

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Monday, 19th August, 2024

Special Sitting

*(Convened via Kenya Gazette Notice
No.124 of 16th August, 2024)*

*The House met at the Senate Chamber,
Parliament Buildings, at 2.30 p.m.*

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

PRAYER

DETERMINATION OF QUORUM
AT COMMENCEMENT OF SITTING

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

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

Sen. Orwoba and Sen. Beth Syengo, take your seats so that we start this afternoon's business.

(Sen. Orwoba and Sen. Beth Syengo walked into the Chamber)

Clerk, you may proceed to call the first Order.

HEARING AND DETERMINATION OF THE PROPOSED REMOVAL FROM OFFICE, BY IMPEACHMENT, OF HON. KAWIRA MWANGAZA, THE GOVERNOR OF MERU COUNTY

The Speaker (Hon. Kingi): Hon. Senators and parties to this impeachment proceedings, we are first going to hear the case of the County Assembly.

Counsel for the County Assembly, you have four hours to present your case. The four hours include the evidence-in-chief, cross-examination and re-examination.

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This is how we are going to conduct this investigation. You will call a witness, they will be sworn in, and you will lead them in evidence-in-chief. Thereafter, they will be cross-examined by the team for the Governor. You will proceed to re-examine the witness and, thereafter, the Senators will be allowed to seek any clarification or ask questions to that witness.

The time taken by the Senators to seek clarification from that witness or to ask questions shall not be put as part of the four hours that have been given to you. Therefore, when the witness is responding to queries or questions from the hon. Senators, time will be frozen, so that you have your maximum four hours to put across your case. I hope that clarity helps.

Therefore, Counsel for the County Assembly, the Floor is yours. You may proceed to call your first witness.

PRESENTATION OF THE CASE OF THE
MERU COUNTY ASSEMBLY

Mr. Ndegwa Njiru: Thank you, Mr. Speaker, Sir, and Members of the Senate. With your permission, allow me to call to the stand, our first witness, Hon. Zipporah Kinya.

(The Witness for Meru County Assembly (Hon. Zipporah Kinya) was ushered into the Chamber)

Please, introduce yourself to the House.

Hon. Zipporah Kinya: Thank you, Mr. Speaker, Sir, and hon. Members---

Mr. Ndegwa Njiru: Sorry, you will have to take oath.

*(The Witness for Meru County Assembly,
(Hon. Zipporah Kinya) took the Oath)*

Thank you. Go ahead to introduce yourself to the Senate.

Hon. Zipporah Kinya: Mr. Speaker, Sir, I am Zipporah Kinya, a Member of the County Assembly of Meru, specially elected by the United Democratic Alliance (UDA) Party. I am the Deputy Leader of the Majority Party and I also represent the 817 women and girls of Meru County in the Assembly.

Mr. Ndegwa Njiru: In respect to this Motion, what was your role?

Hon. Zipporah Kinya: My role in this Motion is that I am the Mover. I moved this Motion in the County Assembly of Meru. I drafted it because I felt there was need to remove the Governor of Meru County, Hon. Kawira Mwangaza, from office through impeachment.

Mr. Ndegwa Njiru: In the processes and your decision to move this Motion, were you actuated by malice, ill will, vendetta or any other motivation against the Governor?

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Hon. Zipporah Kinya: Mr. Speaker, Sir, in an attempt to move this Motion, I have championed for good governance, accountability and respect for the rule of law in Meru County since I joined the County Assembly. I was guided by the need for the people of Meru to get services and the right services. That was the reason I moved this Motion in the County Assembly of Meru.

Mr. Ndegwa Njiru: That statement you have just made before the House, is it the general perception and view of the entire House or was that the view of Zipporah Kinya?

Hon. Zipporah Kinya: Once I introduced this Motion before the Members of the County Assembly, my Motion was supported by 49 Members of the County Assembly (MCAs) out of the 69, as per the law. I believe the MCAs agreed with me that there was need to move this Motion in the County Assembly.

Mr. Ndegwa Njiru: Was there any type of inducement from any other quarters that perhaps may have triggered you to move this Motion?

Hon. Zipporah Kinya: Mr. Speaker, Sir, absolutely none.

Mr. Ndegwa Njiru: Just before we broke for lunch, there was a video that was played before the Senate. We would like you to comment on it. Before the video was played, was there public participation that was carried out?

Hon. Zipporah Kinya: After I read a Notice of Motion on 31st July, 2024, public participation was done on 5th August in the 45 wards of Meru County. This exercise was very successful and it was both qualitative and quantitative.

Mr. Ndegwa Njiru: What do you mean by both qualitative and quantitative?

Hon. Zipporah Kinya: The public participation was successfully qualitative because the residents of Meru County were given an opportunity to give their views, through written memoranda and attending public participation in the gazetted venues. They also gave their views through electronic media.

Mr. Ndegwa Njiru: Through the analysis of the percentage of the public participation, how many were in support of the impeachment---

(Loud consultations)

The Speaker (Hon. Kingi): Apologies, Counsel for the County Assembly. Hon. Members, kindly be seated and be silent as the County Assembly is presenting its case. Let us hear the witness in total silence.

Proceed, Counsel.

Mr. Ndegwa Njiru: I put the question to you on whether you did an analysis of how many members of the public were in support of the impeachment and how many were against the same?

Hon. Zipporah Kinya: Mr. Speaker, Sir, about 85 per cent of the public participation participants presented oral and written memoranda in support of the Motion to impeach the Governor. That meant that 15 per cent of the participants opposed the Motion to impeach the Governor of Meru.

Mr. Ndegwa Njiru: Is that evidence before the Senate, and if yes, kindly answer on the same?

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Hon. Zipporah Kinya: The evidence is here before the Senate and it is in our documents on public participation, Vol. 5.

Mr. Ndegwa Njiru: Is that the big volume?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Kindly point out the page.

Hon. Zipporah Kinya: Page 14.

Mr. Ndegwa Njiru: Before we play the video, when was the Motion moved?

Hon. Zipporah Kinya: The Motion was moved on the 8th of August, 2024.

Mr. Ndegwa Njiru: Were there events that preceded the debate of the Motion? If yes, would you kindly indicate them?

Hon. Zipporah Kinya: Before the Motion was moved on 8th August, 2024, there were events that preceded the Motion. One of them, notably, was the attempted razing of the County Assembly while the Members were inside.

Mr. Ndegwa Njiru: When you speak about attempts to raze, what exactly happened? The Senators were not present, they might want to understand the situation.

Hon. Zipporah Kinya: There was an attempt to burn the County Assembly of Meru at around 3.00 a.m. while the Members were inside.

Mr. Ndegwa Njiru: How was that situation arrested and who arrested it?

Hon. Zipporah Kinya: The situation was arrested by our Serjeant-at-Arms and security personnel that were deployed around the Assembly that night and even the previous night. The security personnel also assisted in putting out the fire.

Mr. Ndegwa Njiru: You said that then the fire was lit? Is that what you are saying?

Hon. Zipporah Kinya: Yes, the fire was lit. It was a petrol bomb. It was a petrol bomb that was thrown on the roof of the County Assembly from the Meru Law Courts. The Meru Law Courts borders the County Assembly. Somebody climbed through the roof of the Meru Law Courts and threw a petrol bomb at the Assembly. I was inside. I could not even wear my pair of shoes to run out. I ran out barefooted that night because the roof had started to burn and we could see the fire from inside.

Mr. Ndegwa Njiru: That is okay. What were you doing at the County Assembly at 3.00 a.m.?

Hon. Zipporah Kinya: We were in the County Assembly because of security reasons. There were so many threats to our lives. I would like to report to this House that there was a fire attempt even my home. Fire was thrown in my house. So, we were in fear that we would not get to the Assembly. Some people had threatened that they would block all the roads such that we would not get to the Assembly.

Mr. Ndegwa Njiru: So, do you have evidence of such kind of threats before this Senate? If yes, would you like us to see it?

Hon. Zipporah Kinya: The threats were given by some members of the public. I believe we have some videos that can show that, including a video of attempted arson in my home.

Mr. Ndegwa Njiru: So, we play video nine in the Assembly bundles? As you prepare to play video nine, in summary, whom do you attribute or where were they coming from?

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Hon. Zipporah Kinya: In summary, the threats were coming from the supporters of the Governor of Meru County.

Mr. Ndegwa Njiru: Let us play video nine.

(A video clip was played)

As we watch, you can explain what is happening to save time.

Hon. Zipporah Kinya: Somebody has just come and poured some petrol across the fence from my neighbour.

Then the person threw fire from my neighbor's side. Then the watchman, who was awake realised that there was some fire. He told me that he heard something being thrown there and then he heard some noise. So, he went to check. That was when he found fire. It is the watchman now who went to call the other workers who came to put off the fire.

Mr. Ndegwa Njiru: Where was that fire, briefly?

Hon. Zipporah Kinya: It was just next to the cowshed.

Mr. Ndegwa Njiru: Whose cowshed?

Hon. Zipporah Kinya: My cowshed.

Mr. Ndegwa Njiru: Is that in your compound?

Hon. Zipporah Kinya: It is in my compound.

Mr. Ndegwa Njiru: Was that done during the subsistence of the Motion or before the Motion?

Hon. Zipporah Kinya: On the eve of the Motion.

Mr. Ndegwa Njiru: Is that why you are saying that you feared for your lives?

Hon. Zipporah Kinya: I would want to clarify to this Senate that I had tabled another Motion before this one that was stopped by the court. The night that I was to move the Motion is when the fire attempt was made. So, in the following Motion that I tabled, we decided now to sleep in the County Assembly because our security was not guaranteed.

Mr. Ndegwa Njiru: Thank you. Were there members of the public who publicly exhibited conduct of posing threats to the County Assembly?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Do you have evidence before this Assembly?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Would you want us to play video No.7 of a transcribed public participation video?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Please, have it played. Video No.7 of the County Assembly transcribed public participation.

Not that one. The folder is called 'evidence of public participation.' Yes, that one.

(A video clip was played)

Would you explain to the Senate who that is, what was happening and when it was happening?

Hon. Zipporah Kinya: Mr. Speaker, Sir, that is an employee of the Meru County Government working in the office of the Governor and he is threatening the members of the public not to participate in the public participation. He is saying that there will be no public participation in the whole of Buuri Sub-County because they do not want it to be carried out by the Meru County Assembly. He is threatening that they are going to ‘choma’.

Mr. Speaker, Sir, and hon. Members, I believe everybody understands what he is saying in Kiswahili. He said that “tutachoma na tutachoma.”

Mr. Ndegwa Njiru: Do you know his name?

Hon. Zipporah Kinya: Mr. Speaker, Sir, he is Martin. I do not know his official name, but his name is Gachege.

Mr. Ndegwa Njiru: Were those threats actualized?

Hon. Zipporah Kinya: Those threats were actualized by trying to ‘kuchoma’ the County Assembly.

Mr. Ndegwa Njiru: Were there people who were arrested, and if yes, were they charged?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir. About 16 young men were arrested and charged in the Meru Law Courts for the acts.

Mr. Ndegwa Njiru: Do you have evidence of them being charged or a video?

Hon. Zipporah Kinya: Yes, I have a video.

Mr. Ndegwa Njiru: Would you ask to play it?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Could you kindly play video Number 10? Under the folder; video in support of the impeachment Motion. As we wait for the video, do you have any charge sheet before this Assembly?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Would you lead us to where the evidence is to be found?

Hon. Zipporah Kinya: The evidence on the charge sheet is found in the County Assembly documents, volume four, page 571.

Mr. Ndegwa Njiru: Briefly, could you read out the particulars? As you do so, what is that video about? Kindly speak to the video and the charge.

Hon. Zipporah Kinya: Mr. Speaker, Sir, the video is about the young men who were arraigned in Meru courts for the attempted arson on the night of the Motion in Meru County Assembly.

Mr. Ndegwa Njiru: Thank you. Kindly read out the particulars of the charge.

Hon. Zipporah Kinya: The charge is preparation to commit a felony, contrary to Section 308 of the Kenyan Penal Code. On 8th August, 2024, at Meru County Assembly area in Imenti North Sub-County, within Meru County, jointly armed with the articles for use in the cause of connection of burning the premises of the County Assembly; three bottles of petrol, four motor vehicle tires, and five stones were found in a motor vehicle make Sienta, registration No.KDB704A, light blue in color. The date of arrest is 8th

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August, 2024. The suspects were in custody by the time of the preparation of this charge sheet on 8th August, 2024.

Mr. Ndegwa Njiru: Witness, do you recall the video that was played by the Governor before we went for break?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: I want you to speak to the said video No.VKM18. Kindly play it. As we await that, do you, with all the persons you represent this afternoon, associate yourself with the content, the sentiments and the views of that person who spoke?

(A video clip was played)

Kindly play the video that was played just before we went for a break.

(A video clip was played)

Kindly pause it. Who is that speaking?

Hon. Zipporah Kinya: Mr. Speaker, Sir, and Hon. Members, that is a political activist from Meru County.

Mr. Ndegwa Njiru: Is he a Member of County Assembly (MCA) of Meru County?

Hon. Zipporah Kinya: Mr. Speaker, Sir, he is not a member of the Meru County Assembly.

Mr. Ndegwa Njiru: Is he an employee of the Meru County Assembly?

Hon. Zipporah Kinya: Mr. Speaker, Sir, he is not.

Mr. Ndegwa Njiru: Evidence was laid that he is the Secretary General (SG) of the *Mbus* party. Yes?

Hon. Zipporah Kinya: He is not the Secretary General (SG) of the *Mbus* party.

Mr. Ndegwa Njiru: Who is the SG of that party?

Hon. Zipporah Kinya: The SG of the party is Milton Mugambi Imanyara.

Mr. Ndegwa Njiru: Milton Mugambi Imanyara? Where do you get that evidence from?

Hon. Zipporah Kinya: Mr. Speaker, Sir, I got the evidence from Gazette Notice No.5805 dated 9th May, 2024, by the Political Parties Act.

Mr. Ndegwa Njiru: It was alleged that the association of that video, was that there were 20 MCAs from the said political party who are supporting the Motion. Yes? Do you recall?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: What is your testimony in that respect? Are all the members of the party supporting the Motion?

Hon. Zipporah Kinya: No, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Proceed.

Hon. Zipporah Kinya: Mr. Speaker, Sir, only three of them do not support the Motion. They actually voted against it.

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Mr. Ndegwa Njiru: Were they removed from the committees?

Hon. Zipporah Kinya: No, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: What is the current association of Mr. Mugambi, the SG of the *Mbus* party, with the Governor?

Hon. Zipporah Kinya: The current SG of the *Mbus* party has been nominated for appointment as the new legal advisor of the Governor of Meru County. His recruitment is in the process.

Mr. Ndegwa Njiru: What did you say? He is currently---

Hon. Zipporah Kinya: Mr. Speaker, Sir, currently, he has been nominated as the legal advisor of the Governor and his recruitment is in the process in the County Public Service Board (CPSB).

Mr. Ndegwa Njiru: The Governor has a closer association with the said party, correct?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Before the proceeding of this Motion, did you get any letter from any political party trying to advise you on how to proceed?

Hon. Zipporah Kinya: No, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Do you recall receiving the letter from the United Democratic Alliance (UDA) political party?

Hon. Zipporah Kinya: Mr. Speaker, Sir, I did not receive any letter from the UDA political party. I just saw it on social media.

Mr. Ndegwa Njiru: Yes, but to whom was it addressed and what was the content of the letter?

Hon. Zipporah Kinya: Mr. Speaker, Sir, it was addressed to me and the instruction was that I withdraw this Motion from the County Assembly. However, I never received any letter.

Mr. Ndegwa Njiru: Who was the author of the letter?

Hon. Zipporah Kinya: Mr. Speaker, Sir, the UDA party SG, Cleophas Malalah.

Mr. Ndegwa Njiru: So, with all that, what motivated you then to bring this Motion?

Hon. Zipporah Kinya: Mr. Speaker, Sir, I got motivated to bring this Motion because, as I said, when I started, it was in pursuit of good governance and accountability. It was also for the people of Meru County to get quality services from Meru County Government.

Mr. Ndegwa Njiru: In the opening remarks by my senior learned counsel, Mr. Ongoya, it was alleged that you had promised in advance to bring a motion of this nature. Yes?

Hon. Zipporah Kinya: I did not promise to bring a motion of this nature.

Mr. Ndegwa Njiru: Do you have any evidence that perhaps may be beneficial to the Senate, where you might have made public remarks in respect to the question of accountability of the Governor?

Hon. Zipporah Kinya: Mr. Speaker, Sir, and hon. Members, there is a video that has been circulated since I moved this Motion in the County Assembly. It has been

circulated on Baite TV several times and I am very sure that video is an abstract of what I said. I have a full video of what I talked about during that media interview.

Mr. Ndegwa Njiru: Do you wish us to have the same played?

Hon. Zipporah Kinya: Yes, I would wish the extract is played and then, my video is played to ascertain that the extract was meant to mislead the people of Meru, the people of Kenya and also this House.

Mr. Ndegwa Njiru: Thank you. Would you kindly then have video No.1 VKM1 in the Governor's folder played.

(A video clip was played in Kimeru)

Hon. Senators, I am sure the majority of you may not understand that language and I can see the translation is running quite fast. Do I then make an application that will be provided with an interpreter or the transcripts are clear?

The Speaker (Hon. Kingi): Well, unless hon. Senators are doubting the English translator---

Mr. Ndegwa Njiru: I am well guided, Mr. Speaker, Sir.

The Speaker (Hon. Kingi): If they have any difficulties, they will certainly make their position known.

Mr. Ndegwa Njiru: I am well guided, then let us proceed.

(A video clip was played)

Let us play video two in our bundle of document.

As we play, what was the context of that video?

Hon. Zipporah Kinya: Thank you, Mr. Speaker, Sir and hon. Senators. That video is just a small extract of the media interview that I had done that day. Fortunately, or unfortunately, I had done that media interview when another impeachment was being considered in this House.

It happened that there was a problem in a village where I last taught as a teacher. The village had lost around 20 cows and they were feeling that they needed vaccination services from the County Government of Meru. Those are the issues that made me to do that media interview, asking the County Government of Meru to give the people of Meru services and quality services.

Mr. Ndegwa Njiru: When was this?

Hon. Zipporah Kinya: That was around the time that the other impeachment was in this House. There was an outbreak of a disease in that area.

Mr. Ndegwa Njiru: Do you have the full text of that video?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Would you wish to have it played?

Hon. Zipporah Kinya: I would wish to have it played.

Mr. Ndegwa Njiru: In our bundle of document, video No.2, the County Assembly.

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The Speaker (Hon. Kingi): Counsel, before you play that video, we have one of our Senators, Sen. Crystal Asige, who is visually impaired and she may not be able to see the English rendered translation. In this case, we may need a translator to translate it and explain by word, so that the hon. Senator can be comfortable with the translation.

Can we have a translator coming in, please?

Mr. Ndegwa Njiru: I am well guided.

We can perhaps be proceeding with the other bit of evidence as we await the translator?

The Speaker (Hon. Kingi): Sure, proceed.

Mr. Ndegwa Njiru: Most obliged.

Let us now go to the averments and claims in the Notice of Motion. We begin by looking at issue No.1; illegally revoking the appointment of CPA Virginia Kawira.

Yes?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: That is one of the grounds that you want to move the Senate to impeach the Governor on.

Correct?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: How was this illegal? Why should the Governor be held accountable for this?

Hon. Zipporah Kinya: Thank you, Mr. Speaker, Sir, and hon. Senators. My first ground is on gross violation of the Constitution and other laws. I have accused the Governor of illegally revoking the appointment.

Mr. Ndegwa Njiru: I beg your pardon.

Mr. Speaker, Sir, the translator has come. Perhaps then we can deal with the first issues.

The Speaker (Hon. Kingi): Very well, you may proceed to play the video.

Mr. Ndegwa Njiru: Video No.2 in our bundle of videos, the County Assembly. That is the video in support of the Impeachment Motion.

(A video clip was played)

Not that one.

The folder appearing as videos in support of the Impeachment Motion.

(A video clip was played)

Yes. You can interpret.

The Interpreter (Mr. Muthengi Mpara): Thank you very much, Mr. Speaker, Sir, and hon. Members. My name Muthengi Mpara from Kenya Broadcasting Corporation (KBC), Mwago FM. We are here as translators. I am with my friend Dan.

(A video clip was played)

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According to the Mover of the Motion, Kawira Mwangaza has failed the Meru Community, now that she is not providing services to the community. That is the reason cows are dying. She says that even buying cows for people in the villages does not make sense because she cannot even vaccinate to prevent them from dying.

On the issue of doctors---

The Speaker (Hon. Kingi): What is your issue, Sen. Crystal Asige?

Sen. Crystal Asige: Mr. Speaker, Sir, since Meru County Assembly has brought the impeachment Motion here for a third time, they should have known that there is a Senator with visual impairment.

What is happening is paraphrasing of the video clip and not direct translation. The video has been played for almost two minutes, but the translator has paraphrased it for about 15 or 20 seconds. It means it is not a direct translation but paraphrasing.

To me, that is unacceptable. Everyone else can see every single word. I feel that the translator should do a better job. Otherwise, we should bring somebody else who can translate verbatim.

I thank you.

The Speaker (Hon. Kingi): Counsel for the County Assembly, I thought that as the video was running, the translator was taking notes, so that they can translate verbatim? We will replay that video one sentence at a time, so that it becomes a true rendition of what is said in that vernacular.

Secretariat, I do not know of the available technology. I have witnessed a tendency where you pause and it disappears altogether. Are we able to pause after one sentence to take a translation, then proceed, or is it that if we pause, the video disappears altogether like I have just witnessed?

(A segment of the video clip was played)

The Interpreter (Mr. Muthengi Mpara): The translation for that is that a cow producing 20 litres of milk costs Kshs200,000.

(A segment of the video clip was played)

Which translates closely to Kshs4 million that Meru farmers are losing.

(A segment of the video clip was played)

Those ones are from the Chairman of Oruko Dairy who has explained the loss that dairy farmers have incurred. He goes ahead to add the grievances.

(A segment of the video clip was played)

Those grievances are from the farmers because many dairy farmers there are incurring many losses.

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(A segment of the video clip was played)

Their cows are dying every day because there is no vaccination for skin diseases.

(A segment of the video clip was played)

The nominated MCA, Zipporah Kinya (ZK), has come out to talk about the issue.

(A segment of the video clip was played)

She has come out to discredit the governance of Meru Governor, Faith Kawira Mwangaza.

(A segment of the video clip was played)

She has been saying it is bad for the service of Meru.

(A segment of the video clip was played)

When the Governor is providing services to the community by giving one person one cow---

(A segment of the video clip was played)

When the Governor is giving one cow in every sub-county and forgetting the people, she has forgotten people who are losing their cows. There is no single cow that was taken to the villages of Oruko.

(A segment of the video clip was played)

That is why I am here to say that that government cannot fit even a day.

(A segment of the video clip was played)

That is why we are telling the people of Meru and the people of Kenya that Governor Kawira Mwangaza cannot deliver.

(A segment of the video clip was played)

You cannot have a budget of buying one cow for one person and leave 20 cows for people who were not given the cows to die.

(A segment of the video clip was played)

ZK continues to say that in---

(There was a technical hitch)

The Speaker (Hon. Kingi): Keep playing the video.

(A video clip was played in Kimeru and translated as follows)

The Interpreter (Mr. Muthengi Mpara): She adds that, after Governor Mwangaza made transfers, she brought in other people who are not competent.

She transferred David Mugambi, who was a Doctor of Philosophy (PhD) holder from that Ministry and taken to Kaguru. Mugambi does not work anymore. She alludes that the Governor took a young man who was not competent.

There is a rumour that the person who was brought in is related to Murega Baichu. This person was given the work of livestock and veterinary services. The main work they are doing in that office is allocating a lot of money, saying that they are working. There is nothing they are doing.

Mr. Ndegwa Njiru: Let us stop at that. Would you put context to that video?

Hon. Zipporah Kinya: Thank you, Hon. Speaker, Sir and Members.

I have said that it was a call from the farmers. Having worked as a teacher in that village, those farmers expressed their frustrations to me. That is what I was addressing.

Hon. Speaker, Sir, I have mentioned an issue of cows that succumbed to a disease outbreak. When the farmers sought help from the offices, they did not get any.

As someone who was close to them, I took an initiative and called the Director of Livestock and Veterinary Services, who was my former colleague at the county government. When I asked him why there was an outbreak that had not been attended to, he told me that he had just been transferred from the office and taken to Kaguru.

I would like this House to note that the Director is the substantive Director for Livestock Development and Veterinary Services in Meru County, but he was displaced for no good reason, yet cows are dying in Meru County. That was my great concern.

So, at the end of the video, that is where I am saying, because the government is not sensitive to the cry of the people of Meru County, even if it means taking the Governor several times for impeachment, we shall do it because we cannot let the people of Meru County suffer. The Constitution of Kenya is clear that it does not matter how many times somebody violates the Constitution, the remedies should be sought.

Mr. Ndegwa Njiru: Thank you. Is that one of the pieces of evidence of the breakdown of delivery of services in Meru County?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Let us go to Ground No.1.

Hon. Senators, I will be referring largely to volume II of the bundle of documents - Exhibits in Support of the Impeachment - when delivering this ground.

It is a volume that appears in this colour. Kindly, Hon. Senators, turn with me to page one of the said bundle. You have alleged, and you want the Governor to be removed from office for illegally revoking the appointment of Virginia Kawira.

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Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Who was Virginia Kawira?

Hon. Zipporah Kinya: Virginia Kawira is the current County Secretary/Chief Executive Officer (CEO) of the Public Service Board, Meru County.

Mr. Ndegwa Njiru: Why are you saying that there was an illegal revocation?

