: Thank you, Madam Temporary Speaker, for this chance. The MCA is telling us of how the Governor has been performing badly. The case before us is totally different.

What has he been doing in his ward as an elected MCA; where he is to be oversighted by his electorate? Two, if the Governor has not been performing, why have you not brought a Motion to impeach him?

**Hon. Amos Begi Onderi**: Thank you. To the question of whether it is related to the case, I said it relates to the extent that the Deputy Governor has been asking about it several times and it is probably the reason he is in this House.

The second question is what I have been able to do in my ward. I have raised those serious matters in Kisii County in relation to governance. By the way, for your information, the Governor at some point for insistence of raising these issues, has

declared that any other MCAs raising such issues will automatically become an acting MCA in those respective wards. That is very unfortunate for this House to hear. I think I have responded to the two questions.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. Joe Nyutu.

**Sen. Joe Nyutu:** Thank you, Madam Temporary Speaker. I have two questions for the witness. They are from his affidavit and I refer to paragraph nine where the witness testifies that this impeachment Motion was sponsored by the Governor because of the nuisance that the Deputy Governor has been causing him for insisting on responsible governance.

While I agree with him that it is possible for somebody to be malicious, I am concerned. Has the witness read the charges levelled against the Deputy Governor? If yes, is he of the view that just because a Motion was sponsored by the Governor or whoever, the allegations should not be investigated by this House?

Two, the witness has testified that MCAs received monies from the Governor, Kshs20,000 each and were instructed to delete the messages that showed money had been received through M-Pesa. Did the witness receive Kshs20,000 alongside other MCAs? If he did not receive any money, how then did he establish that money had been sent to other MCAs who had already deleted the messages?

Thank you.

**Hon. Amos Begi Onderi:** Thank you, Madam Temporary Speaker. Those are two questions. One is that if it was actually sponsored, the charges should be able to proceed or something of that sort.

As I said, it is very clear that if it was public participation for the Assembly, then there was no role of the Executive sponsoring that public participation. It automatically tells you the influence and interest they have in that particular Motion. It is to that extent that I said the Motion belongs to the sponsor and I have already identified who the sponsor is.

The second question is on whether I was also a recipient of the Kshs20,000. I did not. However, the County Assembly does not exist in isolation. Those who receive communicate to us and demonstrate when they have received. It is just like anything would happen in this Senate and hon. Members of this Senate share amongst themselves.

**The Temporary Speaker** (Sen. Veronica Maina): Proceed, Sen. Omogeni, then the final one will be Sen. Wakili Segei. We will close down on this session thereafter.

**Sen. Omogeni:** I just wanted to ask the hon. MCA, what is at page 158? Those are the ballots that were used during the impeachment. Who were the officers who preside over the voting during impeachment at the County Assembly and who takes custody of the ballots that are used in the impeachment?

Thank you.

**Hon. Amos Begi Onderi:** Thank you, Sen. Okong'o. One, you are asking who are the officers who take charge of the voting. Of course, the officers are the Clerk of the County Assembly together with the officers of the County Assembly. I will however tell you without blinking, that the Kisii County Assembly is in captive. The instructions are taken as clearly as they are provided.

Secondly, you also asked me who is the custodian of the ballot papers. The ballot papers should be kept within the Assembly. However, I will tell you, as a matter of fact, I heard one of the hon. Members yesterday indicate that they were taking these photos for purposes of future memory. I would however challenge your mind. Why future memory? Are they also reminding themselves of the identity cards?

**Sen. Omogeni:** Yes, you have answered my question. I simply wanted you to tell me the officers that preside over the exercise, the clerk, and they are the ones who keep custody of the ballots. So the ballots could land in any wrong hands. That is all. So you have clarified. It has got nothing to do with the Governor.

**Sen. Wakili Sigei:** Thank you, Madam Temporary Speaker. My desire to ask the question was with regard to the prior witness. However, noting that the letter I had desired to get clarification was signed by the witness who is on the stand right now. I believe you would.

This is with regard to the letter appearing on page 143 of the bundle - The letter which you signed to the Controller of Budget on alteration of the Kisii County Supplementary Budget Estimates 2023/2024 by the Kisii County Executive.

Now, my question is very specific. I, unfortunately, do not have the benefit of having been involved earlier on in the proceedings. So I do not know. I need your clarification on whether there was a direct response to this letter by the Chief Executive County Member (CECM) Finance. If so, what was the response?

Two, what is the relationship between what was raised in the letter and the proceedings which are currently before this particular House?

Thank you, Madam Temporary Speaker.

**Hon. Amos Begi Onderi:** Yes, there has been a response to the CEC Finance and Economic Planning. I guess the CEC Finance has also been able to respond to the Controller of Budget. I have however not gotten a window of what that response is. When I get it, I will be able to look into it.

Then secondly, you are also asking about the relevance of this letter to the proceedings before this House. I have said this letter is also a demonstration of some of the issues we have been raising at the County Assembly. The Deputy Governor has also been raising those issues. I know this is partly the reason why he is here. As I already indicated, so many Members get disciplined when they question the authority in Kisii.

**The Temporary Speaker** (Sen. Veronica Maina): Sen. Sifuna, we have closed. Make it very short.

**Sen. Sifuna:** Did I hear the witness saying that there was no response from the Controller of Budget? Is that what you are saying?

**Hon. Amos Begi Onderi:** No, I said there has been a response but I have not looked through it.

**Sen. Sifuna:** You have not looked through the response?

**Hon. Amos Begi Onderi:** The one that has been sent to the Controller of Budget, I have not had a look at it.

**Sen. Sifuna:** Okay. Thank you, Madam Temporary Speaker.

**The Temporary Speaker** (Sen. Veronica Maina): So that brings us to the end of the Deputy Governor's case, his defense to the impeachment proceedings. So, we are proceeding on to the closing remarks. I need the counsel to indicate the maximum time you can take in the closing remarks is one hour. The Standing Orders provide for a maximum of one hour.

I would hope that both of you can confer and give us the timing you need for the closing remarks beginning with the Counsel for the County Assembly.

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Madam Temporary Speaker, may you kindly refresh my memory. I am lost on the question that you are seeking.

**The Temporary Speaker** (Sen. Veronica Maina): It is about the closing remarks. The Standing Orders provide for up to a maximum of one hour. Closing remarks, both on your side and the side of the Deputy Governor.

I was asking whether you two could confer with Counsel Katwa Kigen because the maximum amount of time is one hour. Could you take less time to do your closing remarks?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Madam Temporary Speaker, I will try to take less than one hour, but I will not exceed one hour, kindly. I am ready.

**The Temporary Speaker** (Sen. Veronica Maina): What about you Counsel Ndegwa Njiru?

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Madam Temporary Speaker, did I get you to hear that Mr. Katwa Kigen and I have one hour to share or we each have one hour?

**The Temporary Speaker** (Sen. Veronica Maina): Each one of you has one hour.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): We will take less than that. Perhaps even about 30 or 40 minutes.

**The Temporary Speaker** (Sen. Veronica Maina): Thank you very much. That is considerate of you.

Counsel Katwa Kigen, how much time will you take?

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Madam Temporary Speaker, I indicated that I will try to fall short of one hour, but, definitely not exceed one hour.

**The Temporary Speaker** (Sen. Veronica Maina): I believe you are ready to proceed.

Counsel for the County Assembly, please, proceed.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Madam Temporary Speaker, we are seeking your indulgence for about 10 minutes, so that we can collate our evidence. We can perhaps reconvene if you are so pleased.

**The Temporary Speaker** (Sen. Veronica Maina): Okay, 10 minutes it is. Come back ready. We hope you save the 10 minutes in your remarks.

We will suspend the sitting for fifteen minutes. We will come back after fifteen minutes to have the closing remarks. Thank you.

Hon. Senators, it is now time to suspend the Houses for 15 minutes. We will revert 15 minutes from now. Thank you.

*(The House was suspended temporarily at 7.36 p.m.)*

*(The House resumed at 7.56 p.m.)*

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

*(The Clerk-at-the-Table approached the Chair)*

**The Speaker** (Hon. Kingi): Clerk, can you alert the County Assembly that we need them to come to the Chamber?

Hon. Senators, kindly take your seats, so that we can proceed. Senate Majority Leader, please take your seat.

*(Several Senators sat at their places)*

Clerk, you may proceed to call the Order.

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

We are at closing statements stage and we will begin with the County Assembly. You have a maximum of one hour. You need not to take the entire one hour. I am informed that you had indicated that you need half-an-hour to do your closing statement. You may now proceed to make your closing statements.

CLOSING STATEMENT ON BEHALF OF  
KISII COUNTY ASSEMBLY

**The Counsel for the County Assembly** (Mr. Njiru Ndegwa): Mr. Speaker, Sir, we are grateful for the moment. We had previously indicated that we needed about 30 minutes. However, we are not lost on the fact that one hour is still available to us.

With your permission, Mr. Speaker, Sir, kindly allow me to invite Mr. Mutuma to make opening remarks. My learned friend, Mr. Ndegwa, and myself shall share the balance of the time.

**The Counsel for the County Assembly** (Mr. Elias Mutuma): Mr. Speaker, Sir, I will do the introductory remarks, then yield to my friend, Mr. Mwangi, to take you through the evidence that has been produced in this court. I will begin by looking at a scenario of one gentleman called Abdul Aziz Ishak. He is a property developer who was accused of forcing himself on an 18-year old girl and was charged in court; the Southwark Crown Court.

In his defence, he said that; I fell and penetrated her by accident. That defence shocked the world. He claimed that he fell and penetrated the girl by accident. It was an obvious lie. It was a lie that everyone would see. Surprisingly, Mr. Abdul Aziz got away with it based on that lie, insulting the intelligence of the men who were listening and arbitrating over the case. An obvious lie. That you can fall, slide and have penetration take place.

Whereas that is not the case here, we began by giving Senators an indication of what they will be treated to by the Deputy Governor; an obvious lie. We said that the Deputy Governor will come before you and look you straight in the eyes and lie to you. He has not disappointed. He looked you straight in the eyes and gave obvious lies that amount to insulting everyone's intelligence with all due respect.

Hon. Members of the Senate, what then are you supposed to do with that kind of a witness who comes before you, amidst the weight of evidence and facts and still take you through a lie and want you to believe them? I started by saying that is the kind of witness that you should be angry at and that you should exercise anger at because you have that right.

Therefore, that moment, hon. Senators, has come for you to tell the Deputy Governor that he had a duty to ensure that he speaks the truth and even where he has difficulty speaking the truth, let that lie not be the kind that insults the intelligence of hon. Senators.

You had the opportunity to see and hear the witnesses. You had the opportunity to analyze and question every statement from the witnesses. You can tell, hon. Senators, that those witnesses were not credible, truthful and honest.

How do you analyze a lie? You look at the presentation of facts and ask yourself based on the conduct of the witness, based on logic and the way we all perceive things, does that make sense?

When the Deputy Governor stands before you on oath, having lifted the Bible and tells you number one, that he does not know Dennis Misati, yet that is the son to his good friend of 32 years; a friend that they have done each other favours, visited each other, mourned and celebrated together, but he does not know Dennis. Nonetheless, he wants you to believe, that somehow on the 28<sup>th</sup> May, Dennis in the company of his father visited him and they sat at the distance and were not privy to the conversation and that the only role Dennis performed that day was to pay a debt that his father owed him.

Hon. Senators, these are not five-year-olds or 10-year-old students we are talking about. We are talking about married men with their families in the company of their father to visit the Deputy Governor; one of the sons that the Deputy Governor disowns as not having a personal relationship with. So then one would ask, what was the essence of that meeting? What was the essence of that visit? It must have been towards what Dennis was saying. It cannot be anything else.

Hon. Senators, when the Deputy Governor stands before you, a man of serious qualifications and titles, and he tells you that he is able to operate his mobile banking, the M-Pesa App, but he does not know how to reverse money; that he received money from Dennis, wrongly sent it to Lucy, but somehow does not understand the procedure of

reversing that money. Is that equivalent to the defense that was given by that gentleman who forced himself on that girl?

Two days after that, money was erroneously sent, and the Deputy Governor has not visited any Safaricom shop. He has not even talked to his aide because he is entitled to one. He has not talked with his personal secretary to assist him with a simple reversal and he wants Hon. Senators, representing the entire country to believe that lie. That is not a lie that you can afford to fall for.

The Deputy Governor comes before you and tells you, that yes, I had spoken to Dennis's father for this employment favour; that, yes, I approached Lucy seeking for her favour; that yes, I received money which now comes as the payment of debt and 30 minutes after receipt of that money, sends that money to Lucy by mistake.

Logic dictates that the chain that is being talked about has not been broken. There is a clear trace of the intention of the money, the person who is supposed to procure that money and the person who is receiving that money and sending to that specific person.

Why is it that this Kshs100,000 could not be sent to a Jane, a random Joyce or just a random person? That would have been a lie that would have made sense. However, to look you straight in the eyes and tell you that that money was not meant for that purpose without the debunking the entire chain is a lie. It is an insult to everyone's intelligence.

His key witness, the father to Dennis, again is unable to explain why there was need to transfer money from his wife's account to Dennis and back to the Deputy Governor. He wants you to believe that he wanted to express love to the son by sending him money to go and withdraw, then hand it over to the Deputy Governor.

I do not know how expressions of love are nowadays, but I do not think that Senators are able to buy into that. He says he gave the son the responsibility of withdrawing the money, because the son was quick enough to go to Keumbu Market, withdraw the money and come back. He had a driver who can run that errand, but somehow, he wants you to believe that the son would have walked or ran faster than his own car.

He operates an M-Pesa shop, he confirms, but has not told you why that money could not be withdrawn from his own M-Pesa. Obvious lies that cannot be allowed to go on record. For that reason alone, then you need to tell the Deputy Governor that he has breached the Leadership and Integrity Code as we know it; that, he cannot be trusted with leadership, if he can look you straight in the eye, Hon. Members, and lie to you, when you can tell clearly tell that its a lie.

I can go on and on with the lies, but you have had the benefit of listening to the lies. Do not allow your intelligence to be insulted.

I will invite my learned friend, Mr. Mwangi, to take you through the evidence that was produced in this Senate, and how the County Assembly of Kisii has proved all the four charges against the Deputy Governor.

Thank you, so much.

**The Counsel for the County Assembly** (Mr. Ndegwa Mwangi): Hon. Speaker and Members of the Senate, my name is Mwangi Ndegwa. I will be dealing with the evidence that has been produced. I will also briefly touch on the obvious truths.

Members of the Senate, the County Assembly has produced before you trails and transactions indicating and showing how money exchanged hands from Joseph and Dennis to the Deputy Governor, and how the same money finally found its way to the Managing Director of Gusii Water and Sewerage Company (GWASCO) for purposes of serving its purpose.

Hon. Members, it all began with obvious truths. Joseph Misati approached the Deputy Governor, and the Deputy Governor has agreed to that and confirmed on oath.

The Deputy Governor also confirms that he reached out to Lucy seeking for favours, as had been sought from him by Joseph Misati. Lucy magnanimously told him that we shall only recruit on merit.

Hon. Members, we have seen Dennis crying and submitting before you that he did sell his salon. He produced a sale agreement for that sale and a sale agreement for the sale of his household goods and equipment. He says that he gave that money to the mother for purposes of safe custody. Obviously, there is a reason why the mother was not called as a witness so that we are not able to debunk that theory that the money came from them.

There is seen money being sent from Dennis at 8.33 p.m. on the 28<sup>th</sup> May. The other transaction is at 8.37 p.m., a transaction of Kshs150,000 and the last transaction of Kshs49,000 at 8.43 p.m. on 28<sup>th</sup> May. 40 minutes later, that money leaves the mobile phone of the Deputy Governor and goes to the mobile phone of one Lucy, the Managing Director of GWASCO.

Hon. Members, remember that Lucy received this money at 9.24 p.m. on the 28<sup>th</sup> May, 2023. When Lucy received this money, she did not understand why the money was being sent to her. The following morning, she made a call to the Deputy Governor, just a follow up to confirm why he was sending money to her. It is a conversation that the Deputy Governor has admitted that they indeed spoke; that indeed, while he was taking breakfast at his home, Lucy reached out to him.

According to Lucy, she states that the Deputy Governor said: “This is as a follow up to the request I made to you for the assistance in the recruitment of my preferred candidate”.

Hon. Members, due to the integrity of one lady called Lucy, she asked the Deputy Governor to reverse the money. Obviously, the Deputy Governor does not reverse the money. What does he say? It is an error. What does he also say? That the money was supposed to be sent to one Gladys who is also a Chief Officer within the County Government of Kisii.

What do we also see later? We also see that there was an intention or a statement by one Gladys who says in her statement that the Deputy Governor’s wife actually approached her for favours in regard to being given the tenders for supplying pharmaceutical products. In her statement, she says that she was approached around the month of May 2023. The same May, 2023 is when the Deputy Governor sent Kshs100,000 to also Gladys. So, the question is: Was the Deputy Governor sending money simultaneously and intentionally for two intended purposes to bribe not only Lucy but also Gladys?



Hon. Members, as I sum up, the defense by the Deputy Governor should not be taken seriously. It is concocted and it has been summed up so as to rue this House not to vote for the Motion. Members, I sum up by requesting you to allow the Motion on the basis of the grounds on the Motion and the evidence produced by the County Assembly.

I invite my brother, learned Senior, Mr. Ndegwa Njiru.

**The Counsel for the County Assembly** (Mr. Ndegwa Njiru): Thank you, hon. Senators. I must begin by thanking this House for spending quite considerable time. It tells me and convinces the whole country that this House takes its work seriously. If there were doubts out there that this is a House that is made of noble men and women, then that doubt has been eroded for the last two days.

I, therefore, think it was prudent for the drafters of our Constitution to think of creating a House of such high repute; a House that has been called upon to offer oversight over the performance of the county governments.

Had it not been for this House, I assure you, hon. Senators, that the ordeals that the people of Kenya would have suffered out there would be enormous and untold of. It was prudent and wise that the drafters of the Constitution gave the singular role of oversight to this House and told this House that your oversight will not only be limited to how the resources of the county must or will be spent. The oversight was granted unto you, Members of the Senate, and extended to seeing to the effect that Article 10 of the Constitution has been implemented. That is the question of integrity.

It calls upon you, hon. Senators, to look at the conduct of the people working in the county assemblies. It calls upon you, Hon. Senators, to see to it that Chapter Six of the Constitution has been implemented, as it is.

Chapter Six of the Constitution presupposes a scenario of the Caesar's wife; that the people working in the county governments must be beyond reproach. They must not even be suspected of any scintilla element or any iota of misconduct. They should not be suspected that they even attempted to get bribed. This is not a case of an attempt. It is a case that evidence has led to the conclusion of any reasonable member of the society that, yes, Dr. Monda was found with his hands in the cookie jar. That doubt has been erased.

When Dr. Monda was put to task as to why he did not reverse the Kshs100,000 that he sent to Lucy; he simply said, 'I fell asleep'. At the County Assembly, he indicated that he fell asleep. When he was taken to task and taken through his M-Pesa statements, even as late as 2357 hours, he was still transacting.

When he was put to task, whether he understands the M-Pesa procedures and whether he saw the prompt messages, he simply feigned ignorance and said, I do not know how to operate an M-Pesa. Ignorance is no defense. Ignorance cannot discount his misconduct. Ignorance cannot let him be pardoned for defrauding the least members of the society.

Hon. Senators, look at the person who was called upon to raise Kshs800,000; a destitute, jobless, hopeless, homeless youth, a youth whom the hon. Deputy Governor Monda should have been giving hope instead of extorting.

Hon. Senators, the conduct of the hon. Deputy Governor of Kisii County does not breathe hope to the youths of this country. His conduct is one that goes to telling our

youths that unless you have a godfather in the status of Hon. (Dr.) Monda, do not attempt to apply for any jobs in this country. That is the message that the conduct of the Deputy Governor of Kisii County is sending out there.

This Government is spending a lot of time. The Senators are allocating money to the counties, day to day, to make sure that work and jobs are created. Those jobs are not created for the use of the status of the friends of Dr. Monda. The jobs are not created for the people who have connections with the Deputy Governor, like that of Mr. Misati. The jobs are created for all the youths. Behold, the Constitution provides that we are all equal before the law and we should be granted equal protection.

Mr. Speaker, Sir, however, the Deputy Governor is elevating through nepotism, cronyism and favouring his friends. What of those youths and the Mama Mutura who spoke here and passionately said that she has taken her child to school and she has no connections to hon. (Dr.) Monda? What is the fate of that youth?

Hon. Senators, you are being called upon to do one of the most solemn things, to tell any person out there, who may think that he has the conduct and ability of extorting youths like hon. (Dr.) Monda, that he has no space in the Republic of Kenya. That is a message that must be sent clearly.

It is just not a message that is coming out of this House, it is also a Biblical message. It is so Biblical in the sense that in Exodus 18:21, we are being told, “but select capable men from all the people or amongst yourselves. Men who fear God, trustworthy and people who hate dishonest, gains and who appoint themselves as officials”.

Mr. Speaker, Sir, this is a member who claims to be a church elder. He claims that he is a member of the Seventh Day Adventist (SDA) Church. Does he not know the dictates of the chapter that I have just read? Is this a person who should be trustworthy? Does he hate bribes? We answer no.

As I sum up, let it not be lost that unless actions are taken as and against these individuals, we shall water down the gains that we have made. Chapter 6 of the Constitution must be breathed. We must give life to it.

Finally, hon. Members of the Senate, permit me to submit that the standard of proof of this case has been met. We were supposed to prove not beyond reasonable doubt. We were supposed to prove on a balance of probability and that standard has been met.

I believe there is no doubt in any Member of the Senate that Dr. Monda attempted to bribe Lucy. There is no doubt in any person seated before this House today, that Dr. Monda sent the money to Lucy. If there is any person with that doubt, may that doubt be spelled today.

Mr. Speaker, Sir, what is the consequence of the actions of hon. (Dr.) Monda? The consequence is that his actions have put a family in collision. A father has gone against the son, a son has gone against the father and a brother has gone against a brother.

If Dr. Monda was diligent enough and if he is a person who is to be trusted, he should have chosen his path clearly and correctly. He would not have put the two families into collision. The collision you have seen here and witnessed is courtesy of the misconduct of hon. Deputy Governor of Kisii County.

The other consequence is that the provisions of Article 26 have been compromised that life begins at conception. Testimonies and evidence were brought before the House, that a young woman somewhere, a person suffered depression and as a consequence of that depression, a life was lost.

Mr. Speaker, Sir, even if this hon. Members will not vote to remove the Deputy Governor on the count of bribery, let the cry of the unborn child be heard. Let the blood of that child not dry until justice is done. Let the blood of that unborn child cry and ring bells to the consciousness of this House, so that at the end of day, a caution and a restraint will be made by any person who may think that a child has no one to fight for it and a child that has lost its life has no voice to speak for it.

This is because it is you, hon. Senators, who will speak on behalf of that child. It is you, hon. Senators, who will speak on behalf of that unborn child. It is you who will say that justice will be heard.

Subsequently, hon. Members, as a consequence of these actions, an office has been compromised. The integrity of the office of the Deputy Governor has been eroded. The integrity of the office of the Deputy Governor has been put into disrepute. For that reason, a vote ought to be cast to send the Deputy Governor home.

Malcom X in 1965 said; if you do not stand for anything, you will fall for anything. That is the character and conduct of the Deputy Governor, (Dr.) Monda. He stands for anything and therefore falls for everything. He falls for bribery. He extorts *Mama Mutura*, people on bursary basis and Dennis. If a *mama mutura* spoke that she was extorted and we believed her, why should we not believe Dennis?

When a question was put as to why the mother had to be involved in the sending of the money, the answer was that; "I was doing financial management." I tell you, hon. Senators, that the mother was brought in this case as a decoy. She has been brought here as a decoy to make sure that you do not see the correct network of corruption and bribery. Let no one be invited that the money came from the mother. If it did come from the mother as earlier submitted, she would have been a witness to testify to that effect.

Hon. Senators, let it not be lost on us that on 31<sup>st</sup> December, 2012, the Lady Deputy Chief Justice of this Republic committed a heinous offence similar to this one and was sent home on the account of pinching the nose of Rebecca. She was sent home on the account of telling Rebecca Kerubo that; you should know people.

Who are you? We give you power, vote for you, then you extort us! We vote for you, then you steal from us! We vote for you, then you defraud us! How lucky are you, Hon. Monda, that we vote for you, then you defraud us of our money? How lucky can you be? That is the question that must go and ring bells.

Hon. Senators, as I sum up, let us draw the lesson from the case of Nancy Baraza. If a Deputy Chief Justice was sent home on that one count of pinching the nose and arrogantly saying that you should know people, what of this person who has gained and benefited unjustly?

You were told that Kshs500,000 was being paid as a debt. Has evidence been brought before this Senate to prove that Mr. Misati owed the Deputy Governor at a particular point? There is no evidence. Let us rise to the occasion, hon. Members.

As I sum up, look at the Watergate Case. It was a tight case. Somebody organised the breaking of the Democratic National Convention Offices and a president tried to conceal that. That act of concealing sent President Nixon home. Today, it is not President Nixon or Nancy Baraza, it is Hon. (Dr.) Monda.

I urge this hon. House to do what is right, and not what is popular, easy, or enticing. What is right is that which shall lead to giving the people of Kisii County justice. What is right is the action of upholding the provisions of the Constitution of Kenya. What is right is that action of upholding the provisions of the Constitution of Kenya. What is right is that action of saying that the sovereignty of the people of Kenya must be respected.

Finally, honorable Members, for the loss of that child, and I insist, for the loss of that honourable child, Deputy Governor, Hon. (Dr.) Robert Monda, must go.

For taking of the bribe from poor Kenyans, the Deputy Governor, Hon. (Dr.) Robert Monda, must go. For failing to breathe confidence to the youth of this country, the Deputy Governor, Hon. (Dr.) Robert Monda, must go. For failing to uphold the integrity of his office, the Deputy Governor, Hon. (Dr.) Robert Monda, must go. For taking this House for granted, but he can blatantly lie to the House, the Deputy Governor, Hon. (Dr.) Robert Monda, must go. For failing to bring and for lying before this House, the Deputy Governor, Hon. (Dr.) Robert Monda, must go.

I urge you, honorable Senators, the Deputy Governor, Hon. (Dr.) Robert Monda, must go. Most obliged.

Finally, on one more issue, the competence of the Motion, if the Motion brought before this Assembly was not competent, the Deputy Governor, Hon. (Dr.) Robert Monda, would not have lined up his witnesses. If it was not competent, he would not have appeared before the County Assembly. The doctrine of a queer sense bites him from the beginning of the Motion to the closure of sending him home.

I am most humbled to the closure of sending him home.

**The Speaker** (Hon. Kingi): Thank you. Now we shall move to hear the closing statement for and on behalf of the Deputy Governor.

CLOSING STATEMENT ON BEHALF  
OF THE DEPUTY GOVERNOR

**The Counsel for the Deputy Governor** (Mr. Kelvin Michuki): Mr. Speaker, Sir, Members of the House, I rise in part to give closing statements for the Deputy Governor.

I reiterate the words of a Member of this House who said during this debate that justice must not only be done, but must also be seen to be done. To that, I will add that substantive justice must not only be done but be seen to be done.

The reason why I put this to this House as it goes to deliberate, is that we have a situation where the Deputy Governor has not had the opportunity to get substantive justice for a number of reasons. If the House is to consider the HANSARD, the Notice of Motion and the Motion that was before the County Assembly, it is clear what has been

presented before you is a mutation of the case that was presented before the County Assembly.

The case has morphed. We look no further than the submissions by my colleague for the County Assembly, where he is now calling this honorable House to impeach the Deputy Governor on the basis of alleged infanticide. These were not charges that were before the County Assembly. This was not even evidence adduced by Dennis Misati before the County Assembly.