Hon. Zipporah Kinya: The Governor of Meru County, through a letter dated 8th March, 2024---

Mr. Ndegwa Njiru: Hon. Senators, the letter appears at page one of that Volume. Proceed.

Hon. Zipporah Kinya: The Governor of Meru County, through a letter dated 8th March, 2024, wrote to the Secretary of the County Public Service Board. The reference of the letter is-

Revocation of your Appointment as the Secretary/CEO, Meru County Public Service Board.

Mr. Ndegwa Njiru: Why are you calling it illegal revocation? Was the right procedure followed in the revocation of the appointment?

Hon. Zipporah Kinya: I call it an illegal revocation because the appointment of the CEO of the Public Service Board can only be revoked with a vote of not less than 75 per cent of all the Members of the Meru County Assembly.

Mr. Ndegwa Njiru: Was this process subjected to the County Assembly?

Hon. Zipporah Kinya: No.

Mr. Ndegwa Njiru: Hon. Senators, kindly refer with me to volume III. It is a green bundle that appears like this. Please, turn with me to page 51.

It is a bundle that contains the laws applicable. In this case, we will be relying on section 58(5). That is page 51 of this bundle, volume III. What does that provision say?

Hon. Zipporah Kinya: Provision No.5 of the County Government Act says-
“The Members of the Board may be removed from office-

(a) on grounds set out for the removal of members of a constitutional commission under the article 251 (1) of the Constitution,

(b) by a vote of not less than 75 per cent of all the Members of the County Assembly.”

Mr. Ndegwa Njiru: Is that, therefore, the violation that the County Assembly is aggrieved of?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Was the Constitution under Article 251 followed in her removal?

Hon. Zipporah Kinya: No.

Mr. Ndegwa Njiru: Hon. Senators, 251 is at page 28 of the same bundle. Did Governor Kawira follow the provisions of Article 251 of the Constitution?

Hon. Zipporah Kinya: No.

Mr. Ndegwa Njiru: Does that, therefore, amount to a violation of the Constitution and any other written law?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Were the grounds under Article 251 met?

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Hon. Zipporah Kinya: No, they were not met.

Mr. Ndegwa Njiru: Have you seen the Governor's evidence and response indicating that she revoked her appointment pursuant to an advisory by her legal advisor?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Does an advisory by a legal advisor supersede the provisions of the law?

Hon. Zipporah Kinya: No.

Mr. Ndegwa Njiru: Have you made an application before the Senate this morning to summon the said legal advisor?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Is it your testimony that the documents that we raised in the morning amount to a forgery?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Have you called a witness to testify to that effect through the summoning by the Senate?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Did the County Assembly take any action in that respect?

Hon. Zipporah Kinya: The County Assembly has taken the action of charging the Governor or putting her to task because of this illegal revocation. I remember we came here again with the same issues.

Mr. Ndegwa Njiru: What were the reasons contained in the said letter? What were the reasons for her revocation?

Hon. Zipporah Kinya: The reasons for the revocation are that the Secretary/CEO did not seek the leave of absence through the right process, and again, the reasons---

Mr. Ndegwa Njiru: Yes, are you referring to page one of the said volume?

Hon. Zipporah Kinya: I am sorry for that mishap. I am noting that the reason for the Governor revoking this appointment is found on page 1 of Vol 2.

Mr. Ndegwa Njiru: In summary, please.

Hon. Zipporah Kinya: In summary, it says that the officer did not---

Let me read the second paragraph on page 1 of Vol.2-

“It has now been brought to my attention that apparently you did not relinquish your position in the County Public Service before assuming this role in your appointment. The County Government Act expressly disqualifies State officers and public officers from the positions created under Section 58(1) of the Act. Being a public officer, you are thus disqualified from the position of the Secretary to the Board.”

Mr. Ndegwa Njiru: Were there other subsequent advisories from any other constitutional organ in that respect?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Do you have that evidence before the Senate? If yes, lead us to the page.

Hon. Zipporah Kinya: Mr. Speaker, Sir, it is on page 2 of Vol.2.

Mr. Ndegwa Njiru: Would you kindly identify that letter?

Hon. Zipporah Kinya: The advisory on revocation of the appointment for Ms. Virginia Kawira Miriti.

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Mr. Ndegwa Njiru: From whom is it?

Hon. Zipporah Kinya: It is from the Chairman of the Meru County Public Service Board.

Mr. Ndegwa Njiru: Who is the recipient or the addressee of that letter?

Hon. Zipporah Kinya: Her Excellency, Hon. Bishop Kawira Mwangaza, the Governor of Meru County.

Mr. Ndegwa Njiru: When is it dated?

Hon. Zipporah Kinya: It is dated 12th March, 2024.

Mr. Ndegwa Njiru: What is the advisory in conclusion?

Hon. Zipporah Kinya: Mr. Speaker, Sir, Page three of Vol.2, the last paragraph states-

“In conclusion, it is the Board's considered opinion that your letter dated 8th March, 2024 to Ms. Virginia Kawira Miriti, revoking her appointment as the Secretary/CEO of the Meru County Public Service Board is not legally binding as the officer is duly appointed as per the existing laws.”

Mr. Ndegwa Njiru: Thank you. Did the Governor respond to that letter?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Do you have evidence before the Senate? If yes, kindly lead us to the same.

Hon. Zipporah Kinya: On Page four of Vol.2, the Governor writes back.

Mr. Ndegwa Njiru: Who is writing back?

Hon. Zipporah Kinya: The Governor writes back.

Mr. Ndegwa Njiru: When is the date of the letter?

Hon. Zipporah Kinya: 12th March, 2024.

Mr. Ndegwa Njiru: Who is Mr. Julius Kayenga Mwituu?

Hon. Zipporah Kinya: Mr. Julius Kayenga is the Chairman of Meru County Public Service Board.

Mr. Ndegwa Njiru: Is he the recipient of that letter?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Who is the author of the letter?

Hon. Zipporah Kinya: The author of the letter on page six of the same bundle that is Vol.2 is Her Excellency Bishop Kawira Mwangaza, Governor of Meru County.

Mr. Ndegwa Njiru: Would you kindly read the conclusion?

Hon. Zipporah Kinya: Mr. Speaker, Sir, on Page five of the same volume, the last paragraph states-

“In conclusion, Ms. Virginia Kawira Miriti failed to resign as a public officer before taking the position of the Secretary of the County Public Service Board, despite promising, the appointment amounts to an illegality and as such, I have revoked the same to cure and correct this irregularity.”

Mr. Ndegwa Njiru: Between the Governor and the County Assembly, who was supposed to make a finding of whether the process was illegal or not?

Hon. Zipporah Kinya: The County Assembly.

Mr. Ndegwa Njiru: Thank you. Do you have any other advisory in that respect? If yes, kindly read us the page that contains the same.

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Hon. Zipporah Kinya: Yes, there was another advisory on the same.

Mr. Ndegwa Njiru: From whom?

Hon. Zipporah Kinya: From the Public Service Commission.

Mr. Ndegwa Njiru: When is it dated?

Hon. Zipporah Kinya: 16th February, 2023.

Mr. Ndegwa Njiru: Who is addressed on that letter?

Hon. Zipporah Kinya: The letter is addressed to the then acting Chief Officer, Department of Legal Affairs, Public Service and Management, County Government of Meru.

Mr. Ndegwa Njiru: What is the content of the letter?

Hon. Zipporah Kinya: Advisory on Leave of Absence for serving County Public Officers wishing to take contracts as County Chief Officers.

Mr. Ndegwa Njiru: What did the Commission say in respect to leave of absence? Is a person who is on leave of absence deemed to be holding two jobs at the same time?

Hon. Zipporah Kinya: No.

Mr. Ndegwa Njiru: Would you kindly read the conclusion to that letter?

Hon. Zipporah Kinya: The conclusion on page eight of the same document, that is volume two, reads as follows-

“Please note that care must be taken to ensure that leave of absence is only granted for employees that take up contractual positions that are not within the staff establishment of the county. Leave of absence may be therefore applicable to employees appointed to positions of the County Secretary, Members of the County Executive Committee, Chief Officer, personal staff of the Governor, and Members of the County Public Service Board and the County Assembly Service Board, or other contractual appointments in other bodies outside the County Public Service to which an officer cannot be seconded or transferred.”

Mr. Ndegwa Njiru: So is it your evidence, therefore, that they said Virginia had qualified for leave of absence?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: What circumstances is she holding the current position? Is she permanent and pensionable or she is on contractual basis?

Hon. Zipporah Kinya: Virginia Kawira is on a contract of six years as required by the law.

Mr. Ndegwa Njiru: Have you lined her up as a witness before this assembly?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Do you have evidence that the Governor never heeded to that advice, yes?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: What did she do therein after?

Hon. Zipporah Kinya: The aggrieved person, that is Virginia Kawira Miriti, went to court and she is in the office, courtesy of a court order.

Mr. Ndegwa Njiru: Do you have that evidence before the Senate?

Hon. Zipporah Kinya: Yes, it is on page nine.

Mr. Ndegwa Njiru: Is that a copy of the court order?

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Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Do you have the court pleadings before the Senate to prove your case?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Would you wish to tender them as evidence before this Senate?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: In summary, in respect to that particular ground, was the revocation lawful?

Hon. Zipporah Kinya: Mr. Speaker, Sir, it was not.

Mr. Ndegwa Njiru: Did it violate the Constitution?

Hon. Zipporah Kinya: It violated the Constitution.

Mr. Ndegwa Njiru: Did it violate Section 58(4) and (5) and Section 59(a) of the County Governments Act?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Did it violate Article 251 of the Constitution?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Is that a ground under Article 181 and Section 33 of the removal of a Governor?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Thank you. Let us go to the next point. Failing to appoint the chairpersons of Meru County Revenue Board and Meru Microfinance. Before we go to that, has this revocation of CPA Virginia Kawira affected service delivery in Meru County?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: In which way has it affected service delivery?

Hon. Zipporah Kinya: Mr. Speaker, Sir, it has affected service delivery in Meru County because the County Executive has really, in many times, usurped the powers of the Meru County Public Service Board and because of that, then the Meru County Public Service is not running well.

Mr. Ndegwa Njiru: Thank you. Does this conduct of the Governor promote confidence in her office?

Hon. Zipporah Kinya: No.

Mr. Ndegwa Njiru: Does it promote good governance?

Hon. Zipporah Kinya: No.

Mr. Ndegwa Njiru: Does she exhibit accountability to the people of Meru County?

Hon. Zipporah Kinya: No.

Mr. Ndegwa Njiru: Does she respect the sovereignty of the people when she goes on and ignores the performance of the County Assembly? Does she uphold the sovereignty of the people as enshrined in Article one of the Constitution?

Hon. Zipporah Kinya: No.

Mr. Ndegwa Njiru: Does it violate the provisions of Article 73 of the Constitution under the Leadership and Integrity Act?

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Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Thank you. Let us proceed to issue number two. You say that she must be removed from office and you crave this Senate to do so, for having failed to appoint the chairpersons of the Meru County Revenue Board, Meru Microfinance Corporation, Meru Youth Service Board and Meru County Investment and Development Corporations as required by the law, thus failing to operationalize the said boards and or illegally appointing the chairperson. Yes?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Why do you want her to be removed from office on that basis? How has she failed to appoint the chairperson of Meru County Revenue Board?

Hon. Zipporah Kinya: The Governor has failed to appoint the Chairperson of the Meru County Revenue Board because after the expiry of the terms of office of these boards, they have had no board chairman. I believe the board members because we have not seen any board member gazetted after the expiry of the other board members.

Therefore, by not appointing the board members who are the ones supposed to supervise and also ensure accountability in these boards, this means that the secretariats of these boards have continued to expend public funds without authority and this is an action that may be subject to abuse. I believe when the board is not constitutionally constituted, it amounts to abuse of office and a violation of the statutes that govern that institution.

Mr. Ndegwa Njiru: Who was responsible for appointing the chairpersons of these boards?

Hon. Zipporah Kinya: The Governor.

Mr. Ndegwa Njiru: Is there any Act of Parliament or Act of the County Government of Meru indicating so or giving her the power to do so?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Would you kindly read us to that provision before the Senate?

Hon. Zipporah Kinya: Just a moment.

Mr. Ndegwa Njiru: As you proceed to indicate to us, how has this affected the delivery and the performance of the County Government of Meru?

Hon. Zipporah Kinya: I have said it has affected the development and performance of the County Government of Meru because in the budget, these boards are allocated millions of money. These are public funds that should be spent prudently with a lot of accountability and supervision.

Additionally, these boards are the ones that approve expenditures for these bodies. The board is the one that approves expenditures for the boards. It means without a board, there is no approval of expenditure and accountability.

Mr. Ndegwa Njiru: Can the board secretariat undertake that function in the absence of the chairman?

Hon. Zipporah Kinya: The secretariat has no mandate from the county laws and statutes to undertake any spending without the approval of the board.

Mr. Ndegwa Njiru: Can you kindly lead the Senate to the law that says it is only the Governor who can appoint the chairpersons?

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Hon. Zipporah Kinya: The Meru County Revenue Board Act section six talks about the composition of the board and Section 6 (1) (a) talks about –

“The board shall consist of-

(a) a non-executive chairperson appointed by the Governor with the approval of the County Assembly;”

Mr. Ndegwa Njiru: Who are the other members?

Hon. Zipporah Kinya: The other members of the board are-

(b) the chief officer for the time being responsible for finance;

(c) the chief executive officer who shall be an *ex-official* member and the secretary to the board;

(d) two professionals appointed by the Executive Member through a competitive process in consultation with the Governor; and,

(e) not more than two-thirds of the members shall be of the same gender.

Mr. Ndegwa Njiru: So, according to that provision of the Act, it is only the chairman who is an outsider from the existing systems of the county government, yes?

Hon. Zipporah Kinya: No.

Mr. Ndegwa Njiru: Who else is a member?

Hon. Zipporah Kinya: There are two others members I have just read.

Mr. Ndegwa Njiru: Is that meant to enhance accountability in the boards?

Hon. Zipporah Kinya: It is meant to enhance the accountability in the boards.

Mr. Ndegwa Njiru: In the absentia, can the accountability be enhanced or upheld?

Hon. Zipporah Kinya: It cannot.

Mr. Ndegwa Njiru: Can the Secretariat expend monies allocated to the board in the absentia of the chairperson?

Hon. Zipporah Kinya: No.

Mr. Ndegwa Njiru: Has these boards been expending money?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Do you have evidence before the Senate?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Kindly lead us to that provision where the evidence is found.

Hon. Zipporah Kinya: It is in another volume.

Mr. Ndegwa Njiru: Hon. Senators, kindly go with me to volume two at page 383.

Kindly lead the Senators to understand that piece of evidence, count by count. You can see where we have number one? Yes?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: It is Meru County Microfinance Corporation, correct?

Hon. Zipporah Kinya: Microfinance Corporation.

Mr. Ndegwa Njiru: The next column speaks about approved budget allocated for the year 2023/2024. Yes?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: How much was allocated?

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- Hon. Zipporah Kinya:** The allocation for the financial year is Kshs76,155,481.
- Mr. Ndegwa Njiru:** The next column speaks about exchequer issues, yes?
- Hon. Zipporah Kinya:** Yes.
- Mr. Ndegwa Njiru:** How much is the exchequer?
- Hon. Zipporah Kinya:** Kshs51,911,631.
- Mr. Ndegwa Njiru:** Then the next column speaks about actual expenditure, correct?
- Hon. Zipporah Kinya:** Yes.
- Mr. Ndegwa Njiru:** How much has been expended?
- Hon. Zipporah Kinya:** Kshs63, 201,198.
- Mr. Ndegwa Njiru:** The next column speaks about submission of financial statements as at 31st March 2024, yes?
- Hon. Zipporah Kinya:** Yes.
- Mr. Ndegwa Njiru:** What is the status?
- Hon. Zipporah Kinya:** Yes.
- Mr. Ndegwa Njiru:** What does that mean?
- Hon. Zipporah Kinya:** It means they were submitted.
- Mr. Ndegwa Njiru:** So, during the incurring of this expenditure, was the board fully constituted?
- Hon. Zipporah Kinya:** No.
- Mr. Ndegwa Njiru:** How much was expended in the current status of the board?
- Hon. Zipporah Kinya:** The actual expenditure for the period in question is Kshs63, 201,198 in the absence of a legally constituted board.
- Mr. Ndegwa Njiru:** What evidence do you have that at the time of the expenditures the board had not been fully constituted?
- Hon. Senators, kindly go with me to page 51 of the same bundle. Would you kindly identify that document for hon. Senators to understand?
- Hon. Zipporah Kinya:** Yes. On page 51 of volume two, we have a Kenya Gazette.
- Mr. Ndegwa Njiru:** Yes. When is it dated?
- Hon. Zipporah Kinya:** It is dated 14th June, 2019.
- Mr. Ndegwa Njiru:** What is the Kenya Gazette number?
- Hon. Zipporah Kinya:** The Kenya Gazette number is 5202.
- Mr. Ndegwa Njiru:** Yes.
- The Speaker (Hon. Kingi):** The Minority Leader, what is your intervention?
- The Senate Minority Leader (Sen. Madzayo):** Can the Counsel go slowly? We are trying to catch up with these volumes as he keeps on leading the witness. We are also recording.
- The Speaker (Hon. Kingi):** Counsel, if you refer to a page, allow the Senators to get to that page before you flip to another page. Otherwise, you will lose them along the way.
- Kindly, proceed.
- Mr. Ndegwa Njiru:** I am humbly guided and I apologize for the same.

The Speaker (Hon. Kingi): You have done slightly over one hour. So, just be guided on the time.

Mr. Ndegwa Njiru: Let us go to page 48 of the same bundle.

Madam witness, what is reflected in that page?

Hon. Zipporah Kinya: On page 48, we have another---

Mr. Ndegwa Njiru: It is a gazettement. Is that correct?

Hon. Zipporah Kinya: It is a gazette notice.

Mr. Ndegwa Njiru: Who is being gazetted?

Hon. Zipporah Kinya: We have a number of gazette notices.

Mr. Ndegwa Njiru: Can you see Gazette No.5200?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Let us deal with that first.

Hon. Zipporah Kinya: Gazette Notice No.5200 is the Meru County Investment and Development Corporation Act, and the gazetted Chairperson is Felicity Biriri.

Mr. Ndegwa Njiru: When is it dated?

Hon. Zipporah Kinya: It is dated 13th November, 2017.

Mr. Ndegwa Njiru: For how long was the period of the chairperson supposed to run?

Hon. Zipporah Kinya: It was supposed to run for a period of---

Mr. Ndegwa Njiru: From the Act, when was it supposed to run?

Hon. Zipporah Kinya: It is not clear from this Gazette Notice, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: When was the term of service supposed to expire?

Hon. Zipporah Kinya: In three years.

Mr. Ndegwa Njiru: It is three years with a renewable term. Is that correct?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: So, was the term of the persons appearing on that page ever renewed?

Hon. Zipporah Kinya: No, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Look at page 55. What happened to that Chairperson?

Hon. Zipporah Kinya: On page 55, the Chairperson resigned in 2022 to vie for the position of Women Representative.

Mr. Ndegwa Njiru: Do you have evidence of the resignation?

Hon. Zipporah Kinya: Yes, it is on page 55.

Mr. Ndegwa Njiru: Was the position ever filled pursuant to the resignation?

Hon. Zipporah Kinya: No, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: What is the status of that chairmanship?

Hon. Zipporah Kinya: It is still vacant.

Mr. Ndegwa Njiru: Were they expending all these amounts while the position is vacant in the evidence that you gave us at page 383?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Let us go to the next gazettement at page 49. Can you see the Gazette Notice No.5202?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

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Mr. Ndegwa Njiru: You can see that it relates to the Meru County Revenue Board. Is that correct?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: You can read that the gazette was done to run for a period of three years. Is that correct?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: You can read that the appointment was done pursuant to Section 4, sub-section (1) of the Meru County Government Revenue Board? Is that correct?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Who was being gazetted?

Hon. Zipporah Kinya: The Chairman, Meru County Revenue Board.

Mr. Ndegwa Njiru: He was gazetted on the 14th December, 2027. Is that correct?

Hon. Zipporah Kinya: It is 14th December, 2017.

Mr. Ndegwa Njiru: When was his term supposed to expire? Upon the expiry, was it ever extended?

Hon. Zipporah Kinya: No, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Look at page 52. Are you with me at page 52?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Have you seen another subsequent Gazette Notice No.538, which is being gazetted by the then governor, Hon. Kiraitu Murungi?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Whose term is being extended?

Hon. Zipporah Kinya: The Chairperson's term.

Mr. Ndegwa Njiru: When was it supposed to expire? From which date was it gazetted?

Hon. Zipporah Kinya: In the year 2020.

Mr. Ndegwa Njiru: How long was it supposed to run again?

Hon. Zipporah Kinya: For three years.

Mr. Ndegwa Njiru: When then was it supposed to expire?

Hon. Zipporah Kinya: In 2023.

Mr. Ndegwa Njiru: Which month?

Hon. Zipporah Kinya: November, 2023.

Mr. Ndegwa Njiru: Did that month fall due?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Was there an appointment?

Hon. Zipporah Kinya: No, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Let us go back again to page 383 where we have that table. Kindly, let us go to paragraph four. Again, we repeat what we did. That is the Meru County Revenue Board. Is that correct?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: The allocation was Kshs359,932,000. Is that correct?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: The Exchequer issued Kshs231,080,000. Is that correct?

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Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Was the actual expenditure Kshs212,000,000? **Hon. Zipporah Kinya:** Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Kindly, confirm whether or not that expenditure was done in the absence of the chair?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Why is it important to have a chair of the board?

Hon. Zipporah Kinya: A chair of a board is the one who presides over all the board meetings. The board approves expenditures for these semi-autonomous Government agencies of Meru County Government.

Mr. Ndegwa Njiru: So, it is your testimony, therefore, that the expenditures were done without the approval of the board?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Who was supposed to make sure that these boards were up and running?

Hon. Zipporah Kinya: The Governor.

Mr. Ndegwa Njiru: Did she undertake that role and responsibility?

Hon. Zipporah Kinya: No, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Is it your assessment that she therefore abdicated her duties?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Does that inspire confidence in her office?

Hon. Zipporah Kinya: No, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Does it contribute to good governance?

Hon. Zipporah Kinya: No, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Does it contribute to upholding the rule of law under Article 10?

Hon. Zipporah Kinya: No, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Does it enhance accountability under Article 10 and the prudent use of public resources under Article 201 of the Constitution?

Hon. Zipporah Kinya: No, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Does it therefore breathe confidence under Article 73 of the Constitution that she knows how to manage the affairs of the County Government of Meru.

Hon. Zipporah Kinya: No, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Is it a ground that meets the impeachment under Article 181 of the Constitution as read together with Section 33 of the Constitution?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Is it your prayer, therefore, that the Senate should uphold and consider this ground as fully substantiated?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Let us go to the laws that require the Governor to undertake this role. Hon. Senators, we are at volume three. However, before we go to that, you have also alleged that people have been appointed to exercise those functions without undergoing the due process. Is that correct?

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Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Is there any person of any of these boards who has been appointed unlawfully? If yes, who has appointed that person?

Hon. Zipporah Kinya: There is one.

Mr. Ndegwa Njiru: Do you have evidence before this Senate?

Hon. Zipporah Kinya: The Chairperson, Meru County Revenue Board.

Mr. Ndegwa Njiru: Where is that evidence? Hon. Senators, again, refer to volume two at page 43 of that bundle. What is that document about?

Hon. Zipporah Kinya: It is the responsibility of the board to recruit on behalf of the board. On this page, we have a Meru County Revenue Board job advertisement for the position of Chief Officers (CO).

Mr. Ndegwa Njiru: Who is the originator of that advertisement?

Hon. Zipporah Kinya: The originator of the advertisement on page 46---

Mr. Ndegwa Njiru: No, who is the author of this document? Is it Meru County Revenue Board?

Hon. Zipporah Kinya: Yes, it is Meru County Revenue Board.

Mr. Ndegwa Njiru: Are they advertising for vacancies and positions of the Chief Executive Officers?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Are they therefore inviting the members of the public to participate in that process?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Who was to be the recipient of the application forms?

Hon. Zipporah Kinya: The Chairman, Board of Directors, Meru County Revenue Board.

Mr. Ndegwa Njiru: Do you wish to refer the Hon. Senators to page 46 of your evidence?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: What is contained in that page?

Hon. Zipporah Kinya: Mr. Speaker, Sir, those are instructions for the applicants; that suitable candidates are invited to apply and access the detailed job description from the website and all applications and documents should be sent through email or by post, courier, addressed and or hand delivered to the Chairman, Board of Directors, Meru County Revenue Board.

Mr. Ndegwa Njiru: Which date are they supposed to have these applications reach the desk of the chairperson?

Hon. Zipporah Kinya: 10th June, 2024.

Mr. Ndegwa Njiru: Is there a chairperson currently holding that position?

Hon. Zipporah Kinya: None, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: The letter speaks that they must be forwarded to the chairperson. Who appointed this chairperson?

Hon. Zipporah Kinya: The Governor.

Mr. Ndegwa Njiru: Did it follow the due process as prescribed by the law?

Hon. Zipporah Kinya: No.

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Mr. Ndegwa Njiru: Was the County Assembly ever involved in the process of the appointment of the chairperson?

Hon. Zipporah Kinya: No.

Mr. Ndegwa Njiru: Did you vet or approve that particular chairperson?

Hon. Zipporah Kinya: No.

Mr. Ndegwa Njiru: Does that amount to a violation?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Hon. Senators, let us go to what the law says on the appointment and look at Vol. 3 of the same document, page 59. It is the Public Appointments (County Assembly Approvals).

If you are with me, let us look at Section 4 of the said provision. Witness, read it out.

Hon. Zipporah Kinya: Section 4 on page 60 of the Public Appointments and County Assembly Approvals Act reads-

“Exercise of powers of appointment.