The issue of a miscarriage was never an issue raised anywhere before we came to this honourable House. The morphing of this case is further evident from Lucy Wahito, their star witness. Before the County Assembly and before the 8<sup>th</sup> March, her evidence was that this money was received erroneously. We assume from the Deputy Governor. They had a telephone conversation. The Deputy Governor said nothing. He kept quiet. However, for reasons unknown and that can only be inferred by this Honourable House following the impeachment proceedings, she has now changed her statement, imputed some malice to that money; a simple error in sending M-Pesa has taken new life. We leave it to the House to infer the reasons for the change of heart.

We also note that the case before you has morphed with regards to that most critical of issues “Who solicited this bribe.” If you look at the Impeachment Motion moved before the County Assembly, the case of Mr. Dennis Misati and that of the MCA of Hon. Siocha was that the Deputy Governor learned of the job; went to Mr. Joseph Misati and solicited the Kshs800,000 bribe to get him that job.

That case has morphed before this House, as conceded by my colleagues in their submissions. They now indicate that Mr. Joseph Misati was the one who told the Deputy Governor about this opening.

The morphing of the case is further evident from the videos that were presented before this House. The issues of bursaries and bribes that are linked to those bursaries were never before the County Assembly but has been raised for the first time before this honourable House.

The sum total of the foregoing is that, for this House to uphold that hallowed Marxism that justice must not only be done but be seen to be done, we need to disregard the morphed case that is presented before you. In so doing, you need to make an inference that there is a motive for the mutation.

Following this issue, some procedural lapses were parts of the proceedings before the County Assembly. You have been asked to turn a blind eye to these procedural issues, but we humbly submit to this honourable House that substantive justice requires procedural certainty.

The Deputy Governor had no procedural certainty in the process that was undertaken at the County Assembly; that started on the 13<sup>th</sup> February, 2024 when a Notice of a Motion that was not supported by the evidence and that was not supported by signatures, was moved and subsequently passed by the County Assembly.

A clear nullity *ab initio* was allowed to move to the stage of a Motion. From that, on the 21<sup>st</sup> February, 2024, the Motion that has led us to this hallowed House, was moved and duly seconded.

As would be expected, this Motion should have been put to the County Assembly to debate and make their determination. However, this is not what occurred.

A motion to adjourn the proceedings was duly moved, not seconded. I wish to underline that it was never seconded. This notwithstanding, the Motion was, in unclear circumstances that one cannot decipher from the HANSARD, determined and adjournment duly issued.

I wish the court to note that this adjournment was contrary to the Standing Orders of that particular county government which requires the Motion to be moved and determined within three days. By the 24<sup>th</sup> February, 2024, that Motion having not been debated, passed or shot down lapsed by automatic operation of the law.

We submit that from the 24<sup>th</sup> moving forward, there was nothing. The Motion and everything that was voted upon on the 29<sup>th</sup> February, 2024 was nothingness. From that, this hon. House has been called to determine whether there is a valid impeachment. We duly submit given these grave lapses that the Motion and impeachment as a whole was a house built on quicksand, foundationless and this court must as the big bad wolf did, blow that house down.

Most obliged. I will now call my senior, Mr. Katwa Kigen to conclude the submissions.

**The Counsel for the Deputy Governor** (Mr. Katwa Kigen): Mr. Speaker, Sir, and hon. Senators, I would like to start my submissions by highlighting the main issues that we would like you take into account in making the determination as to whether or not you should come to the conclusion that a case of impeachment has been achieved. However, our biggest emphasis is that first, you maintain your minds to the question of whether a standard of proof has been achieved in these allegations against the Deputy Governor. Secondly, that the burden of proving that indeed there were breeches was on the County Assembly.

Correlated is that your decision on whether or not to impeach should not be on a basis of what is newly introduced in the course of these proceedings as my learned friend Mr. Michuki has said being amongst other the allegations of infanticide.

Going back to the substance of my submissions, I will elaborate on what I said when I did the opening address. That the entirety of this case is not founded on any document on the part of the accusers. There is no document, for instance, on the part of Mr. Dennis Misati who says he bribed; to show that he had any money with which he could have given the Deputy Governor to constitute a bribe from him to the Deputy Governor.

There is no document from his brother to show that the arrest was based on any other issue other than the dispute as to who was the owner of the trees. There is no document on the part of Lucy to suggest that, indeed - other than the fact that the money was sent by error - that money was based on understanding of corruption.

Hon. Senators, at the end of the day, you will have to make a determination on this issue on the basis of who to believe. The competition in terms of who to believe in this case would be his brother Mr. Reuben Monda versus Dr. Robert Monda; Mr. and

Mrs. Misati; Mr. Misati being a retired 68 year old civil servant, churchgoer versus his son who is 37 years old. Who do you choose to believe?

We already indicated to you, Mr. Misati's wife sworn affidavit, which we are relying on, and we produced the M-Pesa paper trail. I am aware that my colleagues have said that the wife was maintained in this case as a decoy. This cannot be true because we brought the Mpesa record and the husband testified on the background of how the money was raised and remitted. You would have to choose who to believe; the son or the father. If you have any doubt, considering the standard of proof that this Hon. Senate has adopted as prescribed by the Court of Appeal and the Supreme Court, the benefit of doubt should go to Dr. Monda.

We also pray that you will be careful in considering this and do not allow the Senate to be a forum for the determination of family disputes. All the witnesses and the entirety of the case that the County Assembly has brought are founded on family.

At this point, I would like to digress and point out that we have brought material contending that the Deputy Governor is standing trial because of the issues he has raised with the Governor who has initiated these proceedings for the Deputy Governor's impeachment.

We pray that in the course of your consideration of this impeachment Motion, the reason for bringing this case be a dominant factor in your minds. More importantly, the decision that had been made and the determination that he must be subjected to impeachment was that they could not find any case of either procurement, misappropriation of funds, or accountability of any other issue.

The most they could come with to you for impeachment is through families: his brother and the son of Mr. Misati, to spoil their friendship. That is the only thing they could come up with. We submit that this indicates how impeccable the Deputy Governor is. They could not get anything other than going through families to engineer the impeachment proceedings.

Before I come to the standard of proof, I want to invite your attention to the fact that the main allegations before the Senate for impeachment are whether or not he received a bribe from Mr. Dennis. Whether he gave a bribe to Lucy, whether he threatened Dennis, whether he misused the county staff and whether he is culpable of having his brother arrested. These are issues that are in the hands of institutions and agencies that you, as legislators and lawmakers, have designated to take responsibility of investigating and determining.

The three first counts being the question of whether he received a bribe from Dennis, whether he gave a bribe to Lucy and whether he threatened Dennis are issues that the witnesses readily admit are in the hands of the Ethics and Anti-Corruption Commission (EACC). The issue of whether he improperly caused his brother's arrest is before the police. The witness said the issue of whether or not there was a misuse of county staff is in the hands of the County Assembly.

With that in mind, we would like the question to occur to you as you entertain whether or not to impeach. You should ask yourself whether you will choose to intercept a process of investigation by EACC, the police and the Kisii County Assembly, take over

the process and decide. Alternatively, wait for the determination of the cases before those agencies, which you, as legislators, have determined should make those decisions. My colleagues for the County Assembly have relied on two cases, which are of very doubtful basis.

The first one is the repeated story of one Nancy Baraza having pinched somebody's nose. That is one thing they are relying on to persuade you that you should impeach the Deputy Governor.

The other one they are relying on is the repeated reference to Watergate. Hon. Senators, we would like on our part to bring you nearer home, on what you yourselves have said and in terms of your standards of proof for purposes of determining impeachment.

The first threshold is the provisions of Article 181 of the Constitution. Article 181 (1)(a) and (c) of the Constitution, require that before you conclude that there is reason to impeach the deputy governor or rather a governor, you need to be satisfied that, indeed, there is gross violation.

Our question then to you would be, on all the five counts, on the allegation of a bribe from Dennis, giving a bribe to Lucy Wahito, the alleged threat to Dennis, the alleged misuse of county staff and the alleged arrest of the brother, do you conclude that indeed there is gross violation?

The other criteria is at Article 181 (1) (b), being that there is a serious reason to believe that a crime has been committed.

We submit hon. Members, that based on the analysis of facts that my colleague who came before me has made, and which I will look at again briefly, in a short moment. We submit that there is no manifestation of any gross violation of the law and there is no serious reason to believe there is any crime that was committed.

Further, in applying that criteria when we were considering the question of whether or not to impeach H.E hon. Mwangi wa Iria, through your Special Committee, you said that in the event an issue is in the hands of an investigative agency, then that investigative agency should be allowed to conclude their proceedings.

In that case, you said the EACC and the Public Procurement and Oversight Authority (PPOA) should be given room to conclude the process. If they come to a conclusion that there is, indeed, any wrong doing, then they can come back to the Senate through the County Assembly.

We are requesting that you apply the same standard, that having pointed the witnesses of the prosecution, and I am saying prosecution in this case being the County Assembly. They have come and readily told you these issues are in the hands of the police, EACC and are being investigated by the County Assembly functions. It brings you irresistibly to the need of maintaining the same position you took in Mwangi wa Iria case. Being that this is a case that in fairness, should be left to those agencies to conclude, as you did in that case and that you apply the same standard in the case of Dr. Monda as you did in the case of Hon. Mwangi wa Iria.

The same position was taken in the case of Prof. Chepkwony, the Kericho County Governor, where you said before you, as a Senate, can step in, you need to satisfy



yourself that all other oversight agencies and mechanisms have been exhausted, and that it is not proper that the Senate is the default option every time somebody feels like there is a fight between a brother and brother over trees, there is a fight about whether or not there is an abortion, there is a fight as to whether or not there was an error in pressing a letter G as opposed to letter H, in the case of Lucy.

Hon. Members, the same way you declined to entertain the case of Prof. Chepkwony, please decline to entertain the case of Dr. Monda, to the extent to which the other agencies that exercise oversight have not been exhausted and are not a default option.

We also rely on the determination made after this Senate had heard the case, in the case of hon. Mike Sonko, which was determined at the Supreme Court. When considering the question of whether or not there was an excess warranting the need for impeachment, the evidence should be credible and there should be evidence of extraordinary wrongdoing. I want to put a lot of premium on the use of the words “extraordinary wrongdoing”.

Hon. Senators, we submit that in the case of Dr. Monda, you were told that Dennis gave the Deputy Governor a bribe. Dr. Monda told you that the money did not belong to Dennis, but his parents. Secondly, Dennis did not participate in the discussions about that money. Therefore, he has no idea what was discussed before the money was sent.

When you are given that kind of evidence, in fairness, with what reasonable measure would you say there was extraordinary wrongdoing to be found in the conduct of Dr. Monda, when the father of Dennis is said that it was his money and he was refunding a loan he had taken earlier?

We are asking; where is the extraordinary wrongdoing or gross violation? Where is the serious crime in the issue of Kshs100,000 to Lucy Wahito? It is a fact that, indeed, money was sent to the M-Pesa of Lucy Wahito. We pray that you juxtapose that point with the point we have made that it was an error.

I am aware from the questions that you asked Dr. Monda in the course of his evidence as to whether he has an Mpesa app and why he slept without ascertaining who the money was sent to and so on and so forth.

All that said and done, If I were Mr. Ndegwa, I would refer you to the Bible and ask you to throw the first stone if indeed none of you who has a vote in this Senate has never made a mistake to send money to a wrong person. I would want to imagine that 100 per cent of you have done that. Even if it is not 100 per cent, I am sure most of you have done that.

Please do not throw a stone in the direction of Dr. Monda merely because he made a mistake that any of you could have done or is otherwise likely to do. For those who are sceptical about whether or not the mistake was there, we pray that where you have doubt, it should be exercised to the benefit of Dr. Monda.

On the allegation of threats to Dennis, Dennis said that the threats were communicated to him through his father. His father said that he has never been told anything that constitutes or amounts to a threat to Dennis.

With that kind of a situation, Dennis readily admitted that he never spoke with Dr. Monda. He said that threat was communicated through the father, but the father said there was no such threat. Where do you find cross violation? Where do you find serious basis to assume that a serious crime was committed? Where do you find a basis to say there was an extraordinary wrong committed as was determined in the case of His Excellency, hon. Mike Sonko?

On the issue of the county staff, the witness conceded that deployment of staff is not exercised by the Deputy Governor. The staff are assigned to him. He does not have a say on who is to be sent there. Even if it turned out that enforcement officers who were sent there cook for dogs, as Mr. Ndegwa said, whose mistake is it?

Are you going to impeach Dr. Monda for having been sent enforcement officers to go to the kitchen, or you are going to ask the county enforcement officers and the County Public Service Board (CPSB) to account for that? We pray that you do find that point as to whether or not that staff were there, cannot be pegged on the head and on the shoulders of Dr. Monda.

On the issue of the 20-enforcement staff, you saw there were attempts to play clips and so on and so forth. Nowhere did you see the 20 enforcement officers going to effect arrest on the brother of Dr. Monda. There is nowhere where there is evidence of 20 people going there. However, even assuming for argument's sake that that was the case, I pray and plead to you that, the real question here is whether or not Reuben and Robert had a dispute over trees. That is cast in stone. It is an absolute fact that, indeed, the two of them had the dispute over trees. The witness who brought this complain came here and said that.

Number two, it is an absolute fact that the report was taken to the police. Three, it is an absolute fact that it is the police who effected the arrest and took Reuben to the police station. He was not taken to the cells belonging to Kisii County where then, you would come and draw a conclusion that, probably, the enforcement officers were in charge of that process of the arrest.

With all those grounds, if you were to be tempted to deem a wrong doing to have obtained, should the Officer in Charge of Station (OCS) of the relevant police station have been summoned instead of having summoned Mr. Haggai? Should that not have been the person to be summoned to come and say whether indeed there were 20 enforcement officers and whether there was a basis for the need to arrest the brother.

We pray that you find that on the premises of that issue, there is no manifestation of gross violation. There is no reason to deem that a crime was committed and there is nothing negatively extra ordinary that Dr. Monda did to warrant the need for him to be subjected to impeachment.

Lastly, on that issue of enforcement officers; the witness, Mr. Haggai, came here and produced three letters. All the three letters are very consistent in what they say. They all say that the sub-county enforcement officer is the one who went with those officers. So, assuming those people went and we are saying there is not evidence that they went, there is nowhere where the hand of the Deputy Governor can be said to have existed in the deployment of those offices.

Hon. Senators and Mr. Speaker, Sir, for those reasons then, we pray that you conclude that, indeed, on the allegations brought against Dr. Monda, there is no evidence of gross misconduct, any serious crime committed and abuse of office or having done anything-extra ordinary to warrant the need to hold him liable for impeachment.

I would like to cover a few of the other grounds that my colleagues have raised in their submissions. One is the issue of bursaries. Now, several times in the course of presentation of our evidence, we kept being asked the relevance of the issue of the change of the budget from the original budget passed by the Assembly to the budget that was submitted to the CoB, and the basis for the allegation that the Governor has migrated from the official offices to his home and so on and so forth.

We pray that as you reflect on this case also, the question occurs to you, what is the relevance of alleging that Dr. Monda is responsible for the infanticide that has not been proven.

So, the case of the County Assembly is - we may not have proved that there was any bribe given to Dr. Monda by Dennis. We may not have proved that, Lucy Wahito, received the money as a bribe. We may not have proved that Dennis was threatened. We may not have proved that the county staff were misused. We may not have proved that the brother was properly arrested. We may not have proved that. However, even if you come to that conclusion, move on then and impeach him on the other grounds. One, being that he is responsible for infanticide, and my colleague, in his usual eloquence, makes reference to blood, the cry of a baby and all that.

Where is that case? Was any case brought before the County Assembly about any baby who was killed by Dr. Monda? If there was none, we pray that the attempt to whip up emotions amongst yourselves should be rejected. There was an attempt also to use videos to say, there is somebody who sells *mutura*, there is somebody who was asked for Kshs20,000 to get a bursary of Kshs3000, and so on and so forth.

I would like to address the two issues that arise from their video and the question of bursaries. The County Assembly came and said, "We did public participation and the report is here. It is at page 21 to 54 of the County Assembly record." The entirety of that report does not make reference to any video anywhere. We would want to be as respectful as possible to County Assembly, even if it were to be the case that they do not deserve it.

We would really like to be respectful to you. So, when we say that the videos are fabrication, we say that with a lot of caution. We are saying that after thinking about it seriously. We say that because it is inevitable for us to tell you that, indeed, since those a number of the Senators said the *mama mutura* and a couple of others touched them. We are telling you please look at it with circumspection, with reference to the fact that it is not in the public participation report. If it was there, what was difficult about it being incorporated there?

Number two, if it was there, where is the background for public participation? We pray that you reject those videos and the emotions that those videos were meant to whip up. On the bursaries, when the witnesses were cross-examined, they came to a point, especially hon. Siocha, hon. Karen Magara and the other witnesses readily said that the

issues of bursaries are domiciled in the office of the Governor and that there is a committee that deals them.

So, at what point would you, as Senators, be asked to get to deem Dr. Monda to be involved in bursaries when the witnesses for the County Assembly are contradicting their own witnesses through those videos saying, that bursaries have nothing to do with the Deputy Governor?

We pray that the issues around the videos and the bursaries do apply to every aspect of this case, being that there is a lot of manipulation of testimony, fabrication of testimony and an attempt to mislead this Senate.

Lastly, on that issue of bursaries and video, I pray to remind you that, indeed, those issues did not come up at the Assembly and that you remain faithful to the intention of the law. That, for you to entertain and determine whether or not to impeach a Governor or a Deputy Governor, it has to escalate from the County Assembly.

The sense of escalating from the County Assembly is that, both the cases, the evidence and the issues should remain the same at the County Assembly and at this Senate. Therefore, the issue of bursary, not having been there, the videos not having been at the County Assembly are not eligible for your consideration.

Mr. Speaker, Sir, my colleagues for the County Assembly have also introduced another issue that was not in the County Assembly - the issue of Gladys Aming'a. Gladys Aming'a was not a witness and in her statement, that we heard today, she says that having listened to what went on at the County Assembly, it being a process of filling up gaps that we challenged at the County Assembly, then she came to explain this and this.

She says that there is someone by the name Bernard who was given a tender. That Bernard is a cousin of Dr. Monda and his wife, Joyce. When Dr. Monda was asked, he said that he did not know that Bernard. The question is, to what extent would the County Assembly go to fabricate evidence and assign relatives so as to demonstrate an alleged case of manipulation of procurement. That is one.

Secondly, my colleagues in the course of cross-examination of Dr. Monda asked him to confirm that, indeed, he forced Gladys Aming'a to award a tender to the said Bernard. When Dr. Monda insisted on being shown where that alleged force was, they abandoned that line. The point we are making is that the face of that statement does not suggest anywhere that Dr. Monda was involved in any tender awards to Bernard, a person he does not know or any payment or the companies he is involved in.

The arguments by the County Assembly reflect how desperate they are, when they cannot demonstrate the issue of the alleged receipt of bribe from Denis Misati; when they cannot demonstrate that Lucy Wahito was bribed; when they cannot demonstrate that Dennis was threatened; when they cannot demonstrate that county staff were misused and when they cannot show that the brother was irregularly arrested; when they cannot prove any of that, they say, okay, let us move on. Look at this Aming'a, do you not see that this Aming'a gave a tender to Bernard; that Bernard has two companies, that these two companies and Bernard are related to Dr. Monda.

Mr. Speaker, Sir, we pray that you reject the totality of that on the two grounds. Firstly, that the testimony of that Aming'a on the face of it, does not support what they

were trying to say and secondly, it was not part of the case that was at the County Assembly.

Arguments were made also about the Kshs100,000 that was sent to Gladys Aming'a. She readily said that as a witness of the County Assembly, she received Kshs100,000. In our affidavit, we have said that in addition to the Kshs100,000 she received another Kshs40,000 and another Kshs65,000.

Gladys Aming'a who is part of the County Assembly case, readily said that she received money and has assigned and ascribed a reason to the receipt of that money. What is the reason? Supply of ballast and other construction items and transport services.

Mr. Speaker, Sir, we pray that even as you reflect on that issue, Dr. Monda cannot be subjected to a process of impeachment on the issue around Gladys Aming'a when Gladys Aming'a has bellied out the case of the County Assembly. She has said it is true that I received the money and the value for this is this. Hon. Senators, it is not available to you to go behind the word of Gladys Aming'a and start entertaining the arguments made by the Advocates for the County Assembly who should be defending that Gladys Aming'a.

Mr. Speaker, Sir, I would like to say a few things on the technical issues that we raised. The County Assembly witnesses, especially the Mover of the Motion, Hon. Siocha, readily agrees that the Motion was prosecuted out of time and public participation was conducted out of time. He accepts that and says that it is contrary to the provisions of Standing Orders No. 60 – 64 of the Kisii County Assembly.

He said that he attached the particulars to the Notice that he moved on 13<sup>th</sup> February, 2024. When asked, he said that he could see that the Notice did not have particulars, but those particulars were given. So, the question is, what happened to those particulars? However, the bottom-line is this. As you look at the Notice that was moved on 13<sup>th</sup> and as you look at it today, it did not have details and particulars.

The Motion was not moved under the provisions of Section 15 of County Governments Act and the Standing Orders of Kisii County Assembly, Standing Orders No.197 and 198. With all those considerations, my colleagues have told you that when you go into those technical issues, treat the technical issues as none issues because Dr. Monda's defense have acquiesced by bringing witnesses.

I would like to ask the question; what were we supposed to do? We were to come and smile and not do anything? Number two, we raised those issues at the start of these proceedings and the ruling asked us that the issues you are alleging, the question of whether or not, it was on time, whether or not, it had particulars, whether or not, it was moved properly, are issues that you will have to determine after listening to the facts.

Therefore, by presenting witnesses, we were not acquiescing or abandoning our preliminary issues. We were doing what the ruling of this Senate said. That is to demonstrate the basis of those technical arguments through the facts that you will adduce and we have demonstrated that spectacularly through both cross-examination of the witnesses of the County Assembly and through our own witnesses confirming that each of those wrongdoings happened.

I am aware that a number of Senators have said that based on the provision of Article 159 of the Constitution, they do not want to look at the technicalities. On our part, for the Deputy Governor, we would want to ask; what was the purpose of the rules? Why did we sit yesterday up to midnight? Why are we seated past hours today? Is it not because the law prescribes that some things are to be done within time? Is it not because you are being faithful to timelines?

If you, at this national level, as Senators, are prepared to go out of your way to comply with the law, why should you give latitude to the County Assembly to say we will smilingly disobey the timelines that have been set and it should not matter. Why should you extend that latitude, especially when those county assemblies do not come and say sorry that they were out of time because there was an earthquake or COVID outbreak? They are not giving any reason or excuse as to why they are out of time.

We pray that for purposes of standardisation of the rights of the parties and for the rule of law, you insist--- Unless there is a good reason why you should invoke the provision of Article 159 of the Constitution and entertain issues and say it is a technicality. Before you do so, justification needs to have been obtained. The justification and law allow for that extension. We submit that the law does not allow anywhere for that extension of time. Therefore, we pray that you do reject the Motion for lacking particulars, for mutating from the date of 13<sup>th</sup> when the Notice was issued and mutating into something different by the time it was being moved on the 21<sup>st</sup> as a different Motion and for not having been moved properly. We pray that you be faithful to the law that is keeping you seated here today up to this time as well as yesterday. Enforce that law and say that the Motion is null and void to that extent.

I am aware that the County Assembly has been casual about it. I pray that the Senate, in developing jurisprudence, do not encourage that feeling that it does not matter and that all they need is to just throw anything in the face of the Senate and the Senate will readily entertain it. You should say that everybody must follow the law. Otherwise, the rights of parties, including Dr. Monda, will stand violated.

At this point, I want to cede the few remaining minutes to my colleague Mr. Ochoki. However, before I do that, I would like to cover one other issue on the issue of public participation. I have already pointed out to you that the public participation was not signed. Public participation was done out of time. It was done on the 26<sup>th</sup> which was three days after the close of the period within which the impeachment was to have been concluded by the 23<sup>rd</sup>.

Clearly, and this is very important for us, the public participation was not funded. They just said, 'let us go look for public participation.' Without funding, you have a situation, as we demonstrated through evidence, that the Governor then took charge of it, which is a different arm of the county assembly.

He funded the process; not only in terms of cash, but also personnel. We pointed out to you instances where the ward administrators were the ones collecting the fees. We went to pray that you do find that serious.

Actually, we would want to pray that you apply the criteria of Article 181 of the Constitution, being that kind of conduct was a gross violation of the Constitution, gross

misconduct, evidence of serious crime and an extraordinary excess on the part of the governor and the executive.

One last thing before I hand it over. Arguments have been made about Lucy Wahito having been bribed. Collateral to our explanation that, indeed, it was an error to have sent this money to Lucy Wahito. We pray that you keep in minds these other collateral circumstances.

Number one, Lucy in her statement of the 8<sup>th</sup> February says the interviews were done 15<sup>th</sup> May 2023. She says this money came to me on the 28<sup>th</sup> of May, which is approximately 13 days down the line. She also readily says that the interviews were done, whichever date, according to her, she wanted to change the date from 15 to 25. However, our position is that it was on the 25<sup>th</sup>. However, whichever way you look at it, whether it was the 15<sup>th</sup> or 25<sup>th</sup> the position remains that by the time she is receiving the money, the interviews have been done, and the scoring has been done by people other than her. She says if you want to succeed in those interviews, assuming anybody was determined to succeed in those interviews by crook or whatever means, you would need to go to those people who were scoring.

She does not say, in her allegation, that the Deputy Governor Hon. (Dr.) Robert Monda told me to go and influence the board members. So, if you were to say that there was any intention of influencing the interviews, would not it be necessary then to ascribe intelligence to the mind of the Deputy Governor, Hon. (Dr.) Robert Monda. If he was interested in compromising the process of getting this job for Dennis, he would go to the board members who were answerable to him because they are appointed by the office of the governor, where he serves as the deputy.

So, we pray that you keep in mind those two things. One, by the time this money is coming, scoring has been done and the winner or the successful candidate is already a closed issue.

Number two, if it was intended to bribe and get this job for Dennis, the people who needed to have been approached were the people who were scoring. It is a fact that there is no allegation of those people having been approached. For those reasons, I pray, hon. Senators, that you find that the threshold has not been achieved in this case of Deputy Governor Hon. (Dr.) Robert Monda.

Number two, that this Senate cannot be a platform for any default case of a pen being lost, they come here to say impeach him. Whatever small thing, including family disputes, this Senate, is not a forum for that kind of resolving family disputes.

Number three, that you do find that to the extent to which these cases are in the hands of constitutionally mandated agencies; the EACC, the Police the County Assembly, you should cede ground for those institutions to conclude their process.

Lastly, considering that this is a position of one word against the other, you find that our witnesses are credible and superior in the quality of their testimony as opposed to the witnesses who the county assembly called in the desperate attempt to achieve the removal of the deputy governor.

With that, Mr Speaker, Sir, still being within our time, I request that my colleague, Mr Wilkins Ochoki, closes our submissions.

**The Counsel for the Deputy Governor** (Mr. Wilkins Ochoki): Mr. Speaker, Sir, allow me to briefly address the facts that my colleagues emotionally wanted you to believe.

A church elder has been called a culprit and a liar in this honourable House. However, if you were to look at the evidence in totality, hon. Senators, you are being told to send the Deputy Governor, Hon. (Dr.) Robert Monda, home when he never spoke at any given time to the complainant. That is the gentleman now famously known as Dennis.

Dennis told this House that all the information about the bribe that you are being told that the Deputy Governor took was given to him by his father. His father was here. He swore and told you there was no bribe. Dennis told you that Kshs300,000 was given to the Deputy Governor by him and his father. His father was here. He told you there was nothing like that. He told you that the Kshs251,000 that his father sent to the Deputy Governor was a bribe. His father was here and told you that was not a bribe.