An appointment under the Constitution or under any other law for which the approval of a county assembly is required shall not be made unless the appointment is approved by the relevant county assembly in accordance with this Act.”

Mr. Ndegwa Njiru: Was there that approval?

Hon. Zipporah Kinya: There was none.

Mr. Ndegwa Njiru: Is there an appointment?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Is that a violation?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Has that met the provisions of Article 181 as read together with Section 33 of the County Governments Act?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Does that breathe confidence in the manner in which the Governor executes her functions?

Hon. Zipporah Kinya: No.

Mr. Ndegwa Njiru: Does it call for accountability under Article 10 that the county organs will be held accountable for their actions?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Does it breathe confidence in the rule of law?

Hon. Zipporah Kinya: It does not.

Mr. Ndegwa Njiru: Is it prudent utilization of public funds under Article 201 of the Constitution?

Hon. Zipporah Kinya: No.

Mr. Ndegwa Njiru: Let us go to Ground No.3. You want the Governor to be removed from office for refusing to implement the recommendations or the resolutions of the County Assembly. This required the dismissal of Dr. Kiambi Atheru Nthambura and the Chief of Staff, Harrison Gatobu.

You are saying this was gross violation of the Constitution. Kindly brief the House on the circumstances that pre-existed before these resolutions were met. Was there a public petition?

Hon. Zipporah Kinya: Yes, there was Public Petition No.1.

Mr. Ndegwa Njiru: Do you have this petition before the House and where do we find it in your bundle of documents?

Hon. Zipporah Kinya: It is in Vol.2.

Mr. Ndegwa Njiru: Hon. Senators, let us look at page 206 of the bundle. Witness, speak to the evidence relating to that page.

Hon. Zipporah Kinya: On page 206, there is a petition that was brought by members of the public to the County Assembly for consideration.

Mr. Ndegwa Njiru: What were the issues that the County Assembly was supposed to deliberate on?

Hon. Zipporah Kinya: The issues the public were raising emanated from the last impeachment where the Governor said, it was not me. For everything, it is not me. Members of the public said that if it is not you, then there is somebody else. Then they petitioned the County Assembly through this Petition on page 206 to investigate and take action against the 'them' because it was not the Governor.

Mr. Ndegwa Njiru: How many Members proposed that Petition?

Hon. Zipporah Kinya: They were 1,611 members of Meru County from all the 45 wards and they brought this Petition to the County Assembly.

Mr. Ndegwa Njiru: Did they append their signatures to that Petition in support of the same?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Do we find that evidence from Vol. 2, page 214 - 258?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Those are the signatures in support of that Petition. Did the County Assembly consider that Petition? If yes, what was the outcome?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir. A joint committee of the Committee on Labour and Justice was directed to consider this Petition and upon consideration, the Committee made recommendations to the Governor.

Mr. Ndegwa Njiru: Did the County Assembly generate a report emanating from that Petition? Where is the report found in your bundle of documents?

Hon. Zipporah Kinya: Yes. The report is in page 90 of Vol. 2.

Mr. Ndegwa Njiru: Hon. Senators, I hope you are there with me at page 90 of Vol. 2. That is the report of the concerned Committee. Were there recommendations that ensured therefrom? Where do we find those recommendations?

Hon. Zipporah Kinya: Yes, the recommendations are on page 140 of Vol. 2.

Mr. Ndegwa Njiru: Did you conduct a hearing or did you give these individuals a fair opportunity to appear before the Committee before the decision was rendered?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Did all the members who were affected by the Petition participate in that process?

Hon. Zipporah Kinya: They all participated except the Chief of Staff, Mr. Harrison Gatobu alias Nchamba Mbithi, who did not respond to the summons.

Mr. Ndegwa Njiru: Did the Petition relate to only those two individuals or there were other individuals who were also involved in that Petition?

Hon. Zipporah Kinya: They were 12 of them.

Mr. Ndegwa Njiru: All of them were in the executive office of the Governor?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Were all verdicts positive or negative concerning all the 12?

Hon. Zipporah Kinya: Some verdicts were positive and others were negative.

Mr. Ndegwa Njiru: When you say they were positive, what do you mean?

Hon. Zipporah Kinya: Some of the County Executive Committee Members (CECMs) were very clean. We did not find any issue with them.

Mr. Ndegwa Njiru: They were acquitted, correct?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: So, on page 140, Paragraph 14, what is the County Assembly recommending?

Hon. Zipporah Kinya: In paragraph 14 on page 40, the County Assembly found that the Chief of Staff, Alison Gatobu alias Njamba Mbithi contravened Section 18(1) as read together with Sections 22 and 27 of the County Assembly Powers and Privileges Act 2017, by failing to honour the summons and invitations to appear before the various Assembly committees, including this joint committee, to produce evidence and respond to the allegations levelled against him in this Petition.

Mr. Ndegwa Njiru: Those are the findings, correct?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Does he always oblige to summons or is he perpetually and notorious for ignoring the same?

Hon. Zipporah Kinya: He does not.

Mr. Ndegwa Njiru: Kindly continue to read.

Hon. Zipporah Kinya: This wanton disregard for the law, summons and invitations by the respective committees of the County Assembly was not only in contravention of the aforesaid laws, but also acted to undermine the standing of the County Assembly as a whole.

Mr. Ndegwa Njiru: Was this communication ever made known to the Governor?

Hon. Zipporah Kinya: Yes, it was made known to the Governor.

Mr. Ndegwa Njiru: Where in your evidence are you recommending their removal?

Hon. Zipporah Kinya: On the same page 140, on committee recommendations. I would wish to read recommendation No.2 on page 140. It states that the Governor dismiss the County Secretary, Dr. Kiambi Atheru Thambura, and the Chief of Staff, Mr. Harrison Gatobu alias Njamba Mbithi, from office for gross violation of the Constitution and other statutory laws.

Mr. Ndegwa Njiru: Was this communication ever made known to the Governor?

Hon. Zipporah Kinya: Yes, the communication was made known to the Governor.

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- Mr. Ndegwa Njiru:** Where do we find that evidence in your document?
- Hon. Zipporah Kinya:** Page 144 of the same document.
- Mr. Ndegwa Njiru:** Let us describe that document. From whom is this document?
- Hon. Zipporah Kinya:** The document is from the County Assembly of Meru.
- Mr. Ndegwa Njiru:** When is it dated?
- Hon. Zipporah Kinya:** It is dated 14th December, 2023.
- Mr. Ndegwa Njiru:** Who is the author of the document?
- Hon. Zipporah Kinya:** The author of the document is the Clerk of the County Assembly of Meru.
- Mr. Ndegwa Njiru:** Was the document ever served upon the intended recipients?
- Hon. Zipporah Kinya:** Yes.
- Mr. Ndegwa Njiru:** Do you have evidence of service?
- Hon. Zipporah Kinya:** Yes.
- Mr. Ndegwa Njiru:** Where is evidence of service found in that document?
- Hon. Zipporah Kinya:** Page 145.
- Mr. Ndegwa Njiru:** No, I am asking of what is on page 144. Did the Governor or the Office of the Governor acknowledge receipt of that letter?
- Hon. Zipporah Kinya:** Yes.
- Mr. Ndegwa Njiru:** How did they acknowledge receipt?
- Hon. Zipporah Kinya:** The office of the Chief of Staff acknowledged receipt on 18th December, 2023.
- Mr. Ndegwa Njiru:** How did they acknowledge it?
- Hon. Zipporah Kinya:** By stamping the document on 18th December, 2023.
- Mr. Ndegwa Njiru:** So that means the Governor was made aware of that particular reservation. Correct?
- Hon. Zipporah Kinya:** Yes.
- Mr. Ndegwa Njiru:** Did she act upon it?
- Hon. Zipporah Kinya:** No.
- Mr. Ndegwa Njiru:** Does that, therefore, amount to upholding the rule of law and Article 10 of the Constitution?
- Hon. Zipporah Kinya:** No.
- Mr. Ndegwa Njiru:** Does it contribute to good governance?
- Hon. Zipporah Kinya:** No.
- Mr. Ndegwa Njiru:** Does it contribute to respecting other constitutional institutions as the status of the County Assembly?
- Hon. Zipporah Kinya:** No.
- Mr. Ndegwa Njiru:** Does it amount to a governor who wants to be held accountable and responsible?
- Hon. Zipporah Kinya:** No.
- Mr. Ndegwa Njiru:** Does it undermine the integrity and the power of the County Assembly?
- Hon. Zipporah Kinya:** Yes, it undermines.

Mr. Ndegwa Njiru: Does it, therefore, equally amount to violating Article 1 of the Constitution on the sovereignty of the people?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Is that an impeachable ground under Article 181 of the Constitution as read together with Section 33 of the Constitution?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Have you, therefore, substantiated your case against the Governor in respect to this particular allegation?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: How has their continuous calling of office compromised service delivery in Meru County?

Hon. Zipporah Kinya: It has seriously compromised service delivery because all the illegal appointments made by the County Government of Meru are made by the County Secretary, including appointing very junior officers to very senior positions. This has seriously compromised service delivery in Meru County. A good instance is like the one I talked about in the video where an officer in Job Group M supervises officers in Job Group R.

Mr. Ndegwa Njiru: A moment, please. The Hon. Senators are taking note of that particular evidence. Is it your evidence that they have compromised service delivery?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Do you have evidence to show how that has been compromised in the county?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Where is that evidence? As you look at the evidence, how has that been manifested? Identify the volume and the page.

Hon. Zipporah Kinya: On volume two, we have the document on Page 198. However, in the bundle of documents, the page is not clear. As such, we made a clear copy which is on volume six. There is a replacement of this document on volume two, page 198.

Mr. Ndegwa Njiru: Yes, Hon. Senators. Let us go to volume two.

Hon. Zipporah Kinya: Volume two is not clear, so I am talking now of volume six. We made a clearer copy.

Mr. Ndegwa Njiru: Volume six is a replica of what we find on Page 198. Hon. Senators, if you could go with me to Page 31 of volume six, which is a replica of the same evidence?

Hon. Zipporah Kinya: On this page, I sought a Statement from the County Government in June, 2023, on the deployment of directors in the County Government of Meru. The Statement was never responded to.

Mr. Ndegwa Njiru: To whom did you seek the Statement?

Hon. Zipporah Kinya: From the County Executive Committee Member in charge. On page 31, the CECM was summoned by the Assembly and he gave us a list of directors who are working in the County Government of Meru. The illegal appointments I am talking about are found on Page 31.

I would want to take you to the column on Serial No.8. This is the list of directors in Meru County. You will find that an officer by the name of Kabwae Munene Eric---

Mr. Ndegwa Njiru: Name in terms of the numbers.

Hon. Zipporah Kinya: No.8

Mr. Ndegwa Njiru: Where we have the identification number, correct?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: We have the identification number. Correct?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: That one is lacking. Yes?

Hon. Zipporah Kinya: The name is Mr. Kabuayi Munene Eric.

Mr. Ndegwa Njiru: A male in Job Group J?

Hon. Zipporah Kinya: Mr. Speaker, Sir, Job Group J has been deployed illegally by the County Secretary to act as the Director, Information Communication Technology (ICT). Hon. Members, for those who have experience in public service, they will bear me witness that an officer in Job Group J is a very junior officer to supervise officers in Job group P, Q and R---

Mr. Ndegwa Njiru: Thank you. That is delivered.

Hon. Zipporah Kinya: Those are the illegal appointments we are accusing the County Secretary of--

Mr. Ndegwa Njiru: Thank you, madam witness---

Hon. Zipporah Kinya: Among others on that list, hon. Members.

Mr. Ndegwa Njiru: Could you kindly point out others that amount to that violation?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir. Let us go down to Serial No.24. We have another officer by the name of Ms. Karaine Susan Gitura. A female in Job Group L. Job group L is still a very junior group which cannot be appointed---

Mr. Ndegwa Njiru: Kindly wait a moment witness.

Hon. Zipporah Kinya: Pardon me.

Mr. Ndegwa Njiru: Kindly listen to me so that we can move together. What department is she being appointed to?

Hon. Zipporah Kinya: Mr. Speaker, Sir, roads department.

Mr. Ndegwa Njiru: Which position?

Hon. Zipporah Kinya: Director, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Which job group?

Hon. Zipporah Kinya: The substantive appointment is Job Group R.

Mr. Ndegwa Njiru: Ordinarily it should be Job Group R. Who is being appointed here and what Job Group is she in?

Hon. Zipporah Kinya: Ms. Karaine Susan Gitura is being appointed to Job Group R yet she is in Job Group L.

Mr. Ndegwa Njiru: What is the status of the roads and transport network in Meru County as we speak?

Hon. Zipporah Kinya: Mr. Speaker, Sir, it is very bad.

Mr. Ndegwa Njiru: Is there a hue and cry?

Hon. Zipporah Kinya: Indeed, there is hue and cry.

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Mr. Ndegwa Njiru: Thank you. Is there any other entry that you wish the Senators to look at? Perhaps serial No. 25.

Hon. Zipporah Kinya: Mr. Speaker, Sir, Serial No. 25.

Mr. Ndegwa Njiru: Who is being appointed?

Hon. Zipporah Kinya: Mr. Speaker, Sir, Mr. Maraine Cyprian. A male in Job Group L, Director Roads and transport in charge of fleet management.

Mr. Ndegwa Njiru: He is being appointed to oversee the roads, transport and energy sector. Correct?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: This is the Director of Fleet Management. Correct?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Does he qualify for that appointment?

Hon. Zipporah Kinya: Mr. Speaker, Sir, he does not qualify.

Mr. Ndegwa Njiru: Kindly confirm that this is a list of directors that you received pursuant to your search for information, and that the same came from the County Executive.

Hon. Zipporah Kinya: Mr. Speaker, Sir, I can confirm that.

Mr. Ndegwa Njiru: On page 32, do you have any other indication that you would wish the Senators to note?

The Speaker (Hon. Kingi): Counsel for the County Assembly kindly pause a bit. Sen. (Dr.) Khalwale, what is your intervention?

Sen. (Dr.) Khalwale: Thank you, Mr. Speaker, Sir. I was following page 31. I would like further clarity because the four officers whom the Madam has referred to do not have payroll numbers.

The Speaker (Hon. Kingi): You will have that opportunity Senator.

Sen. (Dr.) Khalwale: Could they tell me so that I know whether they are real or not?

The Speaker (Hon. Kingi): Not now. She will tell you, but not now. You will have an opportunity to seek those clarifications. At that time, you will be given your clarification.

Proceed, Counsel for the County Assembly.

Mr. Ndegwa Njiru: Thank you, Mr. Speaker, Sir. Madam witness, kindly refer to page 30 of the said document. That is the letter dated the 25th June, 2024. Correct?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: The letter is addressed to the Clerk of Meru County Assembly. Correct?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: The same comes from Dickson Munene Nkanata. Correct?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Who is Dickson Munene?

Hon. Zipporah Kinya: Mr. Speaker, Sir, he is the County Executive Committee Member (CECM) for Legal Affairs.

Mr. Ndegwa Njiru: Is this the letter that forwarded this list? Therefore, you confirm its source. Correct?

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Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: The same was received by the Clerk of the County Assembly on the 25th June, 2024.

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Hon. Sen. (Dr.) Khalwale wanted you to confirm whether there are payroll numbers indicated there too.

Hon. Zipporah Kinya: Mr. Speaker, Sir, I can confirm that there is no payroll number that is indicated there. I may not know the reason because that is an official document from the county government.

Mr. Ndegwa Njiru: However, you have evidence before this Assembly that they have maintained two types of payrolls, correct? Both manual and---

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir. Manual and Integrated Payroll and Personnel Database (IPPD).

Mr. Ndegwa Njiru: Do you have evidence to that effect that you shall be yielding in the future?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Before I yield you to my learned friend, I will only ask you one question about grounds No.6. You are accusing the Governor of deliberately and knowingly misleading the public. However, before we go to that, do you have evidence before this Assembly where service delivery has been compromised? Do you have a video indicating how service delivery has been compromised?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Would you wish to play video No. 11?

Hon. Zipporah Kinya: Yes, Mr. Speaker, Sir.

Mr. Ndegwa Njiru: Kindly have it played from our videos in support of the Motion.

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

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

Madam Temporary Speaker, we might require the assistance of the interpreter once more.

The Temporary Speaker (Sen. Mumma): Can the interpreter come in? I direct that the interpreter be brought in to.

(The interpreter was ushered into the Chamber)

The interpreter is here. You may proceed to play the video.

(A video clip was played)

The Interpreter (Mr. Muthengi Mpara): Thank you, Madam Temporary Speaker and Hon. Members. These are residents of Kiguchwa Ward. Pardon me. Once again, my

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name is Muthengi Mpara. I am from Kenya Broadcasting Channel (KBC), Mwago FM, the translator.

The Temporary Speaker (Sen. Mumma): Are you translating the first part of that video? We are expecting that you will do so. Can you---

(A video clip was played)

The Interpreter (Mr. Muthengi Mpara): These are women from Kiguchwa Ward who demonstrating outside Kiguchwa Dispensary. They want to know what was really happening after a woman gave given birth outside the hospital.

(A segment of the video clip was played)

The woman delivered, assisted by other women from the village. The residents say that it is a big risk to the child and the mother herself.

(A segment of the video clip was played)

We came here at 4.00 a.m. and found this woman who was asking for assistance. She was looking for the watchman. She asked me to help her find the watchman. I was coming to pray.

(A segment of the video clip was played)

She delivered a baby outside in the field. We were chasing away children who wanted to join us in the process of helping during the deliver.

(A segment of the video clip was played)

It is a big embarrassment and not a good thing.

(A segment of the video clip was played)

She delivered the child at around 6.20 a.m. That is when we came in and went to the village to look for some clothing and blankets to help cover the child.

(A segment of the video clip was played)

We did everything, including finding clothing for the child. We are now waiting for the doctor to come and do the examination.

(A segment of the video clip was played)

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We are waiting for the doctor to come so that he can confirm whether the child is okay or not.

(A segment of the video clip was played)

Women and men from Kiguchwa are embarrassed. They say it is something that is disrespectful in the community, especially now that the hospital is along the road.

(A segment of the video clip was played)

Women are delivering outside. Governor Kawira Mwangaza is a woman just like the women who are delivering outside there.

(A segment of the video clip was played)

Why can she not look and take it like a hospital or has it become a toilet?

(A segment of the video clip was played)

If it is a toilet, let her come and close it because we do not want to see the embarrassment.

(A segment of the video clip was played)

The hospital is along the road and children are just children.

(A segment of the video clip was played)

It is bad when children look at the private part of another child. What about if these children were looking at the private part of the Governor? Would she be happy?

(A segment of the video clip was played)

Would Kawira be happy if it was done to her? That is why we are embarrassed.

(A segment of the video clip was played)

Let the Governor be told to come here and look at this hospital. The doctor should also be here. If she does not do so, let the hospital be closed forever.

(A segment of the video clip was played)

We do not want to see the nakedness again.

(A segment of the video clip was played)

Children from this village have seen everything, including nakedness.

(A segment of the video clip was played)

Women who come for delivery usually get their babies outside here.

(A segment of the video clip was played)

I cannot really get that one. There is something---

(A segment of the video clip was played)

Children from this village have seen everything and Kawira should know this.

(A segment of the video clip was played)

Women here are delivering their children along the tarmac and secondary and primary school students---

(A segment of the video clip was played)

According to the hospital, they tried the best they could have done. They took mother and baby to Meru Level 5 Hospital.

(A segment of the video clip was played)

They referred mother and baby to Meru Level 5 Hospital because the baby was not due.

(A segment of the video clip was played)

The hospital was opened, but now services are a problem. Doctors are not available to treat the patients in the hospital.

(A segment of the video clip was played)

We have been left to do everything in the hospital, including looking after the patient. Even the watchman is not available.

(A segment of the video clip was played)

The watchman is insulting by calling those of us who went to seek for services as prostitutes.

(A segment of the video clip was played)

We want the Governor to take action. Before Monday, something has to be done.

Mr. Ndegwa Njiru: We can stop at that. Thank you.

Madam witness?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: What is the status of service delivery in Meru County in respect to that hospital? Are you aware of that hospital?

Hon. Zipporah Kinya: Yes, I am aware of that hospital. It is in Tigania East.

The Temporary Speaker (Sen. Mumma): Counsel, just to alert you that you have done two hours now.

Mr. Ndegwa Njiru: Madam Temporary Speaker, we are just about to conclude.

Is that the current status of hospitals?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Did the Governor offer any explanation or apology?

Hon. Zipporah Kinya: No.

Mr. Ndegwa Njiru: Did the Governor take any disciplinary action to make sure that the hospital is up and running?

Hon. Zipporah Kinya: I am not aware of any.

Mr. Ndegwa Njiru: Let us look at Ground No.6 on page 10 of the Motion. What are you charging the Governor with?

Hon. Senators, these are grounds of impeachment in Volume 1.

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: What are you charging the Governor with?

Hon. Zipporah Kinya: Count No.2 is Gross Misconduct.

Mr. Ndegwa Njiru: Briefly, how has the Governor misconducted herself in this respect?

Hon. Zipporah Kinya: The Governor has engaged in gross misconduct by deliberately and knowingly misleading the public. She gave false information that Kshs86 million had been raised through Paybill No.247247 and Account No.0400163917899, established after the murder of Daniel Muthiani, alias Sniper, thus violating the moral and ethical requirements expected of State officers contrary to Section 19---

Mr. Ndegwa Njiru: That is okay. What did the Governor say in respect to this amount of money and what is the actual fact?

Hon. Zipporah Kinya: In a video that I would wish is played, the Governor---

Mr. Ndegwa Njiru: It is okay. What did she say?

Hon. Zipporah Kinya: She claimed that the people of Meru, including MCAs, contributed a total of Kshs86 million after the death of the blogger from Meru known as Daniel Muthiani, alias Sniper.

Mr. Ndegwa Njiru: What was the fact?

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Hon. Zipporah Kinya: According to the bank statement in volume two, from page 277 to the last page which is 330. The correct position is that a total of Kshs286,518 was contributed by members of the public.

Mr. Ndegwa Njiru: What is the evidence appearing on page 277? Those are bank statements, correct?

Hon. Zipporah Kinya: These are bank statements.

Mr. Ndegwa Njiru: Who is the account holder?

Hon. Zipporah Kinya: The account holder is Irene Kawira Kamenchu.

Mr. Ndegwa Njiru: Why is she operating this account?

Hon. Zipporah Kinya: She is the widow to the deceased.

Mr. Ndegwa Njiru: Therefore, she was in charge of operating this account, correct?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: Have you ever had an opportunity to interact with the said Hyrene Kawira Kamenchu?

Hon. Zipporah Kinya: I interacted with her when she called me. She called me when heard me mention the case of Ksh86 million, the day that I read a notice of motion.

Mr. Ndegwa Njiru: Yes

Hon. Zipporah Kinya: She told me that she got interested in this issue because I touched on an issue that was affecting her directly.

Mr. Ndegwa Njiru: Are you calling her as a witness in this case?

Hon. Zipporah Kinya: Yes.

Mr. Ndegwa Njiru: What is your grievance in respect to these particular utterances and who uttered them?

Hon. Zipporah Kinya: These utterances were meant to mislead the public.

Mr. Ndegwa Njiru: Who uttered them?

Hon. Zipporah Kinya: The Governor of Meru County, Kawira Mwangaza. She uttered the utterances in a press briefing.

Mr. Ndegwa Njiru: Yes. What else did she say in that press briefing?

Hon. Zipporah Kinya: In that press briefing, the Governor said that a total of Kshs86 million was raised in respect to the contributions towards the ---

(Technical hitch)

The widow should be bought a prado, a mansion should be built for her and an education fund be established out of the Kshs86 million. Then she alleged that---

(Technical hitch)

--- it is a business that the Members of County Assembly (MCAs) are used to get fuel for their vehicles. It is an avenue for playing politics. I believe those words were not kind.

Mr. Ndegwa Njiru: What did she say in respect to the death of Mr. Sniper?

Hon. Zipporah Kinya: She said that those advocating for justice for Sniper were playing politics. It is not only Sniper that has died in Meru County.

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Mr. Ndegwa Njiru: What did she say in respect to the Sniper's wife?

Hon. Zipporah Kinya: I pray that the video is played because I cannot remember everything off head.

Mr. Ndegwa Njiru: Okay, let us have that video played.

Hon. Zipporah Kinya: Let us have the video played. I have just given a few highlights.

Mr. Ndegwa Njiru: No, we will call the other witness to have it played. However, did she make any remarks in respect to Sniper's wife?

Hon. Zipporah Kinya: Yes. She talked about the Sniper's wife being built a mansion.

Mr. Ndegwa Njiru: In respect to her being or living with a ---

Hon. Zipporah Kinya: Oh, sorry. I forgot that. She also alleged that Sniper's wife had already been taken by one of the MCAs and was living with him. Well, it was meant to undermine the integrity of the MCAs.

Mr. Ndegwa Njiru: Thank you, Madam Witness. I yield you to my learned friend, Mr. Boniface Mawira, to take you through the last count.

Mr. Boniface Mwereru Mawira: Good afternoon, Madam Witness.

Mr. Speaker, Sir, I will pick up from where my learned senior has left. On this count number two - Gross misconduct. These utterances ---

(Technical hitch)

You have a witness in respect to that allegation, correct?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: A video for that witness will be played then. Yes?

Hon. Zipporah Kinya: Yes.

Mr. Mwereru Mawira: So, does this conduct that you say is gross misconduct by the Governor fall below the expectations of the conduct of state officers under Article 75 of the Constitution?

Hon. Zipporah Kinya: Yes.

Mr. Mwereru Mawira: Specifically, does it demean the office that the Governor holds?

Hon. Zipporah Kinya: Yes.

Mr. Mwereru Mawira: Does it demonstrate respect for the people?

Hon. Zipporah Kinya: It does not demonstrate respect.