Hon. Senators, have asked the witnesses about timelines from when the Deputy Governor received the M-Pesa message to when he sent it to Lucy Wahito. Hon Senators, you have not asked after how long, upon receipt of those funds, did Dennis send them to the Deputy Governor. That gives credence to his father's position that those were the instructions that he was to go and collect cash. However, since M-Pesa outlets were closed, he could do nothing.

You have been told about a bribe to Lucy Wahito and a lot has been said about the Kshs100,000. Hon. Senators, look at the statement of the Deputy Governor. Shortly after the alleged conversation with Lucy Wahito, he sent Gladys Aming'a, Kshs100,000. Then his version, purely because of Kshs100,000 that was sent to Gladys Aming'a, is believable. He is not a liar.

You have further been told that the money that was sent to Lucy Wahito was a mistake. All of us make mistakes. I am not as old as the Deputy Governor, but I have sent money to wrong numbers.

Hon. Senators, you have been told about enforcement officers and abuse of office. Even the Acting Director of Enforcement and Compliance was in this House. There was no mention of a single name of an enforcement officer who did the acts that you are being told were part of abuse of office.

Further, hon. Senators, when you sit to make a determination, you saw the drama. When we started, we told you that you would see the kind of preparations; the fiction that the other side had prepared. You saw people cry here.

It is sad that an old person, the brother to the Deputy Governor, can come and tell you that a police station is two kilometres away from his home. He has not reported to that police station, but travelled 500 kilometres to the Senate. He is now telling you to send his brother home.

That is akin to the lady in the Bible who wanted a child to be cut into two. The Senate is being told to cut the child into two by sending the Deputy Governor home. You cannot send the Deputy Governor home, when the evidence of a father who loves his son is being told not to believe. You are being told not to believe the evidence of a father who



loves his son, wishes his son the best, and has come here and told you that there was nothing like that.

All those charges that have been brought against the Deputy Governor are nothing more. As my brothers have submitted, they do not meet the threshold. In as much as my brother asked you to send the governor home, let the governor go back to Kisii and serve his people. He was elected and the job of the Senate is to check out - my brother has told you and submitted clearly that there was and is nothing.

Hon. Senators, if you are to send the Deputy Governor of Kisii County home based on the evidence that has been presented in this House today, then you will be doing a lot of injustice to the people of Kisii County.

Let the Deputy Governor stay and allow him to go and serve his people. That is our plea. We hope that you will not believe. As a result, there will be no stain on the name of this great public servant who has served this great country in very many different capacities.

I thank you.

**The Speaker** (Hon. Kingi): Thank you to both teams from the County Assembly and the one on behalf of the Deputy Governor.

Pursuant to Rule 27 of the rules of procedure as contained in the Third Schedule of the Senate Standing Orders, the Senate shall now proceed to a camera session to deliberate on the matter raised before making a decision.

The camera session shall last for 15 minutes. Thereafter, we shall reconvene plenary where then the Senate will be called upon to make a decision on the matters that have been raised.

At this juncture, I will ask the parties to withdraw from the Chamber together with members of the public; those seated in the public gallery and live broadcast to cease forthwith.

*(All members of the public and the media withdrew from the galleries)*

*(The House adjourned temporarily at 9.38 p.m.)*

*(The House went into an in-camera session)*

*(End of in-camera session)*

*(Members of the public and the media  
were allowed into the galleries)*

*(The House resumed)*

**The Speaker** (Hon. Kingi): Order, hon. Senators! Welcome back to Plenary.

Having dispensed with the in-camera session, we will now proceed with the business as contained in the Supplementary Order Paper, which has been circulated and I believe that each one of you, has a copy of it.

Clerk, you may proceed to call the next Order.

The Senate Majority Leader?

### NOTICE OF MOTION

#### RESOLUTION TO REMOVE FROM OFFICE, BY IMPEACHMENT, THE DEPUTY GOVERNOR OF KISII COUNTY

**Sen. (Dr.) Khalwale:** Mr. Speaker, Sir, I beg give notice of the following Motion-

THAT, WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on Thursday, 29<sup>th</sup> February, 2024, the Kisii County Assembly approved a Motion to remove from office, by impeachment, Hon. (Dr.) Robert Monda, the Deputy Governor of Kisii County;

AND FURTHER, WHEREAS by a letter dated 1<sup>st</sup> March, 2024 and received in the Office of the Speaker of the Senate on Saturday, 2<sup>nd</sup> March, 2024, the Speaker of the Kisii County Assembly informed the Speaker of the Senate of the approval of the Motion by the County Assembly and further forwarded to the Speaker of the Senate, documents in evidence of the proceedings of the Assembly;

FURTHER WHEREAS, pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order 80 of the Senate, the Senate heard the County Assembly on the grounds for the proposed removal from office, by impeachment, of Hon. (Dr.) Robert Monda, the Deputy Governor of Kisii County;

AND FURTHER, WHEREAS pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order No. 80, the Senate also heard the Hon. (Dr.) Robert Monda, on the grounds for his proposed removal from office, by impeachment, as the Deputy Governor of Kisii County;

NOW THEREFORE, pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order 80, the Senate resolves to remove from office, by impeachment, the Hon. (Dr.) Robert Monda, the Deputy Governor of Kisii County, on the following charges-

Charge 1: Gross Violation of the Constitution or any other Law

Charge 2: Abuse of Office

Charge 3: Gross Misconduct

Charge 4: Crimes under National Law

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Kingi): Clerk, next Order.

Proceed, the Senate Majority Leader.

**MOTION****RESOLUTION TO REMOVE FROM OFFICE, BY IMPEACHMENT,  
THE DEPUTY GOVERNOR OF KISII COUNTY**

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker, Sir. I beg to move the following Motion-

THAT, WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on Thursday, 29th February, 2024, the Kisii County Assembly approved a Motion to remove from office, by impeachment, Hon. (Dr.) Robert Monda, the Deputy Governor of Kisii County;

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NOW THEREFORE, pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order No. 80, the Senate resolves to remove from office, by impeachment, the hon. (Dr.) Robert Monda, the Deputy Governor of Kisii County, on the following charges:-

1. Gross Violation of the Constitution or any other Law Charge
2. Abuse of Office Charge
3. Gross Misconduct Charge
4. Crimes under National law

Mr. Speaker, Sir, with your permission, may I pick my moving notes.

As I move this very important Motion, I want to start by saying that today is a day at the bottom of my heart to the very best of the clarity of my mind, I am offered that day to celebrate the integrity of the women of the Republic of Kenya. Why? Because of two women in Kisii. A woman by the name of Lucy Wahito and a woman by the name of Gladys Aming'a.

I am celebrating these women in my heart because I have looked at the evidence; both in an affidavit and what they said in the County Assembly when the matter was there; I think these are women of integrity.

The Deputy Governor has spent a lot of energy to twist evidence surrounding the affidavits of these two women, but they have stood their ground. A woman by the name of Lucy Wahito. After the Deputy Governor received the said Kshs800,000, he quickly transferred that money to Lucy. Lucy was brave enough to ask the Deputy Governor, what is this money for? The Deputy Governor told her and I am reading from her affidavit, “this is money in line with what we had discussed.”

I will not go into details because we do not have time. The woman asked him to take it, but he did not. She sent back the money. That is integrity. We were told in English that ‘integrity’ means doing the right thing even when nobody is watching.

Gladys Aming’a was also looped in this time to my mind the Deputy Governor was desperate. Now that the money had come back, he needed to send the money somewhere. So, he took the money to Lucy and connected it to some other requests of nephews and whatnot, who wanted to be given a through pass to be given a business at the docket of Gladys. Gladys stood her ground. If you go through the evidence, she has written in her handwriting trying to clarify to us what compelled her. That is integrity.

Mr. Speaker, I want to acknowledge, through moving this Motion, that for the first time in many years I have presided over proceedings of impeachment, I have seen humility in legal teams. The legal team from the County Assembly has been very humble. They have not tried to be verbose, they have not tried to lecture us, they have not tried to show us how they are learned friends and what have you. They have pursued evidence. I congratulate the legal team of the County Assembly.

I am so proud that we have sat on a matter where the defendant had none other than Mr. Katwa Kigen as legal counsel. This is one of the most distinguished lawyers, not just in this country, but in the region and internationally. I had never known that I would have an opportunity to listen to Mr. Katwa Kigen, the brain that addressed the International Criminal Court. Mr. Katwa Kigen is a great man and that humility has completely changed my understanding of the legal profession.

My third point is academic as I support the removal of the Deputy Governor. Colleagues, ladies and gentlemen, in the history of democracy, the greatest Senator who ever lived in the United States of America was Senator William Fulbright. He was so great that he wrote and spoke to the story of power. He has a beautiful book. I would invite you, if you have time, to acquaint yourself with it if you have not.

The book is called ‘*The Arrogance of Power*.’ Mr. William Fulbright spoke about the arrogance of power. You saw what the Deputy Governor of Kisii County did to his blood brother, Mr. Reuben Monda. He collected enforcement officers and did to this brother; the brother who suckled the same breast with him--- That is the true definition of arrogance of power. Once you have power, you can do many things, including what the Deputy Governor of Kisii County did.

My fourth point is at my professional level. In behavioural science, we have something called split personality, which in medical science we refer to as dissociative identity disorder. This is a disorder where a normal person, like all of us, creates two personalities; personality A and personality B. They choose to live without knowing that

they are abnormal. One personality, serves them at moment X and another personality serves them at moment B.

I witnessed that disorder when Mr. Joseph Misati was speaking. It was a classical, medical description of this disorder. Here is a man who is a very poor polygamist. His wife died many years ago and left him with beautiful children. One of them is Mr. Dennis Misati.

So, Mr. Joseph Misati who says that he loves Mr. Dennis Misati, when he is in personality A, he is with Mr. Dennis Misati in his mind, with Dennis' biological brother and the late wife.

He exits personality A and goes to B. The person then goes to the personality of the second wife with the joint business account with her children who by the way - some of us do research before we debate in this House - has children who Mr. Joseph Misati has already put in placement.

It is that personality B that has been in this House and was telling this House that his son is a liar and *et cetera*. I will not waste your time by repeating these words. It is so unfortunate. That is why this world needs doctors.

*(Loud Consultations)*

Mr. Speaker, Sir, my fifth point is my desire to persuade you to let us take the Deputy Governor Monda home. It is on the doctrine of law. This is where I leave it to the lawyers. The doctrine of law, you either do it, because you have proved it beyond reasonable doubt, or you have proved it on the balance of probability.

On the balance of probability of this doctrine, we would be lying to the country and the people of Kisii County that the boy did not sell his business. He has given us evidence. We would be lying to the country, dear colleagues, that he did not send Kshs800,000 in the manner he did. In the balance of probability, we would be lying if we discounted the evidence by the two great women that I have praised at the beginning.

My sixth and final point is on the border line of philosophy of religion. I am not a very religious person because I do not understand the Bible, but I believe in God. On that philosophy, many of you have heard that God made man, man made money and money made man mad.

The madness you are seeing in this House where a father can go against his own son and a Deputy Governor can go against his own brother is the madness that money has created in society.

I move and request the distinguished Senator from Migori County to second my Motion for removal of Dr. Robert Monda.

I thank you.

**Sen. Oketch Gicheru:** Mr. Speaker, Sir, this is a very important moment in our country. It is not by sheer coincidence that the Mover of the Motion for today is a ranking Member of this House. He is not only that, but my senior in many ways such as in Parliament, life, wisdom and other ways.

(Laughter)

**The Speaker** (Hon. Kingi): Order, hon. Senators! Proceed, Sen. Oketch Gicheru.

**Sen. Oketch Gicheru:** Mr. Speaker, Sir, I also happen to be among the youngest Senators in this House. We are seeing some sanity in the Senate in the pursuit of justice, where the old and young can speak on a matter that affects our country with same passion and magnitude.

Mr. Speaker, Sir, yesterday, I sat in this House. As you know, we also have our lobby on the other side where if you are tired you can keep watching this debate.

In the quest for justice, it is good to be impartial and fair so as to ensure that you make proper judgments as an arbiter of law. It is always good to listen. Listen more than you say.

That is why in the past two days, I have tried not to come to this House with points of order or ask questions. Nonetheless, go with the mantra that God gave us two ears and one mouth, so that we can hear more. He also gave us two eyes so that we read more, and one mouth so that we speak less when we have absorbed more. As a young man, I do not think that today's judgment is solely on the Deputy Governor of Kisii County. It is a judgment on Senators and our commitment to justice.

In seconding this Motion, I want to pose a question that may not require an immediate answer. We are on a quest for justice; a journey that cannot exist without truth. Sometimes, truth demands self-examination.

Allow me to address my esteemed colleagues, Sen. (Dr.) Lelegwe, Sen. Methu, Sen. Tabitha Mutinda, Sen. Orwoba, Sen. Kinyua, Sen. Omogeni, Sen. Olekina and all these brothers and sisters present.

Reflect on your personal experiences in this country. Have you not encountered a young, well-qualified individual desperate for a job only to be asked for a bribe? This is a reality we must confront. We are faced with a case that will shape the future of our country. If you reflect, I am confident you will find a similar story in your circles.

If you do not have a relative, you have got a neighbour. If you do not have a neighbour, you have a village mate. If you do not have a village mate, you have a friend who has sought for a job. They could have been desperate and qualified for it and willing to work, but they are asked for bribes or some sort of tokens by people with power. In some cases, they lose big.

As a young person, I was deeply saddened by the plight of my peers. Many of them riot in the streets in the name of medical interns. I know a number of them that have reached out to us Senators saying they are trying to look for jobs, but they are asked for Kshs300,000 or Kshs100,000, just to secure a job.

When the defence appeared in this House, they called a young man who lost money because of desperation and being a destitute. They said he is a gambler and as such, we, as a House, should not listen to them, as if gambling is a sin in this country. Allow me to quote. Sometimes they say; *nawekea Man-U kichwa*. If they say anything before the law, then they are not serious.

As I finish, if you look at the Deputy Governor's response, that is Volume one, pages 65 to 66, there is a number that drew my attention. We have a Cooperative Bank account of the key witness for the Deputy Governor's side who is the father of Dennis. I would like to read the number. It is 07022000. You can check the rest if you have got those files.