Mr. Mwereru Mawira: Does it bring honour and dignity to her office?

Hon. Zipporah Kinya: No.

Mr. Mwereru Mawira: Okay. Hon. Senator, turn with me to page 11 of the impeachment Motion. I will take you to the---

(Technical hitch)

That is abuse of office. Volume I of our impeachment Motion, a green copy. Specifically, count No.3, ground No.8. You accused the Governor of irregular payment of emergency call allowances to 161 doctors and medical officers using the wrong rates. Correct?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: The Governor in her opening statement stated that there are circulars to that effect and that it was pursuant to a Collective Bargaining Agreement (CBA) between the Council of Governors (CoG) and the Kenya Medical Practitioners and Dentist Union (KMPDU). Correct?

Hon. Zipporah Kinya: Yes.

Mr. Mwereru Mawira: So, on page No.331 of our Volume II, that is, the exhibit in support of the impeachment Motion, what document is there?

Hon. Zipporah Kinya: The report of Auditor-General on the County Executive of Meru for the financial year ended 30th June, 2023.

Mr. Mwereru Mawira: The Governor in her response says that the County Assembly has not considered this report. My question to you is, has this report been committed to a committee of the Assembly?

Hon. Zipporah Kinya: I am a member of the committee and I am not aware.

Mr. Mwereru Mawira: Okay. Would consideration of this report by the Assembly change the conclusions that were made by the Auditor General?

Hon. Zipporah Kinya: No.

Mr. Mwereru Mawira: Is the County Assembly an appellate chamber for the conclusions that were drawn by the Auditor General?

Hon. Zipporah Kinya: No.

Mr. Mwereru Mawira: So, the consideration by the County Assembly would not in any way change the conclusions that were made by the Auditor-General, correct?

Hon. Zipporah Kinya: Yes.

Mr. Mwereru Mawira: Turn with me to page 344 of our volume two, still in that report. That is Irregular Payment of Allowances to Doctors.

Hon. Zipporah Kinya: Yes.

Mr. Mwereru Mawira: I want you to read the second paragraph, that is point No.7, right?

Hon. Zipporah Kinya: Yes.

Mr. Mwereru Mawira: Read the second paragraph from "Although Management---"

Hon. Zipporah Kinya: It says-

"Although the Management provided a circular reference to MOH/ADM/CONF/STAFF/76/Vol.1/19, dated 18th April, 2017, which was issued after negotiation with the striking health workers and was one of the issues contained in the return-to-work formula agreed between the Ministry of Health and the unions of the medical practitioners, it was only valid for four years from the date of the circular which had expired."

Mr. Boniface Mwereru Mawira: So, at the time of preparing this report the Auditor-General had the benefit of the circular the Governor was referring to, correct?

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Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: What conclusion did the Auditor-General arrive at? That is contained in the next paragraph.

Hon. Zipporah Kinya: It reads as follows-

“Had the correct rates being applied, doctors and medical officers were entitled to Kshs51,780,000 instead of the Kshs126,120,000 paid resulting to an irregular payment of Kshs74,340,000.”

Mr. Boniface Mwereru Mawira: So, the Auditor-General confirms that there was an irregular payment of Kshs74 million?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: What conclusion does the Auditor-General make?

Hon. Zipporah Kinya: The Auditor-General states-

“In the circumstances, management was in breach of law.”

Mr. Boniface Mwereru Mawira: I will take you back to the first page of that document.

The report begins on page 331 of our Volume II - The exhibits in support of the Impeachment Motion.

On page 336(2), at No.2: Key Entity Information and Management, in the background information who is the first person in that list?

Hon. Zipporah Kinya: The first person on that list on the County Executive's day-to-day management is under the following key organs.

No. 1. H. E. Bishop Kawira Mwangaza, the Governor of Meru County.

Mr. Boniface Mwereru Mawira: In the key management team, the person on top of that list is the Governor of Meru.

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Up there, in the background information, the first person still is the office of the governor.

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: The major responsibility, you will agree with me, is coordination of the overall running of the county government.

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Okay. So, is this the management team that the Auditor-General concludes was in breach of the law?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Would consideration by the County Assembly of this report change that conclusion?

Hon. Zipporah Kinya: No.

Mr. Boniface Mwereru Mawira: Okay. Again, on that Auditor-General report, that is your ground number nine in the Motion - Use of Manual Payroll, at page 347 of the same report--- Are you there? That is page 347 still of our Volume II - Use of Manual Payroll. What is the conclusion that the Auditor-General makes? I would like you to only read the conclusion, in the interest of time.

Hon. Zipporah Kinya: It reads as follows-

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“In the circumstances, the management was in breach of regulations.”

Mr. Boniface Mwereru Mawira: This is the management that is headed by the Governor?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: So, can the Governor say it was not her?

Hon. Zipporah Kinya: No.

Mr. Boniface Mwereru Mawira: Can the Governor say it is the County Executive Committee member (CECM) Finance?

Hon. Zipporah Kinya: No.

Mr. Boniface Mwereru Mawira: She is the head of the management team? The buck must stop at her door.

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: I would like you to read what that Article 229(6) of the Constitution says. What does it say?

Hon. Zipporah Kinya: Article 229(6) of the Constitution says-

“An audit report shall confirm whether or not public money has been applied lawfully or in an effective way.”

Mr. Boniface Mwereru Mawira: An audit report is the final authority on whether money has been spent lawfully, not, the County Assembly can change what that audit report says. Is that correct?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Turn with me to page 377 of our Volume II, that is the Controller of Budget report for the first nine months, specifically, page 382 of that report. Are you there?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Paragraph 26.7 on Expenditure on Employees' Compensation, the second paragraph. Let me read first so that you can agree with me, right?

“Further analysis indicates that personnel emolument (PE) costs, amounting to Kshs3.36 billion were processed through the Integrated Personnel and Payroll Database System, IPPD system, while Kshs102.94 million was processed through manual payroll. The manual payroll accounted for 3.1 per cent of the total personnel emolument cost.”

Is that correct?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: So, this is evidence again from the Controller of Budget (CoB) report for the first nine months of financial year 2023/2024, that monies have been paid through this payroll system?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Madam witness, is the County Assembly on trial in these proceedings?

Hon. Zipporah Kinya: No.

Mr. Boniface Mwereru Mawira: So, if the Governor is accused of making payments through manual payroll, is it a proper defense for her to say, “even the County Assembly does so.”

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Hon. Zipporah Kinya: No.

Mr. Boniface Mwereru Mawira: Why do you say so?

Hon. Zipporah Kinya: I would say so because I am not sure whether the County Assembly does that.

Secondly, two wrongs do not make a right.

Mr. Boniface Mwereru Mawira: Okay. Is the defense of: “Even someone else has done it” available to the Governor? Is that defense available to her?

Hon. Zipporah Kinya: Sorry?

Mr. Boniface Mwereru Mawira: Is the defense of: “Even the County Assembly or even someone else has done it, so I am allowed to do it”, available to her? Is the County Assembly on trial in these proceedings?

Hon. Zipporah Kinya: No.

Mr. Boniface Mwereru Mawira: Does bringing evidence and we submit there is no such evidence, but assuming there is such evidence of wrongdoing by the County Assembly, would it excuse the Governor of her own wrongdoing?

Hon. Zipporah Kinya: No.

Mr. Boniface Mwereru Mawira: Turn with me to page KM 34, that is Volume I (b) of the Governor's response. Page 229 of Volume 1(b). It is the index of documents by the Governor. It is a blue copy.

This is the evidence that the Governor has filed to show that the County Assembly also maintains a manual payroll. My question to you is simple. On the face of that document, when was that report prepared? For which financial year?

Hon. Zipporah Kinya: It was prepared for the financial year 2020/2021.

Mr. Boniface Mwereru Mawira: Were you a member of the County Assembly then?

Hon. Zipporah Kinya: No.

Mr. Boniface Mwereru Mawira: Was the current government in place then?

Hon. Zipporah Kinya: No.

Mr. Boniface Mwereru Mawira: Was the Governor in office as Governor of Meru then?

Hon. Zipporah Kinya: No.

Mr. Boniface Mwereru Mawira: To the best of your knowledge in which office was the Governor serving in financial year 2020/2021?

Hon. Zipporah Kinya: Sorry?

Mr. Boniface Mwereru Mawira: In which office or capacity was the Governor serving in the year financial year 2020/2021?

Hon. Zipporah Kinya: She was serving as the Women Representative.

Mr. Boniface Mwereru Mawira: So, she was not the Governor?

Hon. Zipporah Kinya: She was not the Governor.

Mr. Boniface Mwereru Mawira: This report was not in respect to the Assembly which you serve?

Hon. Zipporah Kinya: Yes.

Mr. Mwereru Mawira: Are you a first-time member of the County Assembly?

Hon. Zipporah Kinya: Yes.

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Mr. Boniface Mwereru Mawira: On ground No.10 - Employment of a Bloated Workforce, it says: "It has contributed to an excessive wage bill."

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Are those the allegations?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Turn with me to page 11 of our Motion still on ground No.10, that is page 11 of our volume, draft number 10. The evidence of that is to be found in the Auditor-General report. I beg your pardon. It is to be found in---

Just a moment, Madam Temporary Speaker.

How many staff do you say are employed in the office of the County Governor?

Hon. Zipporah Kinya: Madam Temporary Speaker, it is 111.

Mr. Boniface Mwereru Mawira: Have you said that it is 111 staff?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Okay. Have you filed any evidence before this honourable House to show that this is a bloated workforce, indeed?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Okay, where is that evidence?

Hon. Zipporah Kinya: Madam Temporary Speaker, it is on page 164 of Volume II.

Mr. Boniface Mwereru Mawira: Page 164 of Volume II. What is that document that is on page 164 of our Volume II of the County Assembly's Volume II? What is that evidence?

Hon. Zipporah Kinya: Madam Temporary Speaker, it is a list of appointed persons in the office of the governor and the appointment dates from August, 2022 to date.

Mr. Boniface Mwereru Mawira: Madam Temporary Speaker, the document from page 164 all the way to page 175, those are the staff in the office of the governor.

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: In the interest of time, you will agree with me that there are 38 cleaners in the office of the governor.

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: There are 17 information officers in the office of the governor?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Is that a bloated workforce that you are talking about?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: In the document on page 172, how many staff were employed by the former Governor in his office?

Hon. Zipporah Kinya: Madam Temporary Speaker, the former Governor employed 45.

Mr. Boniface Mwereru Mawira: Okay, that is 45 staff. Which page of your exhibit in Volume II?

Hon. Zipporah Kinya: It is on page 172 to 175.

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Mr. Boniface Mwereru Mawira: Okay. Have advisories been given by the Transition Authority (TA), the Intergovernmental Relations Technical Committee (IGRTC) and by the SRC on the limitation as to the number of staff in the office of the governor?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Where is that evidence found in your exhibit?

Hon. Zipporah Kinya: Madam Temporary Speaker, it is on page 176 of Volume

II.

Mr. Boniface Mwereru Mawira: That is an advisory by the IGRTC?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: On page 178; that is an advisory by the TA? Correct?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: On page 179, you will agree with me that some of the staff that listed there are the Political Advisor, Chief of Staff, and Personal Assistants on page 180?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Okay. Madam Temporary Speaker, turn with me to page 353 of the County Assembly's Volume 2. I believe it is a pink copy.

Madam Witness, you have spoken about illegal appointments in the office of the governor, correct?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: You have spoken about how these illegal appointments, people serving in other job groups, through the impunity of these two officers serving under the office of the governor, has hampered service delivery in the County Government of Meru, correct?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: With respect to this bloated workforce on page 353, you say that the wage bill for the Meru County Government from the Financial Year 2022/2023 to Financial Year 2023/2024 has increased by Kshs500 million, correct?

Hon. Zipporah Kinya: Madam Temporary Speaker, I can make a correction. It is Financial Year 2020/2021, and it is on the extreme right; the previous year. Then, the next column is on Financial Year 2022/2023, when the Governor took over.

Mr. Boniface Mwereru Mawira: Thank you for that correction.

So, in the Financial Year 2021/2022 and the Governor took in in the last quarter of that year.

Hon. Zipporah Kinya: She took over in the first quarter. The Governor took over in the first quarter.

Mr. Boniface Mwereru Mawira: The first quarter of which financial year?

Hon. Zipporah Kinya: The first quarter of Financial Year 2022/2023 in August.

Mr. Boniface Mwereru Mawira: So, when does the first quarter begin?

Hon. Zipporah Kinya: Madam Temporary Speaker, the first quarter begins on 1st July.

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Mr. Boniface Mwereru Mawira: When does the first quarter of the financial year end?

Hon. Zipporah Kinya: Are you asking the last financial year.

Mr. Boniface Mwereru Mawira: Which is the last date of the first quarter of a financial year?

Hon. Zipporah Kinya: The last date is the end of September. A quarter of the financial year is made up of three months.

Mr. Boniface Mwereru Mawira: Okay. So, this is the time when the Governor took over.

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Between the first quarter and the last quarter of the financial year 2022/2023, compensation of employees increased by Kshs500 million.

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: What are the actual figures from financial year 2021/2022? I want you to read that to the actual figures.

Hon. Zipporah Kinya: During the Financial Year 2021/2022, it was Kshs496 million.

Mr. Boniface Mwereru Mawira: You can just leave it at that for in the interest of time.

Hon. Zipporah Kinya: Okay, it was Kshs4.4 billion.

Mr. Boniface Mwereru Mawira: By the end of the year?

Hon. Zipporah Kinya: By the end of the year, it was Kshs4.9 billion.

Mr. Boniface Mwereru Mawira: Is this what you are saying has been contributed to by this bloated workforce?

Hon. Zipporah Kinya: Yes and other appointments.

Mr. Boniface Mwereru Mawira: I will take you back to the short list that we have seen of the 111 personal staff. On page 164 of our Volume II, on the top of that page, it says:

“Appointed persons in the office of the governor and the appointment dates from August 2022 to date.” Correct?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: You will agree that these appointments were made when the governor came or took or assumed office and in the first quarter of that financial year?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Okay. I will take you to the last allegation.

Madam witness, this allegation of a bloated workforce, you are also saying that the wage bill of the county government exceeds the 35 per cent limit that is set by law?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: At what percentage does the recurrent expenditure and excessive wage bill stand according to page 11?

Hon. Zipporah Kinya: Madam Temporary Speaker, it stands at 49 per cent.

Mr. Boniface Mwereru Mawira: Thank you. The last allegation in your Motion is paying Mr. Kiambi Christus Manyara, a public communication officer in the office of the governor his full salary and benefits while in remand. Correct?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: What evidence do you have to show that this Mr. Kiambi Manyara a staffer in the office of the governor?

Hon. Zipporah Kinya: Yes, he is a staff in the office of the governor.

Mr. Boniface Mwereru Mawira: What evidence do you have?

Hon. Zipporah Kinya: Madam Temporary Speaker, I have his pay slip and I also have an appointment letter in volume six. You can check for an Appointment Letter in volume six.

Mr. Boniface Mwereru Mawira: Madam Temporary Speaker, we have a pay slip on page---

Hon. Zipporah Kinya: Page 146 of volume two.

Mr. Boniface Mwereru Mawira: Madam Speaker, turn with me to page 146 of Volume II. That is the pay slip for Christus Manyara Kiambi.

For which month, is that pay slip?

Hon. Zipporah Kinya: The pay slip is for the month of June, 2024.

Mr. Boniface Mwereru Mawira: Where is the other pay slip?

Hon. Zipporah Kinya: Madam Temporary Speaker, the other pay slip is on page 392.

Mr. Boniface Mwereru Mawira: For which month?

Hon. Zipporah Kinya: For the month of April.

Mr. Boniface Mwereru Mawira: Page 393 is for which month?

Hon. Zipporah Kinya: Page 393 for the month of May.

Mr. Boniface Mwereru Mawira: Specifically, on page 169 of that document, beginning at page 164, who is the staffer listed as number 69 in the office of the governor?

Hon. Zipporah Kinya: Staff number 69 is Kiambi Christus Manyara, a Public Communications Officer II, recruited on 3rd October, 2023.

Mr. Boniface Mwereru Mawira: He is working in the office of the governor.

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Do you have any evidence that he was charged in court?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: What was he charged with? You say he was charged with murder.

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Whose murder was he charged with?

Hon. Zipporah Kinya: Kiambi Christus Manyara was charged with the murder of Daniel Muthiani *alias* Sniper.

Mr. Boniface Mwereru Mawira: What evidence do you have in that respect?

Hon. Zipporah Kinya: There is a charge sheet?

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Mr. Boniface Mwereru Mawira: Madam Temporary Speaker, that is on page 429 of our Volume II on the pink document. Who is the fourth accused person in that charge sheet?

Hon. Zipporah Kinya: The fourth accused in the charge sheet is Christus Manyara charged with the murder of Daniel *alias* Sniper.

Mr. Boniface Mwereru Mawira: You say he was paid? We have seen the pay slips.

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: From the charge sheet, when was he charged?

Hon. Zipporah Kinya: He was charged on 29th February, 2024.

Mr. Boniface Mwereru Mawira: You have information that he has been in remand?

Hon. Zipporah Kinya: He has been in remand.

Mr. Boniface Mwereru Mawira: Until what time?

Hon. Zipporah Kinya: To around May 2024.

Mr. Boniface Mwereru Mawira: Okay. You have his pay slip of March and immediately after 29th February. Was he paid in March?

Hon. Zipporah Kinya: Yes, he was paid in March.

Mr. Boniface Mwereru Mawira: He was paid in April, May and June?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: You say that he should not have been paid?

Hon. Zipporah Kinya: He should not have been paid.

Mr. Boniface Mwereru Mawira: Okay. You quote Section 42 of the Public Service Manual?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Where is that document in your exhibits? In the interest of time, it is on page 394 of our Volume II. The pink copy specifically, on page 419 of that document of our Volume II. The manual begins at page 394. What does that provision say?

Hon. Zipporah Kinya: The provision on page 419---

Mr. Boniface Mwereru Mawira: Of which document? The Public Service Commission Discipline Manual, correct?

Hon. Zipporah Kinya: The Public Service Discipline Commission Manual 4.3, talks about absence from duty without leave, reasonable or lawful cause.

Madam Temporary Speaker, I beg to read.

“Where an officer is absent from duty without leave, reasonable or lawful cause, the following steps shall apply;

(a) Establish the exact dates the officer was absent from duty. If not traced through personal contacts and next of kin within a period of 10 days, from the commencement of such absence, the salary and other remunerative allowances shall be stopped with effect from the date of absence and disciplinary action instituted against the officer.”

Mr. Boniface Mwereru Mawira: So, from the time he was absent, he should not have been paid?

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Hon. Zipporah Kinya: He should not have been paid a cent.

Mr. Boniface Mwereru Mawira: On the previous page, I believe it is page 418, what does it say about interdiction and suspension?

Hon. Zipporah Kinya: Page 418, 4.2.2 on Suspension, it says –

“The circumstances under which an officer may be suspended from exercise of powers and functions of the office include-

- (a) When charged with serious criminal offence in a court of law
- (b) Charged under the Anti-Corruption and Economic Crimes Act
- (c) Upon conviction of a criminal offence.

Mr. Boniface Mwereru Mawira: So, by virtue of that provision, the moment he was charged with a serious criminal offence, that is, murder, his salary ought to have been stopped, correct?

Hon. Zipporah Kinya: It should have been stopped, maybe I can correct that. It should have been stopped the moment he was absent from work, not even being charged. The moment he was absent from work, the salary ought to have been stopped. That is the standard procedure in management of public service.

Mr. Boniface Mwereru Mawira: I will refer you to our Volume 6 of the County Assembly documents on page one and two. What documents are there?

Hon. Zipporah Kinya: On page one we have an appointment letter for Sabina Gathumi.

Mr. Boniface Mwereru Mawira: What is your contention? In your Volume II, you have provided documents that evidence legal appointment that is Volume II of the exhibits in support of the impeachment Motion. What is your contention with respect to those two officers? It is on page 187 of your Volume II and specifically page 188.

Hon. Zipporah Kinya: My contention with those two documents on Volume 6 is on other irregular appointments.

Mr. Boniface Mwereru Mawira: Irregular appointments by who?

Hon. Zipporah Kinya: By the County Secretary of the County Government of Meru.

Mr. Boniface Mwereru Mawira: This is the notorious County Secretary?

Hon. Zipporah Kinya: The notorious County Secretary.

Mr. Boniface Mwereru Mawira: Who the governor refused to take action against despite the recommendation of the County Assembly, correct?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Where is the evidence of those illegal appointments?

Hon. Zipporah Kinya: The illegal appointments are on page 187 to 188.

Mr. Mwereru Boniface Mawira: Kindly explain what is illegal about the appointment of Jane Kanana? That is on page 188 of our Volume II.

Hon. Zipporah Kinya: On page 188, we have serial No.2. There is an appointment of Jane Kanana who is the Assistant Director of a department that is not known on that page. She is appointed as an Acting Director, Human Resource Management by the County Secretary. In my view, this appointment is illegal because the

Department of Human Resources has a substantive Director. This appointment means that---

Mr. Boniface Mwereru Mawira: Sorry to interrupt. Where is the evidence of the substantive Director?

Hon. Zipporah Kinya: The evidence of the substantive Director is on volume six, page three.

Mr. Boniface Mwereru Mawira: So, Mary Karimi Kimaita by that appointment letter is the substantive officer?

Hon. Zipporah Kinya: Yes. Mary Karimi Kimaita is the Substantive Director of that department.

Mr. Boniface Mwereru Mawira: Is it proper or legal for the County Secretary to appoint another person to act in a position where there is a substantive office holder?

Hon. Zipporah Kinya: It is not procedural and it also amounts to misuse of resources.

Mr. Boniface Mwereru Mawira: What does the County Government Act say with respect to the acting appointments?

Hon. Zipporah Kinya: The County Government Act, Section 69 (2) (a), stipulates that you cannot appoint or re-designate an officer to act in a position that is not vacant.

Mr. Boniface Mwereru Mawira: That is the appointment of?

Hon. Zipporah Kinya: That is the Director Human Resource.

Mr. Boniface Mwereru Mawira: Madam Temporary Speaker, that is in the County Assembly list and bundle of authorities on page 57 of County Government Act, Section 69. You can read the provision.

Hon. Zipporah Kinya: On Page 48 of Volume III of the bundle of documents. I am reading Section 69 (2). It says-

- “A public officer shall not be re-designated to own or act in a public office if-
- (a) The office is not vacant.”

Mr. Boniface Mwereru Mawira: So, if the office is not vacant, you cannot deploy another person to act in that office. Is that correct?

Hon. Zipporah Kinya: You cannot.

Mr. Boniface Mwereru Mawira: Does that apply to Sabina Gatumi as well?

Hon. Zipporah Kinya: Yes, Madam Temporary Speaker.

Mr. Boniface Mwereru Mawira: Who is Sabina Gatumi as per page one of your volume Six; the Further Assembly Documents?

Hon. Zipporah Kinya: According to my documents, Sabina Gatumi is the substantive Payroll Manager.

Mr. Boniface Mwereru Mawira: She is the substantive payroll manager. Is that correct?

Hon. Zipporah Kinya: Yes, Madam Temporary Speaker.

Mr. Boniface Mwereru Mawira: Who has been deployed to act in her office when there is a substantive office holder?

Hon. Zipporah Kinya: An officer by the name Solomon Mugeru has been deployed to act in that office, whereas Sabina Gatumi is the substantive holder of this position.

Mr. Boniface Mwereru Mawira: Madam Temporary Speaker, turn with me to page 189 of our Volume II These minutes were prepared and signed by the County Secretary for the County Human Resource Management Advisory Committee. One of the persons present is Mr. Solomon Mugeru. Is that correct?

Hon. Zipporah Kinya: Yes, Madam Temporary Speaker.

Mr. Boniface Mwereru Mawira: He is present as the acting payroll manager?

Hon. Zipporah Kinya: Yes, Madam Temporary Speaker.

Mr. Boniface Mwereru Mawira: The same is replicated at page 188?

Hon. Zipporah Kinya: Yes, Madam Temporary Speaker.

Mr. Boniface Mwereru Mawira: These are the appointments that were done by this notorious County Secretary that you said has hampered service delivery as you have even seen in the videos from the hospital and elsewhere?

Hon. Zipporah Kinya: Yes, Madam Temporary Speaker.

Mr. Boniface Mwereru Mawira: Madam Temporary Speaker, I will request that some video clips in the governor's videos be played.

The Temporary Speaker (Sen. Mumma): You may proceed.

Mr. Boniface Mwereru Mawira: That is video number seven. Foremost, Madam Witness, you told us that there is a person who was speaking, purporting to be the Secretary General of the Bus Party. Do you know him?

Hon. Zipporah Kinya: Yes, Madam Temporary Speaker.

Mr. Boniface Mwereru Mawira: Is he a Member of the County Assembly (MCA)?

Hon. Zipporah Kinya: No, Madam Temporary Speaker.

Mr. Boniface Mwereru Mawira: You said you are aware of the person who is legally recognized as the Secretary General of the Bus Party?

Hon. Zipporah Kinya: Yes, Madam Temporary Speaker.

Mr. Boniface Mwereru Mawira: What is his name?

Hon. Zipporah Kinya: Milton Mugambi Imanyara.

Mr. Boniface Mwereru Mawira: You also said during the examination-in chief by my Senior Counsel, Mr. Ndegwa Njiru, that there are some members of the Bus Party who support the governor?

Hon. Zipporah Kinya: Yes, Madam Temporary Speaker.

Mr. Boniface Mwereru Mawira: Have they been victimized by the County Assembly?

Hon. Zipporah Kinya: No, Madam Temporary Speaker.

Mr. Boniface Mwereru Mawira: Have they been removed from any committees?

Hon. Zipporah Kinya: No, Madam Temporary Speaker.