I did a simple search. If you look at that number, it belongs to the accused. The same person who is saying they had given the wife money to go and give the son and then to give to the Deputy Governor, in a number of times, he has sent money directly from that Cooperative Bank account to the same person, not once not twice, but many times. It behoves you to ask, what necessitated that this time round, the money had to come from the same account, go to the wife and then go to the son, so that it can reach the same number that is in that file?

As I finish, I do not want to judge the Deputy Governor on the basis of lies. However, today's judgement is for the young people in this country who try to tarmac so much in this country to look for jobs and because people in power want money from them, we must show as a House that we can stand united on a bi-partisan manner and stop this menace of corruption that denies young people opportunities.

I wish to urge this House, that the act of sending the Deputy Governor of Kisii home is not malice. It is about rethinking of our future generations and how people in positions can ensure that there is equal opportunities and chances for all.

Mr. Speaker, Sir, I, therefore, support the Motion and I thank you and hope that the Senators here will speak not to the Deputy Governor or the County Assembly of Kisii, but to themselves as they reimagine and rethink the idea of equal opportunities to all.

I second, Mr. Speaker, Sir

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

*(Sen. (Dr.) Khalwale, stood up in his place)*

Sen. Boni, you need to take your seat. Now, hon. Senators, I will now proceed to propose the question.

*(Question proposed)*

Hon. Senators, we will proceed with debate. What is your point of order, Senator for Nyandarua County?

*(Interruption of debate on Motion)*

**PROCEDURAL MOTION****LIMITATION OF DEBATE ON MOTION**

**Sen. Methu:** Thank you, Mr. Speaker, Sir. I beg to move the following Motion- THAT, pursuant to Standing Order No.11; looking at the time, it is 20 minutes to 11.00 p.m. and we have to dispense with this matter by midnight. The House is now full. I am sure there are many interests and Senators would want to speak to this matter. It would then be difficult for us to speak for the 15 minutes that we should, to this Motion.

I urge our colleagues that we allow each of those that will be allowed to speak or catch the eye of the Speaker, to do so at most three minutes.

*(Loud consultations)*

**The Speaker** (Hon. Kingi): Order! Hon. Senators. Let the Senator be heard in silence. He is moving. He must be heard in silence.

**Sen. Methu:** Thank you very much, Mr. Speaker, Sir. I propose that we limit the debate to three minutes. I invite the Senator of Homa Bay County, Sen. M. Kajwang', to second.

**Sen. M. Kajwang':** Mr. Speaker, Sir, I second with variation of five minutes.

**The Speaker** (Hon. Kingi): You either second the Motion as moved---

*(Loud consultations)*

Order, Hon. Senators! Sen. Chimera, you do not have to shout at each other. Sen. M. Kajwang', you can only second the Motion as moved. You cannot amend it.

**Sen. M. Kajwang':** Mr. Speaker, Sir, I do not second.

**The Speaker** (Hon. Kingi): Order, hon. Senators. Senator of Nyandarua County, you may seek to get another seconder.

**Sen. Methu:** Thank you, Mr. Speaker, Sir. I invite the Senator for Meru County, Sen. Kathuri, to second.

**The Speaker** (Hon. Kingi): Proceed.

**Sen. Kathuri:** Mr. Speaker, Sir, with all the reasons that have been given by my colleague here, Sen. Methu, I second that three minutes are okay.

**The Speaker** (Hon. Kingi): Hon. Senators, we need not be drawn to a debate on that Motion. With your concurrence, I can proceed put the question on the Motion as moved by the Senator of Nyandarua County and seconded by Sen. Kathuri.

Order, Sen. Munyi Munding. Voting shall be by voice. Therefore, Hon. Senators, with your concurrence, may I proceed to put the question?

*(Sen. Owoba spoke off the record)*



Sen. Orwoba, I do not want to ask Members to leave the Chamber, if only we can behave in an orderly fashion.

*(Question put and agreed to)*

I have received requests from colleagues who are not present today to be allowed to vote online. When we get to that level, we will adopt a hybrid way of voting. For those who are here, you will vote electronically and then we will allow your colleagues who are not present to vote by voice wherever they are.

Sen. Crystal Asige, you may have the Floor.

*(Resumption of debate on Motion)*

**Sen. Crystal Asige:** Thank you, Mr. Speaker, Sir. In 1995, there was a very poignant piece of wisdom that was birthed into the earth by unsuspecting group of young black, women musicians. They go by the names of T-Boz, Left Eye and Chilli, also known as, TLC.

In this piece of wisdom that they gave us, they cautioned society and they said back in 1995, over almost 30 years ago-

*“Don't go chasin' waterfalls; Please stick to the rivers and the lakes that you're used to; I know that you're gonna have it your way or nothing at all But I think you're moving too fast”*

*(Applause)*

Mr. Speaker, Sir, TLC, in their wisdom foresaw moments like this whereby, sometimes, we see a split in our world between two types of people. Those who do not know how to start making money and those who do not know when to stop making money.

When I saw this case for the first time, I thought to myself; how can it be that a pot is calling kettle black? Two criminals seemingly are coming before the Senate. However, it took me to the Evidence Act, Section 141 which talks about accomplices and says-

“An accomplice shall be a competent witness against an accused person; and a conviction shall not be illegal merely because it precedes upon the uncorroborated evidence of an accomplice”.

To me, this meant that Dennis and his evidence was credible and can be used against the DG as per Section 141 of the Evidence Act. However, he can still be prosecuted after this in a separate court on charges of bribery.

The reason I lay this before the House is because, there are many things that are contrary to each other. Many differing opinions and many issues---

**The Speaker** (Hon. Kingi): Sen. Asige, you have 30 seconds.

**Sen. Crystal Asige:** Mr. Speaker, Sir, let me finish by saying that this should be a lesson to all. It should be a lesson about money and how money can tear through families and rip through communities. A lesson of how what happens behind closed doors and in communities that is not solved can and unfortunately has landed on this national platform, in front of the Senate. That is extremely unfortunate.

I would not wish to see the time when my own parents, who gave birth to me, natured me---

**The Speaker** (Hon. Kingi): Your time is up, Sen. Crystal.

Sen. Karungo, you may have the Floor.

**Sen. Thangw'a:** Mr. Speaker, Sir, I am a drafter of the Impeachment Bill. So, I believe in impeachment, but I believe in it when the processes are good and they provide the rights of the accused. I am set to appear before the Justice, Legal Affairs and Human Rights Committee on Monday so that I can give these processes of impeachment.

The question tonight is, to impeach or not impeach? I am asking everybody here today. When somebody goes home, they go home for good. The Constitution under Article 75 says that you cannot run for any seat. I then ask myself if we should impeach or not impeach when a youth has to bribe Kshs800,000 to get a job that is worth Kshs120,000 after taxes and when a brother stands against a brother with whom they live together in their father's home.

Mr. Speaker, Sir, when a father stands against his son on the issue of somebody to be removed from his position in the effort of giving his son a position, you ask yourself if you should impeach or not impeach. That is the question

Today, we have heard of a community that can bribe with Kshs12,000 to get an advance of Kshs10,000. The question then is: Should we impeach or not impeach?

As the Senators, who are my friends, make a decision today, I want to quote a Senator called Lindsay Graham, from South Carolina. The Senator said that impeachment is not about punishment but about cleansing the office. It is about restoring the honour and integrity to the office.

Mr. Speaker, Sir, as the Mover of the Bill that calls for impeachment to be done thoroughly, I ask hon. Members today, as they cast their vote to remember that they, too, could be in the position of one Hon. (Dr.) Robert Monda.

*(Laughter)*

I want everybody to remember that. As you cast your vote tonight, I want everybody to remember that there could be another Dennis who will come here and stand against his father and a brother against a brother.

We even heard about the first lady although it was not canvassed. I do not know. As I stand here, I ask this Senate to restore the honour of this House. Let us restore---

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

**Sen. Faki:** Asante Bw. Spika kwa kunipa fursa hii kuchangia Hoja ya kumbandua mamlakani *Deputy Governor* wa gatuza la Kisii. Kazi ambayo tumepewa kama Maseneta ni kazi ambayo ni muhimu sana kitaifa. Hii ni kwa sababu hii ndio njia ya pekee ambayo katiba inaruhusu kuhakikisha kwamba sheria inafuatwa na watumishi wa Serikali ambao

wamechaguliwa, na vile vile, wananchi wanapata matumaini kwamba, iwapo muhusika atakua ametenda dhambi, iko taasisi ambayo inaweza kusimama na ikatoa hukumu juu ya mtu aliyehusika.

Bw. Spika, ijapokuwa tumekaa kama mahakama, hii sio mahakama kamili kwa sababu baadhi ya masharti ambayo yanatumika mahakamani hayajatumika hapa leo na jana. Hata hivyo, jukumu ambalo tumepewa ni jukumu la kimahakama na maamuzi yataamuliwa kulingana na kura nyingi.

Kwa hivyo, tunapopiga kura tuzingatie mambo yafuatayo: Kwanza, je, yale mashtaka yamedhibitishwa? Kudhibitishwa tunaangalia *beyond reasonable doubt*, yaani kupindukia. Tunaangalia kama katika ushahidi ambao umetolewa, iliwezekana kama Bw. Monda aliitisha hongo la Kshs400,00. Katika ushahidi ambao umetolewa, inawezekana kwamba Bw. Monda alipeleka askari ishirini wa gatuji la Kisii kumshika ndugu yake ambaye aliwekwa korokoroni kwa muda wa karibu siku moja. Haya ni maswali ambayo lazima tuyazingatie wakati tunatoa uamuzi.

Bw. Spika, nimefurahi kwamba baadhi ya mashahidi kama vile Bi. Lucy ambaye alitoa ushahidi wa kuregesha fedha, laki moja, ambazo alikua ametumiwa na Bw. Monda na Gladys. Hii inaonyesha kwamba wako Wakenya ambao bado wana imani na utendakazi wao.

Bw. Spika, hivi majuzi, *Officer Commanding Station* (OCS) kutoka upande wa Isiolo aliregesha hongo kwa mhusika, kwa sababu aliamini kuachilia jambazi ni makosa na akakataa hongo. Kwa hivyo, mashahidi waliokuwa hapa jana kudhibitisha kwamba pesa zilitumwa na zikaregeshwa, wamedhibitisha kwamba---

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

**Sen. Orwoba:** Thank you, Mr. Speaker, Sir. This is a very sad day for Kisii County. I happen to come from this County. Our county is known for positive and beautiful things and people.

As a matter of fact, our human resource from Kisii County is top notch; engineers, doctors, lawyers, you name it. We are known to produce results. So, when I say that this is a very sad day for Kisii County, I mean it. This is because it is the day that we have been subjected to so much negativity coming from Kisii County.

As I stand here, I want to tell my colleagues, who have--- We are nominated, I might not have a vote today, but I have a voice. For me, it is clear that every single time we have an impeachment Motion, we always say that where is the proof? Where is the evidence? Where is the fact? It is not about the story but proof and evidence.

Mr. Speaker, Sir, when I looked at the transaction of Kshs100,000 sent to a Managing Director, so that they can give a job, I was saddened. This is because I knew that this is the sword that will bring down the deputy governor.

I do not have much to say. I know there are Senators here who are often known to sit on the fence and not take decisions. Today, I say to them and to others in the House, that the hottest places in hell---

**The Speaker** (Hon. Kingi): What is your point of order, Sen. Mandago? Sen. Gloria Orwoba, there is a point of order, kindly yield.

**Sen. Mandago:** Mr. Speaker, Sir, I am standing on Standing Order No.105 on statement of facts. Is it in order for Sen. Orwoba to impute improper motive that there are Senators who sit on the fence in this House? The decision to vote or not is on the individual Senator of the House.

**The Speaker** (Hon. Kingi): Sen. Gloria, proceed to withdraw that statement.

**Sen. Orwoba:** Mr. Speaker, Sir, I withdraw, and I profusely apologize. I would like to conclude by saying to people out there that the hottest places in hell are reserved for those who in times of great moral crisis, maintain their neutrality. The evidence and everything is there. Let us take our responsibility seriously and make the right call.

I thank you.

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

**Sen. Olekina:** Mr. Speaker, Sir, these last two days, to me, will remain to be the saddest days in the institution of a family, in this Republic of Kenya, and particularly, the Senate of the Republic of Kenya.

It reminds me of 1998, when I was a student in the United States of America (USA) and the former President of the USA, William Jefferson Clinton's family was the centre of an investigation. Where I come from, a family is supposed to be a strong bond that unites all its members, that provides security that leads people. However, and very unfortunate, we have been invited to come in between a family. I am so sad because I have seen a father testifying against a son, a son testifying against a father and the father roping in the step mother. What example are we showing to the younger generation?

Although I believe that in certain circumstances, it is imperative to separate between family ties and integrity. Today I am torn between a hard place and a rock. I have been invited to make a decision to argue that whatever was being shown here is a family that requires prayers.

I want to invite you, my brothers, and sisters, for the integrity of the family, to vote cautiously and remember that in certain circumstances, in order to preserve the rule of law, you have to make hard choices. I pray for the community of Kenyans who live in Kisii that when their sons and daughters retrieve back and go after this event today, they will reflect on the institution of a family. It is imperative.

I want to conclude by saying that although I have witnessed something that I never thought I would witness in my life, as I sat here, I remembered what happened in 1998. I had hoped that I would never see that in the history of Kenya. Since I have been invited to sit, I will make a conscious decision.

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

**Sen. Wambua:** Mr. Speaker, Sir, Chapter Six of the Constitution of Kenya, 2010, requires that public officers, public servants and state officers must bring honour and dignity to the nation and to their offices. I will leave it to the conscience of the nation to judge whether or not the behaviour and body language of the deputy governor of Kisii is fit for him to hold any public office.

The Deputy Governor of Kisii has not just lied on oath and on record, but he is at the centre of a conspiracy to lie to the Senate for purposes of just exonerating himself

from blame. He and his core conspirator must have a very dim view of the collective basic diligence of the Senate.

Mr. Speaker, Sir, the easiest way out for the Deputy Governor would have been to simply apologize to his brother. If he had fixed the mess that he has put Dennis and Lucy in, we would not be here at midnight discussing his character.