Mr. Boniface Mwereru Mawira: In fact, from your Volume VI, from Page seven to 29 on the membership of the Sectoral Committees of the Assembly, you will see that some of these persons are members of committees. Is that correct?

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- Hon. Zipporah Kinya:** Yes, Madam Temporary Speaker.
- Mr. Boniface Mwereru Mawira:** Is there any of them who is a chair of any committee, and is member of the Bus Party?
- Hon. Zipporah Kinya:** Yes, Madam Temporary Speaker.
- Mr. Boniface Mwereru Mawira:** What is his name?
- Hon. Zipporah Kinya:** One of them is my chair in the Sectoral Committee on Youth, Gender, and Social Development. She is Hon. Makena Murogocho.
- Mr. Boniface Mwereru Mawira:** She is a member of the Bus Party, who openly supports the governor?
- Hon. Zipporah Kinya:** Who supports the governor even in this impeachment.
- Mr. Boniface Mwereru Mawira:** She has not been victimized.
- Hon. Zipporah Kinya:** Yes, Madam Temporary Speaker.
- Mr. Boniface Mwereru Mawira:** Okay. So, all that gentleman appears to say in that video, that MCAs should take instructions from him, and the party is going to take action against members who appear to support the governor. Has action been taken against the said Jennifer Murogocho?
- Hon. Zipporah Kinya:** No.
- Mr. Boniface Mwereru Mawira:** She is the chairperson of the Committee on Youth, Gender, and Community Services as indicated on page 18 of your Volume VI. Is that correct?
- Hon. Zipporah Kinya:** Yes, Madam Temporary Speaker.
- Mr. Boniface Mwereru Mawira:** Who is the other member of the Bus Party?
- Hon. Zipporah Kinya:** There is Hon. Felix Kithinji Mwirigi on page 23. He is the Chairperson of the Sectoral Committee on Transport, Energy, and Public Works.
- Mr. Boniface Mwereru Mawira:** He has equally not been victimized despite being a member of the Bus Party?
- Hon. Zipporah Kinya:** Yes, Madam Temporary Speaker.
- Mr. Boniface Mwereru Mawira:** You also said that you received a letter from Cleophas Malala directing you to withdraw the Motion.
- Hon. Zipporah Kinya:** Yes, Madam Temporary Speaker.
- Mr. Boniface Mwereru Mawira:** Would you say that you were intimidated and threatened to withdraw the Motion?
- Hon. Zipporah Kinya:** Yes, it was a form of intimidation.
- Mr. Boniface Mwereru Mawira:** Did you succumb to that intimidation?
- Hon. Zipporah Kinya:** I did not.
- Mr. Boniface Mwereru Mawira:** Has the County Assembly succumbed to intimidation by that gentleman who was speaking in that video?
- Hon. Zipporah Kinya:** No, Madam Temporary Speaker.
- Mr. Boniface Mwereru Mawira:** Is that an attempt by the Governor to shift attention from the real issues?
- Hon. Zipporah Kinya:** Yes, that is a---
- Mr. Boniface Mwereru Mawira:** How is that video a response to---Madam Temporary Speaker, I request that video number 7 of the Governor's videos (VKM 7) be played.

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The Temporary Speaker (Sen. Mumma): I had already granted that permission. Can the video be played, please?

(A video clip was played)

Mr. Boniface Mwereru Mawira: I am sorry for that, Madam Temporary Speaker. It is video number 12 and 13 of the governor's videos. I am coming to this in a moment. Yes, that is the correct one.

(A video clip was played)

Madam Temporary Speaker, the video can be paused.

The Temporary Speaker (Sen. Mumma): Is the translator here? Is it interpreted?

Mr. Boniface Mwereru Mawira: The useful part that I want to cross-examine her on was played in English.

The Temporary Speaker (Sen. Mumma): Very well. So, it is the part that was in English only?

Mr. Boniface Mwereru Mawira: Yes, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): That is okay.

Mr. Boniface Mwereru Mawira: Video No.13 in the governor's videos can also be played.

The Temporary Speaker (Sen. Mumma): Video number 13.

(A video clip was played)

Mr. Boniface Mwereru Mawira: That is video No.12.

The Temporary Speaker (Sen. Mumma): Is that 12 or 13? If that is 12, then, can you play 13?

Mr. Boniface Mwereru Mawira: Yes, that one.

(A video clip was played)

The Temporary Speaker (Sen. Mumma): Can we hold on? Do we need an interpreter for that and can they come in?

Is Sen. Asige here?

We still need an interpreter for those who do not speak that language.

(The Interpreter (Mr. Duncan Gitonga) was ushered in the Chamber)

If the translator is ready, can they replay the bit that is in vernacular?

(A video clip was played)

The Interpreter (Mr. Duncan Gitonga): Bw. Spika, jina langu ni Gitonga Kabori. Nitapeana tafsiri iliyo kwenye kanda inayoendelea sasa.

Anasema amefurahi kwa sababu hakuna mtu yeyote analipa kodi katika Kaunti ya Meru, kule Maua. Na hakuna siku watarudi tena kulipa hata hizo chuma zikiuzwa skrepu.

Chuma zile ziko kule, ziuzwe zikiwa nini? Zikiwa skrepu. Tunaenda kutangaza ya kwamba hakuna mahali kwingine kodi italipwa. Tuje tukapeane pesa zetu ziende kutolewa kama hongo kwa Maseneta. Hatutafanya hivyo kwa mara nyingine.

Mr. Boniface Mwereru Mawira: Madam witness, I have played that video from the governor's record of videos, you said you know the gentleman talking in that video?

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: You said he is not the Secretary General of the Party. What would you say his role is in the Party? Does he have a role in the Party?

Hon. Zipporah Kinya: I am not aware.

Mr. Boniface Mwereru Mawira: To the best of your knowledge, you would say he is an imposter?

Hon. Zipporah Kinya: He could be.

Mr. Boniface Mwereru Mawira: Are you aware that he has a role in the Party?

The Temporary Speaker (Sen. Mumma): Counsel, hold on. The Senate Minority Leader, what is the issue?

The Senate Minority Leader (Sen. Madzayo): Asante, Bi. Spika wa Muda. Nilikua nataka kujua jina la yule alikua akiongea.

The Temporary Speaker (Sen. Mumma): Counsel, you might want to indicate the name of the gentleman in that video.

Mr. Boniface Mwereru Mawira: From the video, his name is indicated as Alhaji Mwendia.

The Temporary Speaker (Sen. Mumma): Proceed, Counsel.

Mr. Boniface Mwereru Mawira: Are the views of this gentleman representative of the views of the Assembly and is he a member of the County Assembly?

Hon. Zipporah Kinya: No, Madam Temporary Speaker.

Mr. Boniface Mwereru Mawira: Is he an elected leader in Meru?

Hon. Zipporah Kinya: He is not.

Mr. Boniface Mwereru Mawira: So, to the best of your knowledge, has any of the Members who appended signatures in support of the impeachment Motion coerced by that gentleman?

Hon. Zipporah Kinya: No.

Mr. Boniface Mwereru Mawira: A few minutes ago, you have confirmed that even three members of the Party he purports to come from support the governor.

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: They have not been victimized or removed from any of the committees of the County Assembly and some of them are even chairpersons of those committees.

Hon. Zipporah Kinya: Yes.

Mr. Boniface Mwereru Mawira: Would you say that you have been coerced or succumbed to any pressures to move the Impeachment Motion?

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Hon. Zipporah Kinya: No, Madam Temporary Speaker.

Mr. Boniface Mwereru Mawira: Did you even succumb to the intimidation of threats by Cleophas Malala to withdraw the Impeachment Motion?

Hon. Zipporah Kinya: No.

Mr. Boniface Mwereru Mawira: Are you a member of the *Mbas* Party?

Hon. Zipporah Kinya: No.

Mr. Boniface Mwereru Mawira: You were specially nominated on which Party?

Hon. Zipporah Kinya: The UDA Party.

Mr. Boniface Mwereru Mawira: Okay. Before I yield the witness for cross-examination, I ask that video No. 7 of the governor's videos be played.

The Temporary Speaker (Sen. Mumma): Play video No.7.
Counsel, you have now done three hours.

(A video clip was played)

The translator?

The Interpreter (Mr. Duncan Gitonga): Madam Temporary Speaker, my name is Gitonga Kabori. I request the video to be replayed again.

(A video clip was played)

Ninaweza sema kuwa *impeachment* ya gavana, nataka kuelezea Wameru. Hiyo *impeachment* ya gavana ni shughuli yao kwenye Bunge la Kaunti ya Meru. Hio ni kama biashara yao. Na wanaweza *kuimpeach* mara nyingi yenye imebaki.

Sasa, naweza sema mambo hiyo ya *drafting* na kupanga Wabunge, alikua mmoja wao pale. Ni yeye alikua apeleke hio *Motion* Meru. Ni yeye alikua wakupeleka hio *Motion* wa kwanza mpaka pale dakika za mwisho.

Kama ulisikiza Evans Mawira vyema akiongea, alisema alikua na hakika kabisa kwamba gavana ataenda. Kwa hivyo, alipokua na huo uhakika kabisa kwamba gavana atatolewa, akaichangamkia akaichukua ndio aweze kupewa hio heshima.

(A video clip was played)

Mr. Boniface Mwereru Mawira: What is the context of the things that you said in that video?

Hon. Zipporah Kinya: I cannot remember because it was an interview of one full hour. You can see it is just an extract of a very short part of my full interview and the video is not dated. I cannot even remember which date was that. I talked about so many governance issues.

That is why I am saying that our business is to oversight the county government of Meru. I believe the law does not limit the many times of I oversight the county government of Meru.

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Mr. Boniface Mwereru Mawira: As I yield the witness to cross-examination, in totality, from all the evidence and the testimonies and the witnesses we are going to call, of course, we shall get to that, but from all the video pieces of evidence that have been played here, and the documents that have been shown in terms of the exhibits, what do you ask the Senate to do?

Hon. Zipporah Kinya: Thank you very much. From the case that I have presented to this Senate, I believe that the gross violations by the governor of Meru have impacted negatively on service delivery in Meru County.

As such, I submit that the people of Meru are crying, service delivery in Meru is highly compromised, there is poor governance. There is no witch hunt, there is no malice, and there is no external influence on the County Assembly of Meru.

My prayer is that this House listens to the cry of the people of Meru and saves them from the agony of crying each day, in and out, from January to December.

Mr. Boniface Mwereru Mawira: Madam witness, a final question: How would you like the Senate to treat the videos from that gentleman whose name is Alhaji?

Hon. Zipporah Kinya: On the videos of the gentleman called Alhaji, I would like to say that it is really unfortunate and uncalled for. Those sentiments do not represent the feelings of the Assembly and the feelings or the view of the people of Meru.

I believe he made those remarks on his behalf. I believe the people of Meru, including the County Assembly of Meru have a lot of confidence in this House. That is why we have come again and again so that we can get a reprieve from this House. I regret those comments from Alhaji, and on behalf of the County Assembly of Meru, those comments are highly regrettable.

Mr. Boniface Mwereru Mawira: Thank you, Madam Witness. Thank you, Madam Speaker. I yield the witness for cross-examination by the governor's team.

The Temporary Speaker (Sen. Mumma): Thank you. Now, Counsel for governor, it is your turn for cross-examination.

Mr. Elisha Ongoya: Thank you, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Counsel, how much time do you think you will require for this?

Mr. Elisha Ongoya: That is why I came here. My learned colleague, Mr Mutuma, is the one cross-examining, but I came here to seek direction on the question of time.

The reason being, at the very least, it is not asking for too much to ask for equality of terms. It is the bare minimum the law expects of us. The County Assembly has done something very unique.

They have taken three hours and 10 minutes on this witness, out of the four hours allocated for the entire County Assembly case. Meaning that even if we took the remainder of their entire time, we are not even getting a third of the time they have taken with this witness.

My learned colleague, Mr. Mutuma, would have desired to have at least half the time the County Assembly took with this witness to do justice.

We are not asking for the same time. We are asking for half the time. Madam Temporary Speaker, we urge that you give direction on that question.

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Sen. Mungatana, MGH: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Sen. Mungatana?

Sen. Mungatana, MGH: As a follow-up of that point, which has also concerned me as a Senator sitting in this hearing, we had an application under the Third Schedule, Rule 10 for the County Assembly asking for three more witnesses. However, they have already spent their time. The Speaker had indicated four hours.

So, I just wanted to know whether they intend to bring the other three witnesses or what is it. We need direction because it seems like they have exhausted their time.

I submit.

The Temporary Speaker (Sen. Mumma): The Counsel for the governor, can we begin by giving you one hour for cross-examination? We can review, should you require some more time.

Mr. Elisha Ongoya: Thank you so much, Madam Temporary Speaker. My colleague, Mr. Elias Mutuma, will take on the witness in cross-examination.

Sen. Okiya Omtatah: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Yes, Sen. Omtatah?

Sen. Okiya Omtatah: Madam Temporary Speaker, as somebody who believes in human rights, I do not think it is fair for us to keep a witness standing for so many hours. You have seen even proceedings in the United States Senate, witnesses are cross-examined sitting.

I have seen this lady trying to lie on the rostrum. I do not know if it is fair to keep somebody standing for three hours and then it is under cross-examination for an hour or two hours. It will not be good for the health of that person.

The Temporary Speaker (Sen. Mumma): Sen. Omtatah, I do not think there is a rule that says she cannot sit, and she has not requested. Witness, you may sit down during cross-examination.

Thank you.

Sen. Wafula: On a point of order, Madam Temporary Speaker.

The Temporary Speaker (Sen. Mumma): Sen. Wafula, what is the issue?

Sen. Wafula: Asante, Bi. Spika wa Muda. Sisi Maseneta ni kama Majaji katika kesi hii. Ni vyema tupate mwelekeo iwapo majaji wataweza kupea mwelekeo mshukiwa ama mshtakiwa jinsi ya kukabiliana na mwenzake katika hafla ya kujitetea.

Asante.

The Temporary Speaker (Sen. Mumma): Sen. Wafula, the procedure was properly guided by the Speaker at the beginning. It is time for the governor's counsel to do cross-examination. Let us allow that to happen.

Mr. Ndegwa Njiru: Madam Temporary Speaker, may I seek your guidance on whether during the cross-examination, our time stops running or it will still eat into our time? I am most humbled.

The Temporary Speaker (Sen. Mumma): The Speaker guided very clearly. Cross-examination is part of your time.

Sen. Beth Syengo, proceed.

Sen. Beth Syengo: Madam Temporary Speaker, I would like to seek clarification from the witness whether she was a County Executive Committee Member (CECM) of the previous administration.

The Temporary Speaker (Sen. Mumma): Sen. Beth Syengo, what is the clarification?

(Sen. Orwoba spoke off record)

Sen. Orwoba, please allow me to preside over this.

Sen. Beth Syengo, what are you seeking to be clarified? We are not asking questions at this time. We have been discussing a procedural issue and now we are moving to cross-examination by the counsel for the governor. It is not yet time for Senators to ask questions.

Counsel for the governor, please proceed. Your time starts running now.

Mr. Elias Mutuma: Thank you, Madam Temporary Speaker. For record purposes, my name is Elias Mutuma, counsel for the governor in these proceedings.

Good evening, Mhe. Zipporah?

Hon. Zipporah Kinya: Good evening.

Mr. Elias Mutuma: Kindly confirm your full names and what you do at the Meru County Assembly.

Hon. Zipporah Kinya: My full name is Zipporah Kinya. I am a Member of the Meru County Assembly, specially elected by the United Democratic Alliance (UDA) and the Deputy Majority Leader.

Mr. Elias Mutuma: Indeed, you have previously served as a member of the executive in the previous regimes. That is right?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: In what capacity?

Hon. Zipporah Kinya: I served as a sub-county administrator, then later redesignated as the deputy director administration until I exited.

Mr. Elias Mutuma: When were you appointed as a subcounty administrator?

Hon. Zipporah Kinya: In 2013.

Mr. Elias Mutuma: Which governor appointed you in that position?

Hon. Zipporah Kinya: Hon. Munya.

Mr. Elias Mutuma: Did the next governor also retain you in that position? That was governor Kiraitu Murungi.

Hon. Zipporah Kinya: I was redesignated in 2018 to a deputy director of administration.

Mr. Elias Mutuma: Thank you. Briefly give us the composition of party membership in the Meru County Assembly. How many parties and Members are there in the county?

Hon. Zipporah Kinya: In Meru County Assembly, we are 69 Members. The UDA has 21 Members while the “Mbus” Party has 20 Members. I am not sure of the numbers of the remaining parties.

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Mr. Elias Mutuma: Very well. Are there any independent Members in the Assembly?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: How many?

Hon. Zipporah Kinya: I am not sure of the number, but there are Members who vied on independent tickets.

Mr. Elias Mutuma: Thank you. You have indicated to hon. Senators that this impeachment Motion has been supported by a majority of residents of Meru County and you gave a percentage. What percentage is that?

Hon. Zipporah Kinya: It was 85 per cent according to public participation.

Mr. Elias Mutuma: Have you brought the memorandum and report of that public participation?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: That is the basis for your claim that 85 per cent have supported the impeachment, right?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: I want you to have a look at that report briefly. That is Volume 5 of the Meru County Assembly's bundle of documents. I want you to go straight to page 286.

Hon. Zipporah Kinya: Yes, I am there.

Mr. Elias Mutuma: I want us to identify the anomaly in that minute. According to the title of that meeting, when did the meeting start? First of all, tell us where that public participation exercise took place. Which ward was it?

Hon. Zipporah Kinya: It was at Kionyo Social Hall.

Mr. Elias Mutuma: What time is indicated at the top as the time when the meeting began?

Hon. Zipporah Kinya: It is indicated 10.00 a.m.

Mr. Elias Mutuma: Can you look at Minute No.1? What time does the minutes show that the meeting began?

Hon. Zipporah Kinya: I can read Minute No.101. The officers of Meru County Assembly arrived at the venue for public participation at 8.00 a.m.---

Mr. Elias Mutuma: It says 10.00 a.m.

Hon. Zipporah Kinya: They arrived at 8.00 a.m.---

Mr. Elias Mutuma: Kindly wait for my question. What time does it indicate the meeting began as per Minute No.1?

Hon. Zipporah Kinya: It is 10.00 a.m.

Mr. Elias Mutuma: However, at the top, it shows that it began at 8.00 a.m., correct?

Hon. Zipporah Kinya: No. The first page says that it is officers of Meru County Assembly who arrived at 8.00 a.m.

Mr. Elias Mutuma: Correct. It is the other way round. The top shows 10.00 a.m., correct?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Is that the position?

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Hon. Zipporah Kinya: I am---

Mr. Elias Mutuma: The title of the minutes shows social hall in Abogeta West Ward of Meru County at 10.00 a.m.

Hon. Zipporah Kinya: Exactly.

Mr. Elias Mutuma: However, Minute No.1 shows that the meeting began at 8.00 a.m., correct?

Hon. Zipporah Kinya: Counsel, I dispute that. The minutes says officers of the County Assembly arrived at the venue for public participation at 8.00 a.m.

Mr. Elias Mutuma: Thank you very much.

Hon. Zipporah Kinya: Then at 10.00 a.m., the meeting was called to order.

Mr. Elias Mutuma: Can we go to page 291? Can you confirm that the same format of capturing minutes appears at page 291? Tell us where that meeting took place and how the minutes were captured.

Hon. Zipporah Kinya: The meeting took place at MCK Kithare, Njia Ward, in Meru County at 10.00 a.m.

Mr. Elias Mutuma: Minute No.1?

Hon. Zipporah Kinya: Officers of Meru County Assembly arrived at the venue for public participation at 8.00 a.m.

Mr. Elias Mutuma: Can we go to page 294 and compare that with page 297? Could you tell us whether the same format of capturing minutes appears, that officers in all these stations arrived at 8.00 a.m. and the meeting began at 10.00 a.m.?

Hon. Zipporah Kinya: On page?

Mr. Elias Mutuma: Page 294. Kindly tell us.

Hon. Zipporah Kinya: The officers of Meru County Assembly arrived at the venue for public participation at 8:30 a.m.

Mr. Elias Mutuma: Correct. Proceed to read Minute No.1.

Hon. Zipporah Kinya: The meeting was called to order by Mr. Raphael Mwenda at 10.00 a.m., and a prayer was said by Ms. Kirimi Kabubania, a member of the public.

Mr. Elias Mutuma: Compare that with what appears at pages 297 and 299. Is it the same that has been captured?

Hon. Zipporah Kinya: It reads: Officers of the County Assembly arrived at the venue for public participation at 8.00 a.m. and at 10.00 a.m. the meeting was called to order.

Mr. Elias Mutuma: Thank you. Now, let us read Minute No.1 verbatim. Of all the minutes that I have identified, read the first paragraph. For instance, let us start with page 286, Minute No.1.

Hon. Zipporah Kinya: The officers of the County Assembly arrived at the venue for public participation at 8.00 a.m., and at 10.00 a.m., the meeting was called to order---

Mr. Elias Mutuma: Proceed to read the entire paragraph.

Hon. Zipporah Kinya: "By Mr. Kevin Mwenda from the County Assembly of Meru and a prayer was said by Mr. Mutugi from Kionyo Boda Boda Association.

Mr. Elias Mutuma: Thank you. That was page 286, now read Minute 1 on page 297. Tell us whether the words used are verbatim word for word.

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Hon. Zipporah Kinya: This one says officer of the County Assembly arrived at the venue of public participation at 8.00 a.m. At 10.00 a.m., the meeting was called to order by Godfrey Mutiga and a prayer was said by Murangiri Mbogori, a member of the public.

Mr. Elias Mutuma: Thank you. Do you find those two minutes to have got semblance word for word except for the names of individuals present?

Hon. Zipporah Kinya: Not really. One is talking about 8.30 a.m. and the other at 8.00 a.m.---

Mr. Elias Mutuma: Show us the difference in terms of the content of that Minute. Pages 297 and 284.

You will confirm that except for the names, the rest of the content is---

Hon. Zipporah Kinya: It is not true, let me read again. The officers of the County Assembly arrived at the venue at 8.00. a.m., the meeting was called to order by Kevin Mwenda from the County Assembly of Meru and a prayer said by Mr. Mutugi.

Mr. Elias Mutuma: Thank you. Can you now go to the other one?

Hon. Zipporah Kinya: The other one is - the officers of the County Assembly arrived at the venue for public participation at 8.00 a.m. and at 10.00 a.m. the meeting was called to order by Godfrey Mutiga. A prayer was said by Murangiri Mbogori, a member of the public. There are two different things.

Mr. Elias Mutuma: Thank you.

Let us go to page 783 all through to page 794. You will confirm that those are handwritten memorandums. Right?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Kindly look at the handwriting. Is it not the same handwriting that is presenting those memorandums?

Hon. Zipporah Kinya: I cannot confirm.

Mr. Elias Mutuma: Apart from the names, do we have any other description of those parties such as phone and ID numbers?

Hon. Zipporah Kinya: The phone number, the name and the signature are there.

Mr. Elias Mutuma: Thank you. We can proceed on and on but we will have time to identify all these things during cross-examination.

Let us go to the incident that you talked about- that there was an attempt to torch the County Assembly of Meru. Which date was that?

Hon. Zipporah Kinya: It was on the eve of 8th. Actually, it happened at around 3.00 a.m. so---

Mr. Elias Mutuma: Madam witness, I am asking the questions.

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Kindly restrict yourself to the question.

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: What date was it?

Hon. Zipporah Kinya: The eve of 8th August, 2024.

Mr. Elias Mutuma: I am interested in the dates; which date?

Hon. Zipporah Kinya: It was on 7th August, 2024 at 3.00 a.m.

Mr. Elias Mutuma: What time was it?

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Hon. Zipporah Kinya: At 3.00 a.m. in the morning.

Mr. Elias Mutuma: Were there MCAs within the Assembly at that hour?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Does the County Assembly of Meru conduct business at 3.00 a.m.?

Hon. Zipporah Kinya: It does not.

Mr. Elias Mutuma: How would you explain their presence in public offices at 3.00 a.m.?

Hon. Zipporah Kinya: The MCAs were under threat. Personally, I was seriously threatened. I could not sleep at my home, so I sought refuge elsewhere.

Mr. Elias Mutuma: We have your answer.

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: So, were you present at 3.00 a.m. at the County Assembly?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Were there other members of the public present at the County Assembly at 3.00 a.m.?

Hon. Zipporah Kinya: I did not see them.

Mr. Elias Mutuma: You did not see them.

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: So, if I tell you that that fire emanated from people who were present at that time, would I be wrong?

Hon. Zipporah Kinya: You would be wrong.

Mr. Elias Mutuma: You have just said that there were no other members, to the best of your knowledge.

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: So, the people present at the County Assembly might have begun this fire?

Hon. Zipporah Kinya: The MCAs were inside and not outside and the fire was from outside.

Mr. Elias Mutuma: You said that the fire emanated from the Meru Law Courts, correct?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Meru Law Courts is a secured premise, is it not?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: As a County Assembly, did you try to seek any statement from the Meru Law Courts? You have just accused them of torching the County Assembly of Meru because you said the fire emanated from the Meru Law Courts. Do you want to change your statement or do you want to stick by it?

Hon. Zipporah Kinya: I stick by that statement.

Mr. Elias Mutuma: Did you seek any statement from the leadership of Meru Law Courts?

Hon. Zipporah Kinya: I did not seek any statement because I was not the investigating officer. Maybe the investigating officer did.

Mr. Elias Mutuma: You did not.

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Hon. Zipporah Kinya: Yes, the investigating officer---

Mr. Elias Mutuma: You have attributed the incident to governor's supporters. You have given us a clip showing some members of the public arraigned in court.

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Among those people who were arraigned in court, which one of them is a supporter of the governor, by name and description?