In the interest of time, I have to mention that the key witness in the defence of the Deputy Governor has broken the hearts of millions of fathers and sons in the country. I take this opportunity to assure my son, Emmanuel, that if I am ever to put him in any mess, I will stand with him.

*(Applause)*

It is a shame for a father to put a son in trouble and take a position against his son. This is not a trivial matter. This is a serious matter. We must fix the mess in Kisii. For and on behalf of the great people of Kitui County, I will stand to be counted to fix the mess in Kisii County.

I thank you Mr. Speaker, Sir

**The Speaker** (Hon. Kingi): Sen. Joe Nyutu.

**Sen. Joe Nyutu:** Thank you, Mr. Speaker, Sir. I will be very brief. The allegation that poor parents and poor students in Kisii County are taken advantage of, where they are required to give bribes for them to be awarded bursaries is not something peculiar with Kisii. This is happening across the counties and constituencies, where we have very desperate students failing to secure a bursary, while some able people who are able to produce bribes benefit from these bursaries. For that reason, I will stand with the poor that seek bursaries, but do not get them because those that can influence get bursaries.

We all have siblings at home. Some of them may not be as endowed as we are. We cannot--- I was touched by the matter of a brother cutting down some trees. Probably he did. Probably he was not right. Probably they were not his trees. However, what is the value of some trees to a person holding the seat of Deputy Governor? Somebody was elected two times along serving as a veterinary doctor. If I were in that position, I would have just let the matter go and, in fact, decided that he is my brother anyway. His problems are my problems. However, the triviality expressed in that particular instance and the show of might--- Many county enforcement officers and the police used to arrest one man in order for somebody to show that they have a lot of might, I think that is an abuse of office.

One thing that also did not go down well with me is that somebody, even after taking a bribe of about Kshs500,000 or Kshs800,000, I may not want to see that it is good to share out of the spoils. However, how could the Deputy Governor extend to Lucy only Kshs.100,000, surely?

*(Applause)*

Even if we were going to say that the bribery in this particular case was going to be allowed Kshs100,000 out of Kshs.800,000.

**The Speaker** (Hon. Kingi): Sen. Wamatinga?

*(Loud consultations)*

**The Speaker** (Hon. Kingi) Order, hon. Senators! May Sen. Wamatinga be heard in silence, please?

**Sen. Wamatinga:** As I rise up, I would want to pose a question to the House. What is the purpose of gaining the whole world and losing your soul? We listened and watched. We walked along the evidence that was adduced in this House. We watched the father and son tear each other apart. It was a painful experience. For those of us who are fathers, who have daughters and sons, we believe that we want to nurture them to become somebody in this world. I want to speak to all the youth in this country that indeed we are going to make things right, so that we get opportunities regardless of where you been born.

Mr. Speaker, Sir. I stand here and tell the youth that this country belongs to everybody who dares to believe in themselves. Just after the last general election, I was one of those who believed that the fact that the President and the Deputy President come from humble backgrounds is, indeed, proof that anybody who dares believe has a destiny in his hands. That shattered the glass ceiling. It broke the myth that this country can belong to those who are born in families of who is who.

Mr. Speaker, Sir, it is my belief and I want to walk with my head high, knowing that every youth in this country will have an opportunity. My challenge to us all is that we must make it right. We must provide an opportunity regardless of the community and family background, where one has gone to school or been raised.

For that alone, I want to urge all the Senators, and all the delegates in this House, to vote in a way that affirms the fact that anybody in this country, regardless of whether you can afford the Kshs800,000 or not, gets an opportunity to move ahead and make a good and decent living.

Mr. Speaker, Sir, what kind of leaders would we be if we are the ones who will be extorting bribes of Kshs800,000? For some of us, it feels so painful because we know the pain of trying to get where we are. If we were not given the opportunity, we would not be where we are. Therefore, we would want to give that opportunity to anybody who would want to get there, regardless of where they come from.

As I sit down, it is indeed the responsibility of this House to ensure that we inspire our youth, give them hope, inspire and tell them that this country belongs to them, if they dare dream.

Moving forward, the Standing Committee on Devolution must get to work, so that we never again witness the kind of unfolding that we have witnessed. It is very demeaning and humiliating to watch parents and children tear each other apart.

**The Speaker** (Hon. Kingi): Sen, Hamida Kibwana.

**Sen. Kibwana:** Thank you, Mr. Speaker, Sir. I stand here so saddened this day. We had a woman miscarry. A woman who had been looking for a baby for over 12 years lost a child. Her dream was shattered.

As a mental health champion, I am wondering, where is justice? Where can the family find justice? It can only be got here. Today, Mr. Dennis Misati and his wife will find justice in the Senate.

On behalf of the women Senators in this House, I request my colleagues to vote wisely. I remind them that justice delayed is justice denied. Where is the mental health of that woman? Where will she go? Has her dream been shattered?

I request my colleagues to vote wisely.

**Sen. Tabitha Keroche:** Thank you, Mr. Speaker. Family is the backbone of society. If the family is destroyed, we destroy the society. Today, we witnessed the worst family division.

For me, it is the first time I have seen a dad witness against a son. I know a son can 'sell' his dad, but a dad can never 'sell' his son. The biggest mistake the Deputy Governor made in his life, he may have made many other mistakes, was to bring a father to witness against the son. I am not a prophet, but this may cause your impeachment. However, going forward, when the dust settles, ensure you go unite those two families. Bring them back where they were and ensure you return that money for your peace because wherever you are, all that we need is peace.

I am a woman of few words. I thank you.

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

**Sen. Omogeni:** Mr. Speaker, Sir, it has been a painful experience sitting through this impeachment inquiry, more so as a son who lost a parent at an early age. With a heavy heart I sat and witnessed the evidence of Senior Joseph Misati taking the bold step of disowning his own son in full view of cameras, before the eyes of the Omogusii people.

Mr. Speaker, Sir, I cannot overstate the solemnness I feel as I prepare to cast my vote on behalf of the people of Nyamira County. I have gone through a lot of reflection and second-guessing. However, I have made my decision that tonight I stand with the boy-child of the Republic of Kenya.

*(Applause)*

Tonight, the one vote that I carry from Nyamira County will be to sympathize with the boy-child who has had the misfortune of losing his mother and has been subjected to an episode where he has been disowned by his father in full view of all Kenyans.

Tonight, I cast my vote in support and stand with the many jobless youth who might never get jobs because they are asked to pay a bribe. Tonight, I will cast my vote with passion, reason and without fear, while knowing that the Constitution that we enacted as the people of Kenya wants Kenyans of integrity.

Mr. Speaker, Sir, as I conclude, I hope that the decision that this Senate is going to take will be a moment of reflection for two Kenyans; Mr. Robert Monda, the Deputy Governor of Kisii County and Mr. Joseph Misati, the father of Dennis Misati. As you go back to the hills of Gusii nation, take a reflection that family is more important than the positions that we hold in this Republic.

I close my submission.

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

**Sen. Wafula:** Asante Bw. Spika kwa nafasi hii. Najua Wakenya wanatutazama pamoja na vijana ambao kwa siku nyingi wametafuta ajira. Nikizungumza na Maseneta wenzangu, vijana wengi huja katika maeneo yetu ya kazi pamoja na ofisi zetu kutafuta kazi.

Lile ambalo Naibu wa Gavana amepitia leo, ni kwamba baba aliambatana na mwanawe kutafuta kazi. Tunapopiga kura leo Wakenya wanafaa kujua kuwa hizi ndizo changamoto ambazo viongozi hupitia kuwatafutia kazi. Kuna viongozi ambao ni fisi wamevalia ngozi ya kondoo na kuna wale ambao hufanya kazi.

Bw. Spika, japo kuna wale watapona kulingana na mambo yaliyotendeka hapa, Naibu wa Gavana alitoa Kshs100,000. Tunaojua siasa za kaunti, tunaelewa kuwa baadhi ya viongozi hupata asilimia fulani ya hongo zinazotoka. Naziomba idara za serikali ziwachunguze wale ambao wataepuka na kurudisha pesa hizi kwa sababu kitita hakikuja jinsi walivyokubaliana.

Lazima baada ya hapa tawamulike hawa watu. Huenda wanaponyoka lakini tutawanasa. Kaunti zetu zinatokota na ufisadi. Nimeona *Members of County Assemblies (MCAs)* wakilalamika kuwa walinyolewa na ni sawa. Nimeona baadhi ya viongozi wa ulindausalama katika kaunti wakichukuliwa kufanya kazi na ni sawa. Lakini kama Bunge la Seneti lazima tuwaendee hao majamaa. Hii ni kwa sababu makachero wa kaunti hawawezi kuwa walifanya kazi kupitia roho mtakatifu. Lazima walitumwa. Kama si Naibu wa Gavana, kuna mtu aliwatuma. Lazima wakamatwe.

Kwa niaba ya vijana wa nchi ya Kenya ambao wanahaki ya kazi, mshahara, kuoa mabibi wazuri, kuzaa watoto wengi, ni haki ya serikali kuhakikisha--- Mimi ni mfuasi wa Solomoni.

Kura itakayopigwa pia ni ya kutetea ugatuzi. Itatetea yeyote ambaye anatafuta ajira popote Kenya hii. Vile vile, siasa imejadiliwa. Kwa hivyo, lazima tutaangalia mstakabali wa magavana na manaibu wao. Isiwe kwamba---

**The Speaker** (Hon. Kingi): Sen. Ali Roba, proceed.

**Sen. Ali Roba:** Thank you, Mr. Speaker, Sir. You read the charges in this House and for the last two days, I have been extremely eager to find answers to the question of the exchange of Kshs800,000 between the Deputy Governor, Mr. Joseph Misati and Dennis Misati. The substance of this case is that issue. I have listened to Mr. Joseph Msati, a witness presented by the Deputy Governor, ridicule this House by circumnavigating direct questions that could have been answered by factual information.

It is crucial to consider the timing of these events. Over two days, Mr. Joseph Misati transferred funds to the Deputy Governor and a similar amount was sent to Mr.



Dennis Misati for the same purpose. In an unfortunate turn of events, the Deputy Governor mistakenly sent Kshs100,000 to the employing agency, Lucy Wahito.

Despite the clear sequence of events and evidence presented before this House, I was extremely desperate to say that letting a deputy governor go should not be an easy thing. I wanted to find out the defence that will be put across with evidence regarding the coincidental nature of all the things taking shape, but I did not find any answers to that question.

A father who was initially believed to be assisting his child in securing a job has now become a witness against his child. I persuade this Senate to send the Deputy Governor home, to safeguard the interest of our youth. I have been a Governor for 10 years and I never allowed my County Public Service Board to even take Kshs10 to employ anybody. Imagine Kshs800,000 changing hands for a small position.

The answers that were supposed to be given ended up being a ridicule to the House. It tried to criminalise the young man whose desperate position pushed him to the level---

**The Speaker** (Hon. Kingi): Sen. Onyonka, proceed.

**Sen. Onyonka:** Thank you, Mr. Speaker, Sir. As the Senator of Kisii County, I stand here today with a heavy heart. I would be the prosecuting Senator if we were in a different jurisdiction. This is a sad day for me, as the Senator for Kisii County. I have consistently raised governance issues in Kisii County. I have frequently engaged church leaders and talked with Dr. Monda and Governor Arati. This is not a matter to be taken lightly and I urge my colleagues to consider the gravity of the situation.

It is me who looked for these two gentlemen and told them we can win an election. After that, things did not work well. The issues you see in this House are a consequence of the failure of Kisii County. This matter would never have come here.

As a person from the Kisii Community, I feel completely humiliated that my people can come here as families and fight over bribes and cutting of trees when my county has Kshs16 billion every year and the recurrent expenditure is at seven per cent and development expenditure is at three per cent.

Therefore, those are the issues that we have. I have constantly talked with Governor Arati. We were actually beginning to talk and agree on how we can consult each other.

One of the things I had asked him to do is to make a recommendation so that Dr. Monda cannot be impeached. This is because at the end of this, you do not solve this problem, unless we look for a way on how we can solve the problem.

Dr. Monda and Governor Arati were with me in this House. I really feel let down. To my sister from Kisii, look at your machine down there, it has three buttons. What does it say? One says 'yes' and the other says 'no'. The third one says 'abstain' and there is a reason why that has been put there. So, on this vote, I will abstain.

(Applause)

I thank you.

**The Speaker** (Hon. Kingi): At this juncture, I will call upon the Mover to reply.

**Sen. (Dr.) Khalwale:** Thank you, Mr. Speaker. I beg to reply.

**The Speaker** (Hon. Kingi): Hon. Senators, before we move to take the vote, I will give an opportunity to the Deputy Governor, so that he can make his final remarks to the Senate.

Deputy Governor, you have 10 minutes. You may elect to use them or you may sit and allow the Senate to proceed to vote.

#### THE FINAL REMARKS BY THE DEPUTY GOVERNOR

**The Deputy Governor** (Hon. (Dr.) Robert Monda): Mr. Speaker, Sir, in concurrence with what my Senator of Kisii, Sen. Onyonka has said, we have gone through many challenges in Kisii and thus prompting me being presented here for impeachment.

Mr. Speaker, Sir, as the House makes its determination, I will repeat what I said earlier, that for the kind of scenario that this House was put through yesterday and today, as a person, I am embarrassed and utterly unhappy about the situation that we are in.

Coming to the House to discuss issues of my own family; I am not born alone. I am born among many brothers and my father is alive. The scenario you were taken through yesterday by my second follower brother, is simply a reflection of what is transpiring in the family and it all emanates from the politics we are all in. After elections of last year but one, the end of elections did not end in the family. We were split into two groups; one that supported my candidature and the other that did not.

Mr. Speaker, Sir, I stand before you to say that what you have been taken through is only a reflection of what is happening there. What you have seen the family of Mr. Misati go through - I want to make it clear here - is associated with the same split in my family along political lines and the way we are divided. That did not come out here in our evidence, but it is the scenario.

I want to make it clear as you move to the next level. I have said it is an embarrassment as an MP in the Tenth Parliament that I am here at this particular time on a matter that I still call a fabrication to settle political scores of the past.