Hon. Zipporah Kinya: I only attributed it to the person working in the Office of the Governor who said---

Mr. Elias Mutuma: Thank you. My question is simple about the people who were arraigned in court. You produced material evidence in the form of video.

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Among the people arraigned in court, which one of them is a supporter of the governor, by name and description?

Hon. Zipporah Kinya: I did not allege that they are the ones. I said they are the supporters of the governor.

Mr. Elias Mutuma: You are now withdrawing that statement.

Hon. Zipporah Kinya: I am not withdrawing. I alleged that those who threatened to do it are supporters of the governor. Indeed, I did not say those that are arraigned are the ones.

Mr. Elias Mutuma: So, you are now withdrawing that statement. It is on record that governor's supporters torched the County Assembly of Meru and you brought evidence.

I am asking you, Madam Zipporah, which one of them is a supporter of the governor, by name and description?

Hon. Zipporah Kinya: I did not say those that are charged are the ones who are the supporters of the governor. I actually talked about the staff from the office of the governor who said, "*atachoma*".

Mr. Elias Mutuma: We are going to the staff that you talked about.

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: So, would you now want to confirm to the Senate that, indeed, there were no supporters of the governor charged with torching the Assembly?

Hon. Zipporah Kinya: Yes, I can confirm because I said there are some people who are charged for the offence.

Mr. Elias Mutuma: You have just said that they are not governor's supporters?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Thank you.

Hon. Zipporah Kinya: Those charged.

(Laughter)

Mr. Elias Mutuma: Thank you very much. Let us go to the specific officer from the office of the governor. What was the name of the officer?

Hon. Zipporah Kinya: I do not know the official names, but he is popularly known as Gachigi.

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Mr. Elias Mutuma: Is he among the people we saw in that clip having been charged with the offence?

Hon. Zipporah Kinya: No.

Mr. Elias Mutuma: He is not there?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: To the best of your knowledge, has this individual been charged for any offence, threats or even assault?

Hon. Zipporah Kinya: He has not been charged.

Mr. Elias Mutuma: Any report that has been made?

Hon. Zipporah Kinya: I am not aware of any.

Mr. Elias Mutuma: Madam witness, have you filed any report because you came to the Senate and alleged that he threatened Members of the County Assembly (MCAs) and he was among the people who planned to torch. Have you made any efforts to have him arrested including even filing a report?

Hon. Zipporah Kinya: An Occurance Book (OB) has been recorded.

Mr. Elias Mutuma: Where is that OB?

Hon. Zipporah Kinya: An OB was recorded by---

Mr. Elias Mutuma: I ask you specifically. Have you taken any steps? Not an OB. Have you personally taken any steps?

Hon. Zipporah Kinya: Personally, I have not, but the County Assembly has taken.

Mr. Elias Mutuma: Thank you. You also played a clip showing your home being torched.

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: What time was it?

Hon. Zipporah Kinya: It was torched on the eve of the first impeachment Motion.

Mr. Elias Mutuma: What time was it?

Hon. Zipporah Kinya: 3.48 a.m.

Mr. Elias Mutuma: And you say that was on the eve of the first impeachment Motion?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: You said the fire emanated from your neighbor's place.

Hon. Zipporah Kinya: Yes, from the neighbour across.

Mr. Elias Mutuma: You told Senators and we were listening - and the Hansard can confirm - that the fire emanated from your neighbor's home.

Hon. Zipporah Kinya: Not neighbour's home. I said the fire was from my fence.

Mr. Elias Mutuma: We were very keen Madam Speaker and we can have the Hansard read to us. You said it began from your neighbor's home.

Hon. Zipporah Kinya: I did not say the neighbor's home but from my fence. If the fire was thrown from across the fence---

Mr. Elias Mutuma: That fence is adjacent to a neighbor, is it not?

Hon. Zipporah Kinya: Yes.

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[The Temporary Speaker (Sen. Mumma) left the Chair]

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

Mr. Elias Mutuma: What is the name of your neighbor whose land is adjacent to your fence?

Hon. Zipporah Kinya: I do not even know the neighbour.

Mr. Elias Mutuma: You do not know your neighbour?

(Laughter)

Hon. Zipporah Kinya: The person bought the land recently. I am very serious on this.

(Laughter)

It is a plot that was bought recently.

Mr. Elias Mutuma: So, as recent as the eve---

Hon. Zipporah Kinya: I know the other neighbour who sold it recently. I know the previous owner of that plot. I can tell who he is.

Mr. Elias Mutuma: But you confirm there is a neighbor?

Hon. Zipporah Kinya: Yes, there is a neighbour.

Mr. Elias Mutuma: Did you---

Mr. Temporary Speaker, Sir. I see counsel trying to coach the witness. That is very unbecoming of an advocate. We should have known what counsel is trying to tell the witness. That cannot be permitted.

Mr. Ndegwa Njiru: Mr. Temporary Speaker, Sir, I am trying to control the witness for ease of clarity. I am telling her to be straight to the questions asked. The normal way of controlling a witness.

The Temporary Speaker (Sen. Abdul Haji): Very well. Witness, please only respond to the questions asked.

Hon. Zipporah Kinya: Okay.

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

Do you confirm that there is a neighbour adjacent to your fence?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: You do not know the name of your neighbour?

Hon. Zipporah Kinya: The name of the new neighbor, but I know the old neighbor who sold the plot recently. I can give the name.

Mr. Elias Mutuma: Did you go to this neighbour that you do not know and consult him or her about the source of the fire?

Hon. Zipporah Kinya: The plot is vacant. There is no home. It is not habited.

Mr. Elias Mutuma: The question is, did you visit them or try to investigate who owns that plot?

Hon. Zipporah Kinya: I tried to investigate, but I have not yet known who bought it.

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Mr. Elias Mutuma: Thank you. We saw that video was a very short clip, correct? How many seconds was that clip?

Hon. Zipporah Kinya: I am not sure.

Mr. Elias Mutuma: How many buckets of water were used to put off that fire?

Hon. Zipporah Kinya: I did not count.

Mr. Elias Mutuma: Can we watch that clip again?

Hon. Zipporah Kinya: Yes.

(A video clip was played)

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

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

Mr. Elias Mutuma: That is minutes before the fire incident, right?

Hon. Zipporah Kinya: Yes.

The Temporary Speaker (Sen. Mumma): Proceed.

Mr. Elias Mutuma: Madam Temporary Speaker, the clip is still playing.

So, by now, we have no one at the scene, right?

Hon. Zipporah Kinya: Yes, there is no one.

Mr. Elias Mutuma: There is a gentleman who walks in. Kindly tell us who that gentleman is.

Hon. Zipporah Kinya: My watchman.

Mr. Elias Mutuma: Does your watchman look panicked?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: We cannot see that.

Hon. Zipporah Kinya: To me, he is.

Mr. Elias Mutuma: Do you confirm that you were home on that day?

Hon. Zipporah Kinya: I was not at home.

Mr. Elias Mutuma: I confirm you saying that you were woken up by your worker to inform you about the incident.

Hon. Zipporah Kinya: I did not say that.

Mr. Elias Mutuma: We will confirm from the HANSARD.

Hon. Zipporah Kinya: I was not at home.

Mr. Elias Mutuma: So, you are now confirming you were not?

Hon. Zipporah Kinya: I was not at home.

Mr. Elias Mutuma: Thank you.

So, by now, there is still no one putting off the fire and the gentleman is walking easily where the fire incident is. Let us see how many buckets of water those are. That is one, three--- There is another one and the fire is off.

(Laughter)

Do you confirm that that was a petrol bomb? That is what you told us.

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Hon. Zipporah Kinya: I talked about a petrol bomb in the Assembly. Please, It is not that one, let us get the facts right.

Mr. Elias Mutuma: Madam witness, what action did you take after your house was allegedly attacked and torched?

Hon. Zipporah Kinya: I was not at home. I came back the following day and reported the incident at Nkubu Police Station.

Mr. Elias Mutuma: You annexed a copy of the OB report?

Hon. Zipporah Kinya: I mentioned it in the Hansard---

Mr. Elias Mutuma: Have you attached a copy of the OB because you knew you were going to rely on that clip? Have you attached the OB report?

Hon. Zipporah Kinya: It is in the HANSARD.

Mr. Elias Mutuma: Yes, or no? Have you attached?

Hon. Zipporah Kinya: I have not.

Mr. Elias Mutuma: So, this Senate has no way of confirming whether there was any formal report or investigations done in respect to that incident? They have no way of doing that, is it not?

Hon. Zipporah Kinya: Okay---

Mr. Elias Mutuma: It is a yes or no answer. They have no way of confirming that.

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: They have no way. I put it to you, madam witness that what we have just watched is a stage-managed incident and we can all tell that. What do you say?

Hon. Zipporah Kinya: It is not.

Mr. Elias Mutuma: Thank you. You have also talked about a number of incidents where residents of Meru have complained about the governance structure of madam governor here. You have specifically talked about an incident where there was a birth that took place near Kiguchwa Hospital. Do you remember that?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Kindly confirm the status of that hospital. What level is that hospital? What kind of a hospital is it?

Hon. Zipporah Kinya: It is a Level 3 hospital according to the complaints of the people of Kiguchwa.

Mr. Elias Mutuma: It is not "according". Madam witness, you investigated the governor and the evidence you brought here are subject to investigations. With surety, tell us what level of hospital that facility is.

Hon. Zipporah Kinya: Level 3.

Mr. Elias Mutuma: It does not have a maternity wing, does it?

Hon. Zipporah Kinya: I am not sure.

Mr. Elias Mutuma: I am putting it to you that it is a dispensary without a maternity wing. Is that the position?

Hon. Zipporah Kinya: I am not sure.

Mr. Elias Mutuma: If it does not have a maternity wing, then there was no way a woman would have gone there to give birth, is it not?

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Hon. Zipporah Kinya: I cannot confirm.

Mr. Elias Mutuma: You cannot confirm.

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: And you want this Senate to impeach the Governor based on that allegation. Is that your position?

Hon. Zipporah Kinya: It is not part of my allegation, but compromised service delivery.

Mr. Elias Mutuma: So, it is not part of your allegation?

Hon. Zipporah Kinya: It is a support of the compromised service delivery.

Mr. Elias Mutuma: Do you, however, confirm that you did not bring the Governor here to answer to those charges? That is what you have just told us.

Hon. Zipporah Kinya: I confirm it is part of this delivery of service that has been compromised through illegal appointments.

Mr. Elias Mutuma: You have also talked about 20 cows dying in a certain Ward in Meru County. Which ward was that?

Hon. Zipporah Kinya: It is Kwene Ward.

Mr. Elias Mutuma: In your impeachment Motion, kindly refer me to the charge where the Governor is being accused of that specific allegation. I do not even know the name of that allegation. In your impeachment Motion and supporting evidence, show me exactly where you have accused the Governor of that mismanagement of public resources. Is there anywhere?

Hon. Zipporah Kinya: I did that. That video was meant to correct the video that was presented as defense for the Governor, which also is not part of the allegations.

Mr. Elias Mutuma: So, you have not brought the Governor to the Senate to answer to those charges, have you?

Hon. Zipporah Kinya: Yes, because that is not part of my charges. It is only that the Governor defended herself through the wrong videos too.

Mr. Elias Mutuma: Thank you.

Hon. Zipporah Kinya: I said, the Governor---

Mr. Elias Mutuma: I have not asked you a question, kindly.

Hon. Zipporah Kinya: Okay. I am sorry.

Mr. Elias Mutuma: Let us proceed to the role you played in the last impeachment. We have watched a video of you saying that, indeed, you were part and parcel of that process. Is that still your position?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: So, the last impeachment Motion was meant to be brought by you. Is that your position?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: What happened that you did not proceed with the process to its logical conclusion?

Hon. Zipporah Kinya: The County Assembly Majority Leader, as a senior of the House, requested me to hand over the Motion to him.

Mr. Elias Mutuma: The Leader of---?

Hon. Zipporah Kinya: The County Assembly Leader of Majority, who happens to have been my boss.

Mr. Elias Mutuma: Thank you.

Now, we have watched a video of you, and I would ask VKM1 to be played from the Governor's exhibit of videos.

(A video clip was played)

Mr. Elias Mutuma: Thank you, we can pause there.

Do you confirm that you conducted that interview, but among the things you have said in that clip, there are also other things you talked about, on issues of governance?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Do you confirm that is you talking?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: The words that you have uttered are your words?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Thank you.

So, even if the Senate was to discharge the Governor this time around, you would still come back in this Senate with other charges, correct?

Hon. Zipporah Kinya: It depends. Let me confirm that if the Governor does not continue the violations, we cannot bring her back. Indeed, it is because those violations continued, even when the case was here in the Senate. That is why I said that. If the Governor stops the violations, then we are good to go as Meru County.

I cannot confirm that I will come back because maybe the Governor may decide not to violate the Constitution anymore.

Mr. Elias Mutuma: Do you have any personal vendetta against the Governor?

Hon. Zipporah Kinya: No.

Mr. Elias Mutuma: Do you think she is a mad woman?

Hon. Zipporah Kinya: No.

Mr. Elias Mutuma: Do you think she is crazy?

Hon. Zipporah Kinya: No.

Mr. Elias Mutuma: Can we watch video VKM09?

Madam Temporary Speaker, we might need an interpreter for this specific video.

The Temporary Speaker (Sen. Mumma): Serjeant-at-Arms, please usher in the interpreter.

Mr. Elias Mutuma: Before we hear from the video, what is your background training, professionally?

Hon. Zipporah Kinya: Professionally, I am a trained teacher.

Mr. Elias Mutuma: You actually served as a principal of a school, is that not so?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Do you have any training in medical health?

Hon. Zipporah Kinya: No.

Mr. Elias Mutuma: Mental health?

Hon. Zipporah Kinya: No.

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Mr. Elias Mutuma: Psychiatric training?

Hon. Zipporah Kinya: No.

Mr. Elias Mutuma: Psychology?

Hon. Zipporah Kinya: No.

Mr. Elias Mutuma: Thank you.

The Temporary Speaker (Sen. Mumma): Is the interpreter there?

*(The Interpreter (Mr. Muthengi Mpara)
was ushered into the Chamber)*

Mr. Elias Mutuma: We can now watch the video.

(A video clip was played)

The Interpreter (Mr. Muthengi Mpara): Thank you, hon. Temporary Speaker. I will go ahead and interpret the video.

Kindly, can you play back?

(A video clip was played)

In Meru County Governor, Kawira Mwangaza, do not think that you have a governor. She is mad. The Meru Governor went crazy a long time ago. Today, I would like to declare that seat vacant. So, Merus should be ready. We need to get the way forward on how to get a new governor who can lead Meru County.

Mr. Elias Mutuma: Thank you, we can stop there.

So, were you lying to the members of the public then when you said the Governor was mad, or are you lying to the Senate now when you are saying you do not think that she is mad?

Hon. Zipporah Kinya: I did not say that she is mad.

Mr. Elias Mutuma: Was that you we just watched on television?

Hon. Zipporah Kinya: It was taken out of context.

Mr. Elias Mutuma: Was that you we watched on TV?

Hon. Zipporah Kinya: It was taken out of context.

The Temporary Speaker (Sen. Mumma): Witness, please answer the question.

(Sen. (Dr.) Khalwale consulted loudly)

Sen. Khalwale, what is your point of order?

Sen. (Dr.) Khalwale: Madam Temporary Speaker, as one of my colleagues who will be making a decision based on this evidence, could you remind the witness that she is under Oath. Can she, therefore, stick to one side of whatever it is she wants to tell us?

The Temporary Speaker (Sen. Mumma): Witness, you are under oath. Please, stick to telling the truth while under that oath.

Mr. Elias Mutuma: Do you want me to remind you of the question?

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Hon. Zipporah Kinya: I remember the question.

Thank you, hon. Temporary Speaker and Members. I just said I was taken out of context.

Mr. Elias Mutuma: You confirm you uttered those words, but your evidence is that they are taken out of context?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: So, you appeared on that media house?

Hon. Zipporah Kinya: Yes, I appeared.

Mr. Elias Mutuma: What is the name of the media house?

Hon. Zipporah Kinya: Weru TV.

Mr. Elias Mutuma: Do you do know it is a national TV, popularly watched in Meru County?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Thank you.

So, were you lying? I will repeat the question. Were you lying to the people of Meru, or are you lying to Senators now when you say that you do not think the Governor is mad? You must have been lying to at least one of those people.

Hon. Zipporah Kinya: I said I was taken out of context.

Mr. Elias Mutuma: Did you explain your context in that clip?

Hon. Zipporah Kinya: Yes, I did because the interview was for one full hour.

Mr. Elias Mutuma: Thank you. We supplied you with this video on Friday. We are appearing before the Senate on Monday. Have you sought leave of this Senate to produce the full clip where the context is explained?

Hon. Zipporah Kinya: I did not seek leave because the video is even not dated. I have done so many interviews in Weru TV, and because the video is not dated, I could not even remember the date of the video.

Mr. Elias Mutuma: The date notwithstanding, have you confirmed that you appeared on that show and uttered those words?

Hon. Zipporah Kinya: Yes, I did.

Mr. Elias Mutuma: However, you have not sought leave to produce that full clip even by asking the specific TV station to provide you with one.

Hon. Zipporah Kinya: I did.

Mr. Elias Mutuma: You have not.

Hon. Zipporah Kinya: I asked Weru TV and they told me it is not possible unless I get a date for the video.

Mr. Elias Mutuma: Where is the evidence of that request?

Hon. Zipporah Kinya: I just made a call, and they could not trace the video.

Mr. Elias Mutuma: Thank you.

The mover of this Motion is yourself, Madam witness.

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: You have made it your business to impeach the governor and there is actually a direct financial benefit to you and other members of the County Assembly who impeached the governor. Is that correct?

Hon. Zipporah Kinya: No, not correct.

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Mr. Elias Mutuma: Not correct?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: We have seen you on Video VKM7 stating that it is your business to impeach the Governor. Can we watch that video?

(A video clip was played)

Mr. Elias Mutuma: Madam Temporary Speaker, we can stop there for the sake of time.

You have talked about two issues in that interview. The first one is that it is your business.

Hon. Zipporah Kinya: Mr. Speaker, Sir, it is the business of the County Assembly.

Mr. Elias Mutuma: It is your business to impeach the Governor?

Hon. Zipporah Kinya: Madam Temporary Speaker the clip says that it is the business of the Assembly not private.

Mr. Elias Mutuma: Business in Kiswahili Language is *biashara*, true or false?

Hon. Zipporah Kinya: We transact business using the County Assembly.

Mr. Elias Mutuma: Is it true or false that business is *biashara* in Kiswahili? You are versed in the Kiswahili Language. Is it true or false?

Hon. Zipporah Kinya: Madam Temporary Speaker, business is *biashara* in Kiswahili.

Mr. Elias Mutuma: You have also said that hon. Mawira took away your glory of trying to impeach the Governor and that is why you ended up with the Motion. You were involved with the drafting until hon. Mawira took the glory. Is that what you said?

Hon. Zipporah Kinya: Madam Temporary Speaker, he took the Motion from me.

Mr. Elias Mutuma: You have said that he took the Motion from you and got the glory of impeaching the Governor. Is that not what you have said?

Hon. Zipporah Kinya: I have said that---

Mr. Elias Mutuma: Do you want us to play that clip again?

Hon. Zipporah Kinya: It can be played because I said, Hon. Mawira took away the Motion from me and he told the people of Meru that he took the Motion because he was sure the governor was going---

Mr. Elias Mutuma: You want us to replay that clip again, where you are saying that he took the glory of trying to impeach the governor? Have you heard yourself say that hon. Mawira took the glory?

Hon. Zipporah Kinya: He was taking the glory; not me. You are confused since I am not the one who is taking the glory, it is Hon. Mawira.

Mr. Elias Mutuma: So, two issues, Madam witness. The Motion process in Meru County is *biashara*, and secondly, there is a glory attached to it. I want to take you there shortly. One, tell us, you have just told us that you drafted the Motion. You are not a lawyer, are you?

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The Temporary Speaker (Sen. Mumma): Hon. Members, please, allow them. Just note down; you will get time to speak to this.

Mr. Elias Mutuma: You have said you were involved in the process of drafting the Motion. Is that still your position?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: But you are not a lawyer. You could not have drafted it yourself.

Hon. Zipporah Kinya: I drafted it; even this other one. I am not a lawyer; I am a teacher and I am aware of the violations.

Mr. Elias Mutuma: Did you have any help from a lawyer to draft that Motion?

Hon. Zipporah Kinya: Of course, I got the help of a lawyer.

Mr. Elias Mutuma: For legal services at a pay? You must have paid your lawyer to do that. Do not worry. I am not asking you how much, but you must have paid your lawyer for that.

Hon. Zipporah Kinya: I did not pay anything.

Mr. Elias Mutuma: You did not pay anything?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Is that the same lawyer representing you before the Senate today?

Hon. Zipporah Kinya: No.

Mr. Elias Mutuma: Which lawyer helped you draft the Motion?

Hon. Zipporah Kinya: It is the lawyer who represented the County Assembly in the last proceedings.

Mr. Elias Mutuma: Which process you were involved in? That is what you just told us; you were involved in the previous Motion as well?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Including the drafting?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: So, the lawyer who represented you in the last impeachment process was the lawyer who drafted the Motion for you?

Hon. Zipporah Kinya: Madam Temporary Speaker, he assisted me in drafting the Motion.

Mr. Elias Mutuma: Subsequently, he represented the County Assembly.

Hon. Zipporah Kinya: Yes, because I was doing it on behalf of the County Assembly.

Mr. Elias Mutuma: Let us talk about your appearance here today.

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: You are seated here today and you are earning allowances for conducting this business, correct? True or false?

Hon. Zipporah Kinya: Not true.

Mr. Elias Mutuma: You are earning *per diems* today.

Hon. Zipporah Kinya: Not true. I have not earned any. I have not been facilitated by anybody to come here. I represented myself.

Mr. Elias Mutuma: So, if later it is confirmed that you received funds during the process of impeachment, you would have taken away public funds, without having any justification. Is that your evidence? Be very careful because it is going on record.

Hon. Zipporah Kinya: Madam Temporary Speaker, I can confirm that I have not received anything, personally.

Mr. Elias Mutuma: During the last impeachment, were other MCAs and yourself paid?

The Temporary Speaker (Sen. Mumma): Counsel, you have 13 minutes to go in your hour for cross-examination.

Mr. Elias Mutuma: Thank you, Madam Temporary Speaker.

So, it is your evidence that none of the MCAs are paid during these processes. We just want a confirmation.

Hon. Zipporah Kinya: Madam Temporary Speaker, I am not aware.

Mr. Elias Mutuma: You did not receive any funds during the impeachment process during the last three processes, you have not? Not even a single coin?

Hon. Zipporah Kinya: Madam Temporary Speaker, I cannot remember because there are so many payments that are made in the County Assembly. I cannot remember whether I was paid for coming for impeachment. What I am saying is that right now as I sit here, I have not received anything.

Mr. Elias Mutuma: You have not received anything?

Hon. Zipporah Kinya: Yes.

[The Temporary Speaker (Sen. Mumma) left the Chair]

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

Mr. Elias Mutuma: We have looked at the Auditor-General's report. Hon. Senators, I want to refer you to page 272 of the Governor's Response, Vol.1b of our exhibits. Kindly look at the Governor's response. I want you to look at the first project that has been flagged by the Auditor-General of Meru County.

We can provide for the sake of time. Are you able to look at that specific page; Page 272, 1b? What is the first project the county government of Meru has been identified as doing by the Auditor-General?

Hon. Zipporah Kinya: The first activity is the Motions for the impeachment of the Governor of Meru County, two Motions for the two impeachment attempts.

Mr. Elias Mutuma: So, the Auditor-General of Kenya flags two impeachment Motions as a project of the County Assembly of Meru, correct? That would of necessity mean, public funds were utilized. Otherwise, the Auditor-General would not have deemed it fit to include it there. Correct?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Can you tell us how much money was spent, cumulatively by the County Assembly in at least those two projects? Are you able to tell us that?

Hon. Zipporah Kinya: I am not aware. I do not know.

Mr. Elias Mutuma: You do not know.

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Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Which Committee do you serve in at the County Assembly?

Hon. Zipporah Kinya: I serve in a number of committees.

Mr. Elias Mutuma: You serve at the Committee of Public Accounts Committee (PAC)?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: That is the committee that scrutinizes the reports by the Auditor-General, correct?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Have you come across that report? It is on page 272, hon. Senators, of Volume 1B of the Governor's Exhibit. Perhaps, let us just scrutinize your role as a Member of the PAC. What is your main role?

Hon. Zipporah Kinya: My main role as a Member of the PAC is to consider reports that are committed to the Committee by the County Assembly.

Mr. Elias Mutuma: I want you to look at Article 229(8) of the Constitution, specific to your role. Are we there? Tell us your mandate as a Member of the PAC. First of all, confirm that the Chapter talks about the report of the Auditor-General, correct?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: What is your role under Article 229 (8) of the Constitution?

Hon. Zipporah Kinya: Within three months after receiving an audit report, Parliament and the County Assembly shall debate and consider the report and take appropriate action.

Mr. Elias Mutuma: Thank you. As a Member of this Committee, have you discussed the report of the Auditor-General in the discharge of your mandate under that Article?

Hon. Zipporah Kinya: The report has not been tabled by the Chairperson.

Mr. Elias Mutuma: You have relied on that report to impeach the Governor?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Meaning you have had an opportunity to look at it, is it?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: But you have not discussed?

Hon. Zipporah Kinya: We have not discussed because it has not been tabled to the Committee.

Mr. Elias Mutuma: When was that report received? When did you come across this report because you are relying on this very report to show, number one, that the Governor is using a manual payroll, is it?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Your evidence is derived from that report?

Hon. Zipporah Kinya: Yes. I cannot remember the date, but I got it immediately it was released by the Auditor-General.

Mr. Elias Mutuma: You confirm that you got it immediately?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: As a Member of this Committee, you have not taken any steps in the discharge of your mandate under that Article, have you?

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Hon. Zipporah Kinya: I am not the Chair of the Committee.

Mr. Elias Mutuma: But you are a Member of that Committee?

Hon. Zipporah Kinya: I am a Member of the Committee.

Mr. Elias Mutuma: Thank you. Let us go straight to the charges. I am looking at the charge where you want the Governor impeached for illegally revoking the appointment of one Virginia Kawira.

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Do you know Virginia Kawira?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: What position did she hold before becoming the Chief Executive Officer (CEO) of the board?

Hon. Zipporah Kinya: She was a finance officer in the Department of Finance and Economic Planning.

Mr. Elias Mutuma: She was an officer, Senior Principal Finance Officer?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Is that a position where services are still needed within Meru County?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Has there been any replacement of that position pursuant to her joining the County Public Service Board (CPSB)?

Hon. Zipporah Kinya: I cannot confirm.

Mr. Elias Mutuma: Madam witness, this is your Motion. Were you not interested in finding out whether that position was filled? The truth of the matter is that position has not been filled is it?

Hon. Zipporah Kinya: It was not a subject matter in my Motion.

Mr. Elias Mutuma: It was not?

Hon. Zipporah Kinya: It was not.

Mr. Elias Mutuma: You are aware that Virginia took leave of absence, correct?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: A person who takes leave of absence is still holding that position, is it? That position is not given to any other person. Am I right?

Hon. Zipporah Kinya: No.

Mr. Elias Mutuma: It is not?

Hon. Zipporah Kinya: It remains vacant for the contract period.

Mr. Elias Mutuma: And for how long is the contract of Virginia Kawira running?

Hon. Zipporah Kinya: Six years.

Mr. Elias Mutuma: Six years?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: So, for six years, that position will not be occupied and there will be no service delivery in that position?

Hon. Zipporah Kinya: The position can be occupied by law.

Mr. Elias Mutuma: How would it be occupied by law?

Hon. Zipporah Kinya: The appointing authority in the departments can appoint somebody on acting capacity.

Mr. Elias Mutuma: For how long can someone act? Six months, is it? The law prohibits anyone to hold a position for more than six months, correct?

Hon. Zipporah Kinya: There is deployment. Somebody can be deployed to work in that position. There is a difference between ---

Mr. Elias Mutuma: In a substantial position?

Hon. Zipporah Kinya: Yes, one can be deployed by Public Service Management laws.

Mr. Elias Mutuma: Thank you. When was Virginia appointed as the CEO of the board? Give us the specific dates.

The Temporary Speaker (Sen. Abdul Haji): Legal Counsel, you only have five minutes remaining to conclude your cross-examination.

Mr. Elias Mutuma: Thank you, Mr. Temporary Speaker, Sir. When was she appointed? When did she assume the role of the CEO?

Hon. Zipporah Kinya: Ms. Virginia was appointed on 1st September, 2023.

Mr. Elias Mutuma: 1st September, 2023?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: By that time, to the best of your knowledge, had Virginia relinquished her previous position when she was being appointed or even sought leave of absence by that date? When did she seek leave of absence to make things easier for you? It was on 2nd October, am I right?

Hon. Zipporah Kinya: Let me confirm.

Mr. Elias Mutuma: Kindly, refer to our documents, hon. Senators, at Volume 1B of the Governor's response at page eight. Do you find a letter where Virginia is now seeking leave of absence on 2nd October? Can you see it?

Hon. Zipporah Kinya: I can see it.

Mr. Elias Mutuma: What is the date of that letter?

Hon. Zipporah Kinya: 2nd October, 2020.

Mr. Elias Mutuma: When did Virginia assume the role of the CEO?

Hon. Zipporah Kinya: She was appointed on 1st September.

Mr. Elias Mutuma: 1st September?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: So then, this Virginia served in two positions for a whole month, am I right?

Hon. Zipporah Kinya: I cannot confirm, but as per the records, yes.

Mr. Elias Mutuma: As per the records, yes.

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Do you not think that is an illegality where an officer serves in two positions without any justification?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Thank you. You have relied on an advisory by the Board saying that the Governor's revocation was illegal, correct?

Hon. Zipporah Kinya: Yes.

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Mr. Elias Mutuma: When that advisory was issued, who was the secretary of the Board from where the advisory emanated?

Hon. Zipporah Kinya: Ms. Virginia was the Acting Secretary.

Mr. Elias Mutuma: So, Virginia was the Acting Secretary of the board that issued this advisory, correct?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Do you not think there is a clear conflict of interest then where the Secretary of this Board sits and takes minutes and an advisory opinion is generated from the same Board?

Hon. Zipporah Kinya: Not true. The letter of revocation was addressed to the Chairman and it is the Chairman that responded. Nonetheless, responding to a letter does not require any minutes.

Mr. Elias Mutuma: How are decisions of the board arrived at? Is it the Chairman who makes the decision or it is subject to the board's discussion, minutes and subsequent communication done?

Hon. Zipporah Kinya: I do not think there is any provision of the law that requires an advisory to be discussed in a board meeting, in my own opinion.

Mr. Elias Mutuma: But you confirm that Ms. Virginia was the Secretary of the Board by the time the advisory was issued?

Hon. Zipporah Kinya: I confirmed she was the acting Chief Executive Officer (CEO) of the Board at that time. That disqualifies the earlier question that she served in two positions. I had forgotten, she was still appointed by the same Government as the acting CEO of the County Public Service Board (CPSB). So, she was still at the CPSB.

Mr. Elias Mutuma: You have relied on a provision of the law to say that the revocation was illegal. What position was that? In your view, what ought to have been the right procedure?

Mr. Temporary Speaker, Sir, with your indulgence, I see my time is up. At the beginning, we had been promised that we would reconsider the timelines upon lapse. I kindly request to be given half an hour to complete.

The Temporary Speaker (Sen. Abdul Haji): Legal Counsels from both sides, I need to make a ruling on the time issue. This time around, we have to be very stringent to the times allocated. We had agreed that the evidence and cross-examination will take four hours. The County Assembly's side has taken three hours on one witness. We have given one hour for cross-examination. We are left with one hour.

Legal Counsel, you will advise at this point in time, how you are going to utilize the one hour you have. Are you going to bring all the three witnesses or how are you going to allocate your time? We have to come to an agreement that we shall give the one hour left to the County Assembly to give their evidence, and then allocate the Legal Counsel of the Governor one hour to cross-examine the evidence provided by the County Assembly. Legal Counsel, how will you utilize your one hour?

Mr. Ndegwa Njiru: Thank you very kindly, Mr. Temporary Speaker, Sir. In response to your question, we have two more witnesses remaining on the part of the County Assembly. That is Ms. Aurelia Murangiri Kiramana and Ms. Hyrene Kawira Kamenchu.

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Mr. Temporary Speaker Sir, you recall that there were summons that were issued in the morning pursuant to our application. Those in our humble view are the witnesses for the Senate, who then cannot be deemed to be within the hour that was allocated to us. So, to utilize effectively the one hour remaining, perhaps we will only call one more witness, and then we shall be advised on how to deal with the Senate's witnesses as and when the time allows.

I am most humbled.

The Temporary Speaker (Sen. Abdul Haji): Legal Counsel, I am advised that there are no witnesses of the Senate. Those were witnesses that were summoned by yourselves.

Mr. Ndegwa Njiru: Yes, Mr. Temporary Speaker Sir. However, even up to now, we are not aware whether or not the summons have been responded to because the communication must come from the House. That the witnesses that were summoned are within the precincts for us to be able to plan for them.

The Temporary Speaker (Sen. Abdul Haji): Legal Counsel, we will find out if they have responded to the summons. However, the summons was done as per your request.

Mr. Ndegwa Njiru: That is correct, Mr. Temporary Speaker Sir.

The Temporary Speaker (Sen. Abdul Haji): As I wait for that clarification, let us agree that you are going to utilize your one hour for one witness as you have indicated.

Mr. Ndegwa Njiru: Yes, then we shall be advised on how to proceed with the other three witnesses. Of course, stepping on the traditions of the House, where the House has previously summoned witnesses and considered them to be the witnesses of the House. I am most humbled.

The Temporary Speaker (Sen. Abdul Haji): I will get clarification on that and get back to you.

Legal Counsel for the Governor, let us agree that we will stop with this witness now and proceed to the next witness within the one hour. We will decide if they are going to bring another witness within that one hour. Once they have completed the one hour, we will give you one hour to cross-examine whatever evidence they have produced.

Mr. Elias Mutuma: Mr. Speaker Sir, this is a moral of the Motion. The bulk of the evidence and the case that is being presented before Senate is on the shoulders of this specific witness. So, we have a lot of questions for her. It would be quite unfair for our client if we do not pose all the questions that we needed. I humbly beg just for 25 minutes from the earlier minutes that are requested to conclude.

The Temporary Speaker (Sen. Abdul Haji): Legal Counsel, you can see the mood in the House. Senators do not want to go through the experience they went through the other time because of poor management of time. I can give you 20 minutes, but it is with a caveat. I give you 20 minutes, which I will take out from your one hour of the next cross-examination of the other evidence that will be brought here. Is that in order?

Mr. Elias Mutuma: That is okay. I am getting a note from my Lead Counsel.

The Temporary Speaker (Sen. Abdul Haji): Very well. You have 20 minutes on your time.

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Mr. Elias Mutuma: Madam witness, I am back to the question of CPA Virginia Kawira's removal from office.

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: You are aware that upon her removal or revocation of her employment, she went to court. Is that right?

Hon. Zipporah Kinya: Yes, Mr. Temporary Speaker, Sir.

Mr. Elias Mutuma: So, there is a matter that is active in court even as we stand before the Senate. Is that right?

Hon. Zipporah Kinya: Yes, Mr. Temporary Speaker, Sir.

Mr. Elias Mutuma: That matter is yet to be heard.

Hon. Zipporah Kinya: Yes, Mr. Temporary Speaker, Sir.

Mr. Elias Mutuma: So, should the Senators then proceed and find that the Governor violated by removing or rather revoking the appointment, would that not in any way affect the judgment that is pending before court? It would.

Hon. Zipporah Kinya: It would not simply because our contention is not on the dispute between the employee and the employer that is in court. Our contention according to the Motion is about violations. It is usurpation of the powers of the County Assembly of Meru contrary to Section---

Mr. Elias Mutuma: Thank you. What is the dispute before court? How is it different from what the Senate is invited to listen to today? Is it not the same question of the Governor usurping the role and illegally revoking? Is that not the case that CPA Virginia Kawira has brought before the court?

Hon. Zipporah Kinya: CPA. Virginia Kawira is contesting a dismissal, and this Motion is contesting the usurpation of the powers of the County Assembly.

Mr. Elias Mutuma: The charges you brought before the Senate are illegally revoking. Is that not dismissing her from office and terminating her employment?

Hon. Zipporah Kinya: Yes, without a vote of not less than 75 per cent of all Members of the County Assembly.

Mr. Elias Mutuma: Is that not the same dispute before a competent court of law?

Hon. Zipporah Kinya: The contest in the court of law is a dispute between an employee and the employer. This dispute---

Mr. Elias Mutuma: Sorry, you have answered the question. Who are the parties in that case? The Governor is a party in that case, is she not?

Hon. Zipporah Kinya: The Governor and Madam Virginia Kawira.

Mr. Elias Mutuma: The Governor is a party?

Hon. Zipporah Kinya: Yes, Mr. Temporary Speaker, Sir.

Mr. Elias Mutuma: The Governor is still a party in this proceedings? **Hon. Zipporah Kinya:** Yes, Mr. Temporary Speaker, Sir.

Mr. Elias Mutuma: Thank you. Let us proceed to the issue of illegally dismissing Dr. Ntoiti, Paul Mwaki and others. I want you to go straight to your impeachment Motion now, and read the charges very quickly. Read the specific charge.

Hon. Zipporah Kinya: The specific charge reads-

“Illegally dismissing Dr Ntoiti, the CEO of County Revenue Board; Paul Mwaki, the CEO of Liquor Board; Kenneth Kimathi Mbae, the Managing Director of

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Meru Microfinance Corporation and Joseph Kithure Mberia, the CEO, MEWASS, in the usurpation of the powers of the appointing authorities---

Mr. Elias Mutuma: Thank you. You can stop there. Can we go to the Motion that was brought before the Senate last year? I am looking at volume two of the Governor's supplementary list of documents at page 90. Can you read specifically?

Hon. Zipporah Kinya: I do not have it.

Mr. Elias Mutuma: You can borrow mine. That is the Motion that was brought before the Senate last year in November, isn't it?

Hon. Zipporah Kinya: Yes, Mr. Temporary Speaker, Sir.

Mr. Elias Mutuma: Can you read the last charge that appears at the bottom of that page?

Hon. Zipporah Kinya: "Sending Dr. Ntoiti, CEO of the County Revenue Board, Paul Mwaki, CEO of the Liquor Board, Kenneth Kimathi Mbae, Managing Director of the Meru Microfinance Corporation and Joseph KithureMbae, CEO of MEWASS on indefinite compulsory leave with full salary and benefits in the usurpation of powers of the appointing authority."

Mr. Elias Mutuma: What was the Senate's findings in respect to that charge that was brought last year?

The Temporary Speaker (Sen. Abdul Haji): Legal Counsel, if I may interrupt. Please, stop the time.

Just to inform the legal team of the County Assembly that the witnesses that were summoned by the Senate are here and they are available. Do you wish to reconsider your utilization of your one hour?

Mr. Ndegwa Njiru: Mr. Temporary Speaker, Sir, with utmost respect to the House, it is our humble prayer that noting the content the witnesses will be submitting on, the House may find it in its favour to expand our time with maybe 30 minutes.

I also understand that the Senators have been sitting here and they have other commitments and sit in other committees. We understand and appreciate the work that they do, but, again, we also have a case to deal with. We shall try to work within the one hour and if the circumstances do not permit, we will still come and seek leave to have the same expanded.

The Temporary Speaker (Sen. Abdul Haji): Before we go into the discussion of your time allocated to you, in terms of calling your witnesses, are you still going to call three witnesses?

Mr. Ndegwa Njiru: We may abandon two of the first witnesses. We will call two of the witnesses in the first list and then we shall go to the witnesses who have been summoned. We shall forfeit one witness in the earlier list.

The Temporary Speaker (Sen. Abdul Haji): So, you will still be calling only four witnesses. How will you do that in one hour?

Mr. Ndegwa Njiru: Mr. Temporary Speaker, Sir, at the closing, we will also take consideration and look at the evidence and their statements. We might take two, but let me just consider their statements.

The Temporary Speaker (Sen. Abdul Haji): Okay. While you think about it and taking into consideration that you used three hours on one witness, I will still stick on the

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one hour allocated to you, and you will let us know which witnesses you will be calling within that one hour.

Mr. Ndegwa Njiru: We are guided by your wisdom.

The Temporary Speaker (Sen. Abdul Haji): Very well. You may continue.

Mr. Elias Mutuma: Thank you. I would like to know how many minutes I still have for me to know how to restructure my questioning.

The Temporary Speaker (Sen. Abdul Haji): Legal Counsel, you have 12 minutes remaining.

Before you proceed, what is your point of order, Sen. (Dr.) Khalwale?

Sen. (Dr.) Khalwale: Mr. Temporary Speaker, Sir, I am very disturbed. I appreciate you have guided the House on the application by the Counsel for the Assembly for more time. I would like to appeal to you because we want to deal with the issue of Meru conclusively.

If due to Standing Order No.1, you can kindly allow all the witnesses of the County Assembly to come, I want us to deal with this issue of Meru, once and for all. We shall not die if you give them one more extra hour. We will be here. We want to hear the truth. We cannot stand the lies that are coming in this House all the time.

(Applause)

Mr. Temporary Speaker, Sir, I thank you.

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

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. Mandago?

Sen. Mandago: It is under Standing Order No.105. Did I hear the Senator for Kakamega say that he is not standing the lies? What evidence does he have to adduce to this House that what we are listening to are lies? Can he provide and table in the House?

The Temporary Speaker (Sen. Abdul Haji): Sen. Gloria, what is your point of order and that is the last point of order?

Sen. Gloria Orwoba: Mr. Temporary Speaker, Sir, we have been sitting here for long and I would like to appeal to you, as you consider Sen. (Dr.) Khalwale's request, I do not think that all of us sitting here can wait until all the five or six witnesses are done for us to come back and seek clarification from the first witness.

This is because, as per what has been scheduled, the clarifications have been put at the end. This means that the hon. MCA who is seated has to wait until the very end because we have some clarifications, which we can only seek after all the witnesses have given evidence.

If you can allow that for every witness, even if you will give 15 or 10 minutes, we seek clarification and we are done with the witness, and the witness can leave. I thank you.

The Temporary Speaker (Sen. Abdul Haji): Senator for Embu, I clearly said that Sen. Gloria was the last point of order. Let me make a ruling on this issue.

Sen. (Dr.) Boni Khalwale, as much as I appreciate your concerns, and I will let it slide - your use of words; it could have just been a slip of the tongue. As much as we

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want to get to the bottom of this, we also have to deal with time management. The ruling of the Speaker was very clear when he set down the rules and procedure of this sitting.

We do not want to find ourselves sitting here up to ungodly hours because we were not able to manage our time properly. My concern is to manage time, and if we see it fit to increase any more time, we shall make that decision at the time when it arises.

So, hon. Senators, we shall proceed as agreed. Legal Counsel, you still have 12 minutes, proceed and conclude.

Mr. Elias Mutuma: Thank you, Mr. Temporary Speaker, Sir. Madam witness, you have accused the Governor of failing to implement the Assembly's recommendation. I would like you to look at your documents and show me evidence where the Governor was specifically called upon and communicated to, to act on those implementations.

The letter you have adduced to, is it addressed to the Governor? Let us go to Page 144 of your bundle of documents. Is that letter addressed to the Governor, yes or no, and what is the date of the letter? It is a yes or no question, we have no time.

Hon. Zipporah Kinya: 14th December, 2023.

Mr. Elias Mutuma: That letter is not addressed to the Governor, is it?

Hon. Zipporah Kinya: It is not.

Mr. Elias Mutuma: That letter is not copied to the Governor?

Hon. Zipporah Kinya: It is not.

Mr. Elias Mutuma: So, there is no evidence of any communication, direct from the Assembly to the Governor?

Hon. Zipporah Kinya: Yes, it is there.

Mr. Elias Mutuma: Where is evidence of the County Assembly writing to the Governor, specifically and not to any other person?

Hon. Zipporah Kinya: The County Assembly communicates with the Governor through the County Secretary. That one I can confirm.

Mr. Elias Mutuma: Is that letter addressed to the County Secretary?

Hon. Zipporah Kinya: The letter is addressed to--- I want to explain. This is a petition---

Mr. Elias Mutuma: We have no time for explanation.

Hon. Zipporah Kinya: For clarity purposes, this is a petition.

Mr. Elias Mutuma: The answer I am looking for--- Madam witness, I have no time.

Hon. Zipporah Kinya: Mr. Temporary Speaker, Sir, please, protect me.

Mr. Elias Mutuma: I have no time and I have a right to ask for a yes or no answer.

The Temporary Speaker (Sen. Abdul Haji): Witness?

Hon. Zipporah Kinya: Yes.

The Temporary Speaker (Sen. Abdul Haji): Please, answer questions as asked by the Legal Counsel.

Mr. Elias Mutuma: That letter is not addressed to the County Secretary, is it?

Hon. Zipporah Kinya: It is not.

Mr. Elias Mutuma: It is not addressed to the Governor, is it?

Hon. Zipporah Kinya: It is not.

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Mr. Elias Mutuma: It is not copied to the Governor, is it?

Hon. Zipporah Kinya: It is not.

Mr. Elias Mutuma: The Chief of Staff was the subject of the recommendation, is it not so?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: It is for that reason that it is copied. The County Secretary was the subject of the recommendation. It is for that reason that it is copied. Are so many other people who are involved in the process? Is that not the position?

Hon. Zipporah Kinya: No.

Mr. Elias Mutuma: Was there any follow-up with the Governor as to why she did not action the recommendations? There was no other letter specific to the Governor.

Hon. Zipporah Kinya: There was no follow-up.

Mr. Elias Mutuma: So, if the letter was addressed to the person who is supposed to be removed, do you think it was logical for you to expect that they would forward it to the boss for acting on?

Hon. Zipporah Kinya: I cannot confirm.

Mr. Elias Mutuma: Thank you. Let us go to the issue of illegally dismissing Dr. Ntoiti Mwaki and others. You read the previous Motion and compared it to the current one.

Hon. Zipporah Kinya: I did not read, but I have seen it.

Mr. Elias Mutuma: When you came to the Senate last year and said you were part of that Motion, you did not accuse the Governor of dismissing. You accused the Governor of doing what?

Hon. Zipporah Kinya: Compulsory leave.

Mr. Elias Mutuma: That is what you told the Senate?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Did the Governor subsequently dismiss these individuals? First of all, confirm they are the same individuals we are talking about.

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Is there any other action taken by the Governor after we left the Senate concerning those individuals?

Hon. Zipporah Kinya: The compulsory leave---

Mr. Elias Mutuma: Is there any other action that was taken by the Governor after we came to the Senate? Yes or no?

Hon. Zipporah Kinya: I am not aware.

Mr. Elias Mutuma: The Governor has not done anything else concerning those individuals apart from what had transpired previously. Is it not so?

Hon. Zipporah Kinya: I am not aware.

Mr. Elias Mutuma: So, the course of action had transpired by the time you were in the Senate last time?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: What was the Senate's resolution in respect to that matter? The Senate found that the Governor was not guilty, is it not so?

Hon. Zipporah Kinya: Yes.

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Mr. Elias Mutuma: Thank you. Let us go to the last issue of a bloated workforce. I want you to read the first five and the last five names in the list you have attached in your current Motion of Impeachment, where you are alleging that the Governor has employed a bloated workforce.

Go to Page 164 of volume two of your document. I want you to read the first five and the last five names. First of all, confirm, how many people are we talking about in that list? It is 111, am I right?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Please, read the first five and the last five names.

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: The first five names, kindly.

Hon. Zipporah Kinya: I read them?

Mr. Elias Mutuma: Yes, read them.

Hon. Zipporah Kinya: The first name is Gitonga Harrison Gatobu.

Mr. Elias Mutuma: Second name?

Hon. Zipporah Kinya: Linda Gakii Kiome.

Mr. Elias Mutuma: Third name?

Hon. Zipporah Kinya: Lawrence Mutwiri Mburuki.

Mr. Elias Mutuma: Fourth name?

Hon. Zipporah Kinya: Gideon Kimathi.

Mr. Elias Mutuma: Fifth name?

Hon. Zipporah Kinya: Mutuma Hillary Mugambi.

Mr. Elias Mutuma: Let us go to the last five names on page 171. Read the last five names. I could make you read the entire list, but for the demonstration of my point, let us just say---

Hon. Zipporah Kinya: Jamal , Hassan Kaimenyi, Francis Mutembei Mwirigi and Martin Kaimenyi Kinoti.

Mr. Elias Mutuma: Thank you. Turn to Page 140 of volume two. Confirm that this is the list that you supplied the Senate last year concerning the same charge. I am talking about Page 140 of volume two of the Governor's response.

I am looking at the first five and the last five names. We are talking about how many individuals on that list that you brought last year? That is a Motion that you participated in. The number is 111, am I right?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Look at the first five names. It is on Page 140 of Volume 2 of the Governor's response.

Hon. Zipporah Kinya: Gitonga Harrison Gatobu.

Mr. Elias Mutuma: The same individual who appear in the other list. Read the second one. You do not have to flip the page because it is the same place you are reading. What is the second name?

Hon. Senators, that is page 140 of volume two of the Governor's response.

Hon. Zipporah Kinya: I have confirmed that they are the same.

Mr. Elias Mutuma: They are the same names, right? Should I make you read the entire list or you can confirm that they are the same names? You can confirm that it is the same list of 111 individuals that you brought to the Senate last year?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: Madam witness, when you tell the Senate to add you time to argue your case, do you not think you are taking Senators for a ride when you bring the same charge you brought last year and it was dismissed? Do you not think you have no respect for the Senators? It is a question I am posing to you. Kindly answer.

Hon. Zipporah Kinya: No.

Mr. Elias Mutuma: You confirm it is the same charge with the same list?

Hon. Zipporah Kinya: The violation is the same.

Mr. Elias Mutuma: The same list?

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: What was the Senator's verdict last year in respect to that same charge? What was the Senate's verdict concerning the list you brought before it last year, accusing the Governor of having a bloated workforce? We sat here for hours. What was the Senate's verdict?

Hon. Zipporah Kinya: The Senate's verdict was that it was not substantiated.

Mr. Elias Mutuma: Okay. So, when you were seen in that video saying that you will bring six or seven impeachment Motions, does that not confirm malice on your part when you keep on bringing the same issues before the Senators for arbitration?

Hon. Zipporah Kinya: It does not.

Mr. Elias Mutuma: How so?

Hon. Zipporah Kinya: It does not.

Mr. Elias Mutuma: Finally, let me bring up the issue of the death of "Sniper". You have accused the Governor of gross misconduct for stating that there was more than Kshs86 million that was collected through a specific Paybill.

Hon. Zipporah Kinya: Yes.

Mr. Elias Mutuma: I want us to watch that clip where the Governor is allegedly stating that Kshs86 million was raised. It is in the County Assembly's videos. Maybe I should ask you directly. What is the evidence that you brought before the Senate?

Hon. Zipporah Kinya: I brought a bank statement.

Mr. Elias Mutuma: I want you to show Senators where the Governor alleged that Kshs86 million had been raised. Where is that evidence?

Hon. Zipporah Kinya: It is in the video.

Mr. Elias Mutuma: Which video?

Hon. Zipporah Kinya: The video that we presented.