Mr. Speaker, Sir, I have been here as an MP and currently, as the Deputy Governor of Kisii. I am known by many people of Kisii County, Gusiiland and the rest of the country that my character and behaviour is not the label that has been brought to this Senate. A few days before this impeachment came to this level, there was back and forth, effort that also looped in the Senator for Kisii, religious organisations, bishops and pastors. That did not see the light of day.

As I wind up, I would like to tell hon. Senators that I have heard your comments. I will make an effort to talk to the families that are affected, despite the outcome of the decision of this House. I will talk to them and see what becomes of it.

Mr. Speaker, Sir, I do not want to go beyond there. I thank you for granting us a chance to present our case before you. Where those of us, including myself as the

accused, have fallen below the expectation of this country, I want to say to this Senate that I tender my apologies for the scenario we have had in this House.

In conclusion, as a Christian, I also pray to my God. Where I have wronged anyone, including those I have wronged in the line of duty, I will tender my regrets and prayers to my God to see me come out of this kind of picture.

As I get old, my effort was that as I go to the Kisii County Government, I get to a level of service to the Kisii people, where, my legacy as we head to retirement from politics, will leave me with a tag that will be above reproach. I leave it there.

Mr. Speaker, Sir, I thank you, the Senate, hon. Senators, without leaving behind the team of counsel who have stood with me, the County Assembly of Kisii and everyone who has given us support in this House.

I thank you.

**The Speaker** (Hon. Kingi): Hon. Senators, I will proceed to guide you on the procedure by which the vote on this Motion shall be undertaken.

Number one, pursuant to Article 123 of the Constitution and Standing Order No. 85 of the Senate Standing Orders, the voting on this Motion shall be by delegation.

Two, we shall vote by electronic voting but in addition, I shall allow Senators who are attending the session virtually, to also vote; their vote shall be by voice.

Third, we shall have a separate vote for each of the four charges.

At this juncture, I direct that the Division Bell be rung for five minutes.

*(Loud consultations)*

The Chair has directed five minutes.

*(The Division Bell was rung)*

**The Speaker** (Hon. Kingi): Hon. Senators, kindly take your seats. Order, hon. Senators! Sen. Chimera, Sen. Osotsi. Sen. M. Kajwang', disperse your team, so that everyone of you takes their seat.

*(Loud consultations)*

Before I put the question, I will direct that the Serjeant-at-Arms proceeds to close the doors and draw the bar.

*(The Bar was drawn and doors closed)*

Hon. Senators, I proceed to put the question, which is-

THAT, WHEREAS, pursuant to Article 181 of the Constitution and Section 33 of the County Governments Act, on Thursday, 29<sup>th</sup> February, 2024, the Kisii County Assembly approved a Motion to remove from office, by impeachment, Hon. (Dr.) Robert Monda, the Deputy Governor of Kisii County;

AND FURTHER, WHEREAS by a letter dated 1<sup>st</sup> March, 2024 and received in the Office of the Speaker of the Senate on Saturday, 2<sup>nd</sup> March, 2024, the Speaker of the Kisii County Assembly informed the Speaker of the Senate of the approval of the Motion by the County Assembly and further forwarded to the Speaker of the Senate, documents in evidence of the proceedings of the Assembly;

FURTHER WHEREAS, pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order 80 of the Senate, the Senate heard the County Assembly on the grounds for the proposed removal from office, by impeachment, of Hon. (Dr.) Robert Monda, the Deputy Governor of Kisii County;

AND FURTHER, WHEREAS pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order No. 80, the Senate also heard the Hon. (Dr.) Robert Monda, on the grounds for his proposed removal from office, by impeachment, as the Deputy Governor of Kisii County;

NOW THEREFORE, pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order 80, the Senate resolves to remove from office, by impeachment, the Hon. (Dr.) Robert Monda, the Deputy Governor of Kisii County, on the following charges-

Charge 1: Gross Violation of the Constitution or any other Law

Charge 2: Abuse of Office

Charge 3: Gross Misconduct

Charge 4: Crimes under National Law

I want to remind hon. Senators that there shall be a separate vote for each charge. So, you are going to vote four times.

Voting is going to be electronically. At this juncture, I will ask hon. Senators to log out. Log out by pulling out all your cards from the delegate units. Serjeant-at-Arms, kindly go round and pick the cards remaining in the delegate units.

Serjeant-at-Arms, if you are done with that exercise, kindly let me know.

Sen. Thang'wa, you are out of order and if you insist, the consequences will naturally flow.

Hon. Senators, you may now log back in and vote on Charge 1, which is Gross Violation of the Constitution or any other law. You may now proceed to vote on that particular charge.

*(Hon. Senators proceeded to vote)*

*(Voting in progress)*

Clerk, do we have the hon. Senators who had expressed their desire to vote online?

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

There being no Senator online for purposes of voting, on account of Charge 1, we can now proceed to verify the votes on account of Charge 1.

Hon. Senators, we will move to the second vote. Charge No.2 which is Abuse of Office.

You may proceed to vote.

*(Hon. Senators proceeded to vote)*

Clerk, do we have any Senator wishing to vote online?

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

We do not have. Then proceed to verify the results on charge No.2.

Now, Hon. Senators, we will take the third vote. That is on charge No.3 which is Gross Misconduct.

Hon. Senators, proceed to vote.

*(Hon. Senators proceeded to vote)*

Clerk, is there any Senator who has expressed their desire to vote online?

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

Proceed to verify the results.

Hon. Senators, we will now take the final vote; charge No.4 on Crimes under National Law.

*(Hon. Senators proceeded to vote)*

Clerk, is there any Senator who has expressed interest to vote online on this charge?

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

Proceed to verify the results.

## DIVISION

## ELECTRONIC VOTING

*(Question, that pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order 80, the Senate resolves to remove from office by impeachment, Hon. (Dr.) Robert Monda, the Deputy Governor of Kisii County for Gross Violation of the Constitution or any other law put and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abass, Wajir County; Sen. Ali Roba, Mandera County; Sen. Boy, Kwale County; Sen. Cheptumo, Baringo County; Sen. Chesang, Trans Nzoia County; Sen. Chute, Marsabit County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kathuri, Meru County; Sen. Kavindu Muthama, Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. Kisang, Elgeyo Marakwet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. M. Kajwang', Homa Bay County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita-Taveta County; Sen. Oketch Gicheru, Migori County; Sen. Okiya Omtatah, Busia County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Tabitha Keroche, Nakuru County; Sen. Thang'wa, Kiambu County; Sen. (Prof.) Tom Odhiambo Ojienda, SC, Kisumu County; Sen. Wafula, Bungoma County; Sen. Wamatinga, Nyeri County, and, Sen. Wambua, Kitui County.

**NOES:** Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; and, Sen. Wakili Sigei, Bomet County.

**ABSTENTION:** Sen. Onyonka, Kisii County.

**The Speaker (Hon. Kingi):** Hon. Senators, the results for the first Division are as follows-

**AYES:** 39

**NOES:** 3

**ABSTENTION:** 1

The "Ayes" have it.

*(Question carried by 39 votes to 3)*

## DIVISION

## ELECTRONIC VOTING

*(Question, that pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order 80, the Senate Resolves to Remove from Office by impeachment, Hon. (Dr.) Robert Monda, the Deputy Governor of Kisii County for Abuse of Office put, and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Abass, Wajir County; Sen. Ali Roba, Mandera County; Sen. Boy, Kwale County; Sen. Cheptumo, Baringo County; Sen. Chesang, Trans Nzoia County; Sen. Chute, Marsabit County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kathuri, Meru County; Sen. Kavindu Muthama, Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. Kisang, Elgeyo Marakwet County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Lomenen, Turkana County; Sen. M. Kajwang', Homa Bay County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita-Taveta County; Sen. Oketch Gicheru, Migori County; Sen. Okiya Omtatah, Busia County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Tabitha Keroche, Nakuru County; Sen. Thang'wa, Kiambu County; Sen. (Prof.) Tom Odhiambo Ojienda, SC, Kisumu County; Sen. Wafula, Bungoma County; Sen. Wamatinga, Nyeri County, and, Sen. Wambua, Kitui County.

**NOES:** Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; and, Sen. Wakili Sigei, Bomet County.

**ABSTENTION:** Sen. Onyonka, Kisii County

**The Speaker** (Hon. Kingi): Hon. Senators, the results for the second Division are as follows-

**AYES:** 39

**NOES:** 3

**ABSTENTION:** 1

The "Ayes" have it.

*(Question carried by 39 votes to 3)*

## DIVISION

## ELECTRONIC VOTING

*(Question, that pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order 80, the Senate Resolves to remove from Office by impeachment, Hon. (Dr.) Robert Monda, the Deputy Governor of Kisii County for Gross Misconduct put, and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Ali Roba, Mandera County; Sen. Boy, Kwale County; Sen. Cheptumo, Baringo County; Sen. Chesang, Trans Nzoia County; Sen. Faki, Mombasa County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kathuri, Meru County; Sen. Kavindu Muthama, Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. Kisang, Elgeyo Marakwet County; Sen. Lomenen, Turkana County; Sen. M. Kajwang', Homa Bay County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita-Taveta County; Sen. Oketch Gicheru, Migori County; Sen. Okiya Omtatah, Busia County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Tabitha Keroche, Nakuru County; Sen. Thang'wa, Kiambu County; Sen. (Prof.) Tom Odhiambo Ojienda, SC, Kisumu County; Sen. Wafula, Bungoma County and Sen. Wambua, Kitui County.

**NOES:** Sen. Abass, Wajir County; Sen. Cherarkey, Nandi County; Sen. Cheruiyot, Kericho County; Sen. Chute, Marsabit County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Wakili Sigei, Bomet County and, Sen. Wamatinga, Nyeri County.

**ABSTENTION:** Sen. Onyonka, Kisii County.

**The Speaker (Hon. Kingi):** Hon. Senators, the results for the Third Division are as follows-

**AYES:** 35

**NOES:** 7

**ABSTENTION:** 1

The "Ayes" have it.

*(Question carried by 35 votes to 7)*



## DIVISION

## ELECTRONIC VOTING

*(Question, that pursuant to Article 181 of the Constitution, Section 33 of the County Governments Act and Standing Order 80, the Senate Resolves to Remove from Office by impeachment, Hon. (Dr.) Robert Monda, the Deputy Governor of Kisii County for Crimes under National Law put, and the Senate proceeded to vote by County Delegations)*

**AYES:** Sen. Ali Roba, Mandera County; Sen. Boy, Kwale County; Sen. Chesang, Trans Nzoia County; Sen. Gataya Mo Fire, Tharaka Nithi County; Sen. Githuku, Lamu County; Sen. Joe Nyutu, Murang'a County; Sen. Kathuri, Meru County; Sen. Kavindu Muthama, Machakos County; Sen. (Dr.) Khalwale, Kakamega County; Sen. Kinyua, Laikipia County; Sen. Kisang, Elgeyo Marakwet County; Sen. Lomenen, Turkana County; Sen. M. Kajwang', Homa Bay County; Sen. Maanzo, Makueni County; Sen. Madzayo, Kilifi County; Sen. Mandago, Uasin Gishu County; Sen. Methu, Nyandarua County; Sen. Munyi Mundigi, Embu County; Sen. (Dr.) Murango, Kirinyaga County; Sen. Murgor, West Pokot County; Sen. Mwaruma, Taita-Taveta County; Sen. Oketch Gicheru, Migori County; Sen. Okiya Omtatah, Busia County; Sen. Olekina, Narok County; Sen. Omogeni, Nyamira County; Sen. Osotsi, Vihiga County; Sen. Seki, Kajiado County; Sen. Sifuna, Nairobi City County; Sen. Tabitha Keroche, Nakuru County; Sen. Sen. (Prof.) Tom Odhiambo Ojienda, SC, Kisumu County; Sen. Wafula, Bungoma County; and, Sen. Wambua, Kitui County.

**NOES:** Sen. Abass, Wajir County; Sen. Cherarkey, Nandi County; Sen. Cheptumo, Baringo County; Sen. Cheruiyot, Kericho County; Sen. Chute, Marsabit County; Sen. Faki, Mombasa County; Sen. (Dr.) Lelegwe Ltumbesi, Samburu County; Sen. Thang'wa, Kiambu County; Sen. Wakili Sigei, Bomet County; and, Sen. Wamatinga, Nyeri County.

**ABSTENTION:** Sen. Onyonka, Kisii County.

**The Speaker** (Hon. Kingi): Hon. Senators, the results for the fourth Division are as follows-

**AYES:** 32

**NOES:** 10

**ABSTENTION:** 1

The "Ayes" have it.

*(Question carried by 32 votes to 10)*

**The Speaker** (Hon. Kingi): Hon. Senators, Section 33(7) of the County Governments Act provide as follows-

"If a majority of all the Members of the Senate vote to uphold any impeachment charge, the Deputy Governor shall cease to hold office."

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Hon. Senators, the result of the Divisions indicate that the Senate has upheld the following impeachment charges-

Charge Number 1: Gross violation of the Constitution and any other law;

Charge Number 2: Abuse of office;

Charge Number 3: Gross misconduct; and,

Charge Number 4: Crimes under National Law.

Hon. Senators, pursuant to Article 181 of the Constitution, Section 33(7) of the County Governments Act, and Standing Order No.80(6) of the Senate Standing Orders, the Senate has resolved to remove from office, by impeachment, Hon. (Dr.) Robert Monda, the Deputy Governor of Kisii County. The Deputy Governor, therefore, ceases to hold office forthwith.

I thank you.

Serjeant-at-Arms, you may now proceed to withdraw the Bar and open the Doors.

*(The Bar was withdrawn and Doors opened)*

Hon. Senators, kindly be upstanding.

### ADJOURNMENT

**The Speaker** (Hon. Kingi): Hon. Senators, it is now midnight. Having concluded the business listed on the Order Paper of the day, the Senate, therefore, stands adjourned until Tuesday, 19<sup>th</sup> March, 2024, at 2.30 p.m.

I thank you.

The Senate rose at 12:01 a.m.