Mr. Elias Mutuma: The number of the video? We want to play it now. Can we watch Video Clip 1B?

(A video clip was played)

The Temporary Speaker (Sen. Abdul Haji): Legal Counsel, can you stop that clip? Where is the translator? We need a translator.

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Mr. Elias Mutuma: We can also have the time frozen for just a moment to allow this.

The Temporary Speaker (Sen. Abdul Haji): Serjeant-at-Arms, please, get the translator.

Mr. Elias Mutuma: The interpreter is here. We can have the video clip played now.

The Temporary Speaker (Sen. Abdul Haji): Kindly play the video.

(A Video clip was played)

The Interpreter (Mr. Duncan Gitonga): My names are Gitonga Kaburi from Kenya Broadcasting Corporation (KBC), Mwago FM. Mheshimiwa Spika wa muda na waheshimiwa katika Bunge la Seneti naomba turudie ndiposa nianze.

(A Video clip was played)

Lingine ambalo ninalo kwa viongozi waliokuwa wanauzungusha ule mwili wa Sniper. Wale waliokuwa katikati ya biashara hii, pesa waliokusanya hadi leo ni zaidi ya Shilingi 86 milioni. Tunataka bibi ya Sniper ajengewe nyumba ya ghorofa na pia anunuliwe gari aina ya Prado---

Mr. Elias Mutuma: We can stop there. Madam witness, you have accused the Governor of saying that Kshs86 million was raised through a specific paybill. The Governor has not mentioned the paybill in that video. Has she?

Hon. Zipporah Kinya: The video is not complete.

Mr. Elias Mutuma: You had an opportunity to watch it, which we do not have. Has the Governor mentioned the paybill? Yes or no? We will still have a chance to play it. I just wanted to go on record. Did she mention the specific paybill and account?

Hon. Zipporah Kinya: She did not mention the specific one in that video that has been played. However, in the whole video she will mention.

Mr. Elias Mutuma: That is your video correct? It is your evidence.

Hon. Zipporah Kinya: Mr. Temporary Speaker, Sir, it is my video, but I believe it is not complete. The video goes on---

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

Mr. Elias Mutuma: Mr. Temporary Speaker, Sir, allow me five minutes to conclude on this issue.

Hon. Zipporah Kinya: That is just an abstract of the video---

The Temporary Speaker (Sen. Abdul Haji): Witness. One moment.

Hon. Zipporah Kinya: Yes, Mr. Temporary Speaker, Sir.

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

Mr. Elias Mutuma: Mr. Temporary Speaker, Sir, I beg for five minutes to conclude on this line of questioning.

The Temporary Speaker (Sen. Abdul Haji): I can only allow you to conclude on your questioning, then you stop there.

Mr. Elias Mutuma: Madam witness, apart from that paybill, were there funds raised through other modes? You have seen a Facebook post contained at Page 168 of our Volume 1B. Does it provide for a different paybill and account? Have you looked at it and confirmed that those accounts are different?

Hon. Zipporah Kinya: Mr. Temporary Speaker, Sir, I have. I can confirm that the paybill---

Mr. Elias Mutuma: It is a simple question. Have you confirmed that there is a different account annexed at Page 168?

Hon. Zipporah Kinya: Mr. Temporary Speaker, Sir, it is not a different account.

Mr. Elias Mutuma: It is your evidence; it is the same account.

Hon. Zipporah Kinya: Mr. Temporary Speaker, Sir, it is not the same.

Mr. Elias Mutuma: It is not the same account?

Hon. Zipporah Kinya: From the defense evidence on the Facebook post, it is the same account as the one I have produced. They are not two accounts.

Mr. Elias Mutuma: So, you confirm if Senators look at page 168, the accounts therein is the same as the one you have provided in evidence.

Hon. Zipporah Kinya: Yes, Mr. Temporary Speaker, Sir. I confirm that---

Mr. Elias Mutuma: We will leave that for us. There was also cash that was---

The Temporary Speaker (Sen. Abdul Haji): Counsel, I will have to stop you there. You had one last question.

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

The Temporary Speaker (Sen. Abdul Haji): You are welcome. I think we can be---

Hon. Zipporah Kinya: Mr. Temporary Speaker, Sir, just a clarification.

The Temporary Speaker (Sen. Abdul Haji): The Counsel is already off. I do not think you can make a clarification.

Mr. Ndegwa Njiru: Mr. Temporary Speaker, Sir, the next part will be taken by Mr. Muriuki and Mr. Mwangi for re-examination. However, before they do so, kindly confirm---

The Temporary Speaker (Sen. Abdul Haji): Counsel, let me guide you. As you start, know that your one hour starts when you start speaking.

Mr. Ndegwa Njiru: Most obliged. We will only take about seven minutes in this session.

The Temporary Speaker (Sen. Abdul Haji): It is up to you how many minutes you are going to take, but just know that your time has started.

Mr. Ndegwa Njiru: Kindly confirm that the use of the term business refers to the functions of the County Assembly.

Hon. Zipporah Kinya: I confirm.

Mr. Ndegwa Njiru: Kindly confirm that this House has a committee called the House Business Committee (HBC)?

Hon. Zipporah Kinya: I confirm.

Mr. Ndegwa Njiru: And that the term use of the word 'business' is not in the normal terms, as Counsel Elias Mutuma, may want it to appear as a transactional aspect.

Hon. Zipporah Kinya: Absolutely true.

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Mr. Ndegwa Njiru: Further, confirm that you have not drawn any financial benefits from this process.

Hon. Zipporah Kinya: I have not.

Mr. Ndegwa Njiru: And that the auditor's report that was shown to you is indicated as part and parcel of the business and functions of the county.

Hon. Zipporah Kinya: Yes, I confirm.

Mr. Ndegwa Njiru: That impeachment is one of the functions of the County.

Hon. Zipporah Kinya: Indeed, it is.

Mr. Ndegwa Njiru: Thank you. Counsel Muriuki.

The Temporary Speaker (Sen. Abdul Haji): Thank you. Yes, proceed Counsel.

Mr. Elisha Ongoya: Mr. Temporary Speaker, Sir, I had an objection. The challenge is that in normal processes, I would have my own microphone to raise my objection, but now I do not. Counsel has asked questions that do not pass for re-examination questions. Counsel has been suggesting answers for all the questions to the witness and seeking the witness confirms those answers.

That is the height of a failure of a trial process, at least, as we are trained and as we know it. That has already gone on record. I do not know what the Senate will do about it, but moving forward, I plead that you ask the Counsel to stick true to the rules of examination of their own witness, which cannot be in the form of suggesting answers to the witness and having the witness confirm those answers.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Counsel. That is well noted. I will advise Counsel not to coach or guide the witnesses as we go forward. However, it is for the Senators to decide on their own on how they will take that questioning.

Mr. Ndegwa Njiru: Mr. Temporary Speaker, Sir, I rephrase those questions. When you speak about business in your video, what exactly did you mean?

Hon. Zipporah Kinya: Mr. Temporary Speaker, Sir, I meant that in the County Assembly, we usually have our Order Paper which denotes the order of business. I meant that our oversight role is supreme and we shall continue with it.

Mr. Ndegwa Njiru: Is the use of the term 'business' a parliamentary term?

Hon. Zipporah Kinya: In terms of orderliness, of order of business.

Mr. Ndegwa Njiru: Did the County Assembly or any person who supported the Motion draw any financial benefit from the process?

Hon. Zipporah Kinya: I am not aware of any.

Mr. Ndegwa Njiru: Have you drawn any benefit yourself?

Hon. Zipporah Kinya: I can confirm, none.

Mr. Ndegwa Njiru: Finally, as I yield to my colleagues, you alleged evidence that the Auditor General (AG) has noted that the two impeachment Motions were indicated as having attracted financial obligations on the part of the County Assembly.

Hon. Zipporah Kinya: Yes. It is a function of the Meru County Assembly.

Mr. Ndegwa Njiru: Thank you. I yield to Mr. Muriuki.

Mr. Eric Muriuki: Mr. Temporary Speaker, Sir and hon. Senators, my name is Eric Muriuki. I will take about four or five minutes to re-examine this witness then I shall yield to my learned colleagues.

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Madam witness, did you prepare the minutes for the public participation?

Hon. Zipporah Kinya: Mr. Temporary Speaker, Sir, the minutes for public participation were prepared by the County Assembly staff. Indeed, that was a function of the Assembly and was carried out by them as such, not I.

Mr. Eric Muriuki: Are you a handwriting expert?

Hon. Zipporah Kinya: I am not.

Mr. Eric Muriuki: Now, why did you find it necessary to spend the night at the Assembly on the eve of moving the Motion?

Hon. Zipporah Kinya: Because of the security threats.

Mr. Eric Muriuki: Why did you attribute the torching of the Assembly to the supporters of the Governor?

Hon. Zipporah Kinya: Mr. Temporary Speaker, Sir, I stated that there was a member of staff who threatened to 'choma'. We felt very threatened.

Mr. Eric Muriuki: Thank you. You are asked whether you have taken steps personally to have this person arrested. Are you an investigator?

Hon. Zipporah Kinya: I am not.

Mr. Eric Muriuki: Who is supposed to investigate and take the appropriate steps?

Hon. Zipporah Kinya: The relevant bodies that are charged with the mandate of investigating.

Mr. Eric Muriuki: Is this House investigating the issue of attempted arson on your home?

Hon. Zipporah Kinya: No.

Mr. Eric Muriuki: What is it investigating?

Hon. Zipporah Kinya: It is investigating gross violations of the Constitution and other laws and other grounds that I have alleged that the Governor of Meru has violated.

Mr. Eric Muriuki: Why did it become necessary for you to play the video of the cows that died in that village?

Hon. Zipporah Kinya: I played that video because the Governor's defense gave a small abstract of that video, which was meant to mislead this House. So, I played that clip to give the exact oversight issues I was raising during that media interview.

Mr. Eric Muriuki: Thank you, very much.

Now, how are the videos that were played here for you an answer to Count one on violation of the Constitution and other laws by the Governor?

Hon. Zipporah Kinya: None.

Mr. Eric Muriuki: How are those videos a response to the allegation on illegally dismissing CPA Virginia Kawira?

Hon. Zipporah Kinya: None.

Mr. Eric Muriuki: How are those videos an answer to the allegation on refusing to implement recommendations of the Assembly?

Hon. Zipporah Kinya: There is none.

Mr. Eric Muriuki: How are they an answer to the allegation on abuse of office?

Hon. Zipporah Kinya: None of them.

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Mr. Eric Muriuki: Are you aware of the provisions of the County Government's Act, Section 33(8)?

Hon. Zipporah Kinya: Yes.

Mr. Eric Muriuki: What does it say? Kindly, Counsel, assist in retrieving the Section.

Witness, let them help you to retrieve the Section, just listen to my question

Hon. Zipporah Kinya: Yes.

Mr. Eric Muriuki: Does Article 229(8) stop you or any other MCA from moving an impeachment Motion against the Governor?

Hon. Zipporah Kinya: It does not.

Mr. Eric Muriuki: Does the Assembly sit as an appellate chamber for the findings of the Auditor General?

Hon. Zipporah Kinya: No.

Mr. Eric Muriuki: What is your specific complaint as regards the illegal revocation of CPA Virginia Kawira's appointment?

Hon. Zipporah Kinya: My specific complaint is that the revocation of Virginia Kawira was done without a vote of not less than 75 per cent of all the MCAs and in usurpation of the powers of the County Assembly.

Mr. Eric Muriuki: Specifically, what provision of the law are you complaining of being breached?

Hon. Zipporah Kinya: Sections 58(4) and 5 and Section 59(a) of the County Government's Act.

Mr. Eric Muriuki: Thank you. I want you to read Section 33(8) of the County Government's Act.

Hon. Zipporah Kinya: Yes.

Mr. Eric Muriuki: Kindly read the Section.

Hon. Zipporah Kinya: Section 33(8) of the County Government Act provides that-

“If a vote in the Senate fails to result in the removal of the governor, the Speaker of the Senate shall notify the Speaker of the concerned county assembly accordingly, and the Motion by the assembly for the removal of the governor on the same charges may be reintroduced to the Senate on the expiry of three months from the date of such votes”.

Mr. Eric Muriuki: Have three months passed since the last impeachment attempt?

Hon. Zipporah Kinya: More than three months.

Mr. Eric Muriuki: That notwithstanding, have you reintroduced any charges that were in the previous impeachment Motions?

Hon. Zipporah Kinya: I have not.

Mr. Eric Muriuki: Thank you, Mr. Temporary Speaker, Sir. I will yield to my colleague, Mr. Mwangi.

Mr. Mwangi Ndegwa: I am informed that we have sufficiently covered our re-exam, so we shall move on to our next witness.

Mr. Ndegwa Njiru: Thank you, Mr. Temporary Speaker, Sir and Counsel.

With your kind permission, we will call Hyrene Kawira as our next witness.

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The Temporary Speaker (Sen. Abdul Haji): Thank you, witness, you may take leave.

Serjeant-at-Arms, please, show in the next witness.

*(The Witness for Meru County Assembly (Ms. Hyrene Kawira)
was ushered into the Chamber)*

Counsel and Clerk, just give us a few minutes as we do some housekeeping.

(Interruption of hearings)

Please call the Order to be moved now?

Counsel and witness, please, take a seat as we conclude on this.

Senate Majority Leader, proceed.

PAPER LAID

JOINT REPORT ON THE APPROVAL HEARING FOR NOMINEE OF INSPECTOR-GENERAL OF THE NATIONAL POLICE SERVICE

The Senate Majority Leader (Sen. Cheruiyot): Mr. Temporary Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Monday, 19th August, 2024-

Joint report of the Departmental Committee on Administration and Internal Affairs of the National Assembly and the Standing Committee on National Security, Defense and Foreign Relations of the Senate on the approval hearing for the nominee to the position of Inspector General of National Police Service.

Mr. Temporary Speaker, Sir, I beg to lay.

*(The Senate Majority Leader (Sen. Cheruiyot)
laid the document on the Table)*

Next Order.

The Senate Majority Leader, proceed.

NOTICE OF MOTION

ADOPTION OF JOINT REPORT ON APPROVAL OF MR. DOUGLAS KANJA KIROCHO FOR APPOINTMENT AS INSPECTOR-GENERAL OF NPS

The Senate Majority Leader (Sen. Cheruiyot): Thank you, Mr. Temporary Speaker, Sir.

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I rise to give notice of the following Motion, which is a joint report of the Departmental Committee on Administration and Internal Affairs of the National Assembly and the Standing Committee on National Security, Defense and Foreign Relations of the Senate on the approval hearings of Mr. Douglas Kanja Kirocho as Inspector General of the National Police Service.

I give notice-

THAT, the Senate adopts the Joint Report of the Departmental Committee on Administration and Internal Affairs of the National Assembly and the Standing Committee on National Security, Defense and Foreign Relations of the Senate, on the approval hearing for the nominee to the position of Inspector General of the National Police Service, laid on the Table of the Senate on Monday, 19th August, 2024;

THAT pursuant to Article 245(2)(a) of the Constitution and Section 12 of the National Police Service Act, Section 8 of the Public Appointments Parliamentary Approval Act and Standing Order No.77 of the Senate, the Senate approves the nomination of Mr. Douglas Kanja Kirocho for the appointment to the position of Inspector General of the National Police Service.

(Resumption of hearings)

The Temporary Speaker (Sen. Abdul Haji): Very well Counsel, we may proceed. That was a procedural matter that we had to dispense with. For your guidance, you had already utilized 10 minutes, you have 50 minutes to conclude with your evidence.

Mr. Ndegwa Njiru: Most humbled, Mr. Temporary Speaker, Sir.
I hope time does not run when she is taking oath.

The Temporary Speaker (Sen. Abdul Haji): No, the time has stopped.

*(The Witness for Meru County Assembly
(Ms. Hyrene Kawira) took the Oath)*

Mr. Ndegwa Njiru: Would you kindly state your names for the record?

Ms. Hyrene Kawira: Hon. Members, I am Hyrene Kawira, wife to the deceased Sniper.

Mr. Ndegwa Njiru: Hyrene, have you sworn an affidavit in this case and would wish to rely on it in these proceedings?

Ms. Hyrene Kawira: Yes.

Mr. Ndegwa Njiru: You understand that you are here to testify against the Governor for the utterances she made. Correct?

Ms. Hyrene Kawira: Yeah.

Mr. Ndegwa Njiru: Just before we go to the crux of the matter, were you involved in the arrangement of your husband's funeral? Kindly accept our condolences.

Ms. Hyrene Kawira: We have not yet laid him to rest.

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Mr. Ndegwa Njiru: Were you involved at a particular time in making arrangements?

Ms. Hyrene Kawira: I was.

Mr. Ndegwa Njiru: What nature of involvement?

The Temporary Speaker (Sen. Abdul Haji): Counsel, let me just speak directly to the witness. When responding, please use yes or no. Do not just say 'yeah.' Okay?

Ms. Hyrene Kawira: Yes.

The Temporary Speaker (Sen. Abdul Haji): Also, be audible.

Mr. Ndegwa Njiru: We are most humbled, Mr. Temporary Speaker, Sir.

So, were you involved or was there a committee that was put in place to oversee the processes of preparing for the funeral?

Ms. Hyrene Kawira: Huh?

Mr. Ndegwa Njiru: Let me put the question to you again. Au ungependa tutumie lugha ya Kiswahili?

Ms. Hyrene Kawira: Kiswahili.

Mr. Ndegwa Njiru: Nauliza hivi; uliweza kuhusika katika kufanya mapangilio ya kumpumzisha mumeo?

Ms. Hyrene Kawira: Hon. Members, nimesema bado hatujamzika bwanangu, *reason being that the Governor said nilichangiwa Kshs86 million. The moment nilirudi kwa community to involve them in arranging the funeral, they abandoned me. Wakasema niache kuwasumbua, I already have the money with me to bury my husband. My husband is still lying in the morgue. Bado hajapumzishwa.*

Mr. Ndegwa Njiru: Kuna ushahidi ulioleta katika hili Bunge kudhibitisha hayo matamshi ya mheshimiwa Gavana?

Ms. Hyrene Kawira: Yes, there is a clip.

Mr. Ndegwa Njiru: Ungependa ichezwe mbele ya Seneti?

Ms. Hyrene Kawira: Yes, please.

Mr. Ndegwa Njiru: Clip 1B of the County Assembly list of evidence.

Kabla hiyo haijachezwa, ni nini kilitendeka hapo baada ya mheshimiwa Gavana kutamka hayo maneno?

Ms. Hyrene Kawira: Baada ya mheshimiwa Gavana kutamka hayo maneno, *I was isolated by the people of the society. Kuna mahali alisema nimefichwa na Member of County Assembly (MCA) fulani. Watu wa Kijiji wakanichukuwa kama malaya. Already nakaa na MCA and I am yet to bury my husband. This made me run away from home to go live with my relative.*

Mr. Ndegwa Njiru: Tafadhali rudia kwa utaratibu hayo matamshi.

Ms. Hyrene Kawira: Nimesema kwenye hiyo *clip* alisema nimechangiwa Kshs86 million. Alisema pia kwamba nimefichwa na MCA fulani. Ikasababisha aibu, nikawa *laughing stock in the community*. Watu wa kijiji wakasema nakaa na MCA ilhali sijampumzisha bwanangu. Nilikuwa naomboleza bwanangu ikafanya hadi niondoke kutoka kijiji kuenda kukaa na *one of my relatives*.

Mr. Ndegwa Njiru: Pesa ngapi haswa zilizochangwa?

Ms. Hyrene Kawira: Kshs86 million.

Mr. Ndegwa Njiru: Nauliza ni pesa ngapi zilizochangwa?

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Ms. Hyrene Kawira: We have the statement---

Mr. Ndegwa Njiru: Acha uonyeshwe.

Hon. Senators, we are referring to volume two of the evidence. The statement begins at Page 277 to 330.

Muliwaifungua akaunti ya benki yoyote wakati mlipokuwa mkitayarisha kumpumzisha mumeo?

Ms. Hyrene Kawira: We only had the Paybill.

Mr. Ndegwa Njiru: Ni nani aliyekuwa amesajiliwa katika hiyo Paybill?

Ms. Hyrene Kawira: Ni mimi.

Mr. Ndegwa Njiru: Ni nani alikuwa anajuwa kiwango cha zile hela imeingia na zile zimetoka?

Ms. Hyrene Kawira: Ni mimi.

Mr. Ndegwa Njiru: Dhibitisha katika hili Bunge kwamba hiyo ni ile nakala kutoka benki zinazonyesha kwamba ni wewe umesajiliwa.

Ms. Hyrene Kawira: This is the amount I confirm.

Mr. Ndegwa Njiru: Nauliza udhibitishe kwamba hiyo ndio ile *statement* ya benki.

Ms. Hyrene Kawira: Hii ndio *statement* ya benki.

Mr. Ndegwa Njiru: Iko katika Page 277 hadi 330.

Ms. Hyrene Kawira: Yes.

Mr. Ndegwa Njiru: Twende katika Page ya 330. Ni hela ngapi zilizochangwa? Soma kwa utaratibu.

Ms. Hyrene Kawira: Kshs207,491.

Mr. Ndegwa Njiru: Hizo ni zile pesa katika *balance ya account*. Kweli?

Ms. Hyrene Kawira: Hiyo ni balance. We have Kshs286,516.

Mr. Ndegwa Njiru: Kwa hivyo yale matamshi ya mheshimiwa Gavana hayalingani na ushahidi?

Ms. Hyrene Kawira: Hayalingani.

Mr. Ndegwa Njiru: Kuna njia zozote zile ambazo watu walikuwa wanachanga?

Ms. Hyrene Kawira: Inginge ilikuwa *cash*.

Mr. Ndegwa Njiru: Ulipokea ngapi kwa njia ya malipo ya pesa taslimu?

Ms. Hyrene Kawira: Tulipokuwa Kinoru, I received Kshs8,000.

Mr. Ndegwa Njiru: Ningekuomba uweze kutazama nakala ilioandikwa Volume 1B, ambayo ni nakala ya mheshimiwa Gavana.

Hon. Senators, volume 1B at Page 168.

Tazama huo ushahidi. Kuna mahali unaona nambari ya simu 0720103913?

Ms. Hyrene Kawira: Ndio.

Mr. Ndegwa Njiru: Hiyo nambari ya simu imesajiliwa katika jina la nani?

Ms. Hyrene Kawira: Judith Kiragu.

Mr. Ndegwa Njiru: Huyo alikuwa nani?

Ms. Hyrene Kawira: She is one of the blogger; the one who initiated the channeling---

Okay, the Paybill was initiated by Snipers friends and fellow bloggers.

Mr. Ndegwa Njiru: Hii nambari ya simu ni ya nani?

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Ms. Hyrene Kawira: Judith Kiragu.
Mr. Ndegwa Njiru: Kuna pesa ambazo zilikuwa zinatumwa katika hiyo nambari ya simu?
Ms. Hyrene Kawira: Yes.
Mr. Ndegwa Njiru: Na hizo hela zilipotumwa katika nambari ya simu, ziliwahi kutumwa katika ile *paybill*?
Mrs. Hyrene Kawira: Yes. Alizituma kwa *paybill*.
Mr. Ndegwa Njiru: Alitransfer hela ngapi?
Mrs. Hyrene Kawira: Alitransfer Kshs115,000.
Mr. Ndegwa Njiru: Kuna watu ambao wanafanyakazi na Mheshimiwa Gavana ambao wameshitakiwa kwa kuhusishwa na kifo cha mpenziyo, mumeo Sniper?

(The witness broke down and cried)

Mrs. Hyrene Kawira: Yes.
Mr. Elisha Ongayo: Mr. Temporary Speaker, Sir, Katwa Kigen has an objection to raise subject to your direction.
The Temporary Speaker (Sen. Abdul Haji): Who has an objection?
Mr. Elisha Ongayo: Mr. Temporary Speaker, Sir, I just drew your attention to the fact that we had an objection to raise.
The Temporary Speaker (Sen. Abdul Haji): Sorry, you have a---?
Mr. Elisha Ongayo: We have an objection to raise.
The Temporary Speaker (Sen. Abdul Haji): Let us hear your objection. What is your objection?
Mr. Katwa Kigen: What we are going through is an evidence-in-chief. This witness has sworn a witness affidavit, which is primarily her witness statement before you, and there are specific claims in that witness affidavit, which Counsel in exam-in-chief is supposed to bring on board to this Senate.
The question that has just been put to this witness is not part of that witness affidavit. Secondly, the question of the murder trial as has been confirmed through the other witness is a matter actively pending before another court of law.
We express our deepest sympathies to this witness for the loss of her husband. We would be the last people to want to see her go through the agony that the advocate for the Assembly wants to take her through at the moment.
Mr. Temporary Speaker, Sir, we will do that justice, by limiting this witness, first, to the issues raised in the impeachment Motion. The question of who murdered or who did not murder Sniper is not part of the impeachment Motion anywhere and is not part of this witness affidavit anywhere. With tremendous respect, it is raised for the limited purpose of emotionalizing the Motion we have before this House.
We beg that you overrule Counsel and restrict him to the evidence that was filed in this Senate and supplied to the Governor's Team.
I beg, Mr. Speaker.
The Temporary Speaker (Sen. Abdul Haji): Thank you.
Counsel, hold on a moment.

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*(The Clerk at-The Table consulted with the
Temporary Speaker (Sen. Abdul Haji))*

Counsel for the Assembly, could you respond to what the Legal Counsel has raised on the matter he has raised?

Mr. Ndegwa Njiru: I am most obliged, Mr. Temporary Speaker, Sir. I have always held my Senior Learned Counsel with high esteem until this afternoon when he makes an objection on a point that is not legally founded.

Their evidence, that has been supplied to us from the Governor in terms of the phone number that I have questioned the witness on, and therefore, to assume that we can only limit ourselves to the affidavit and not test the evidence of the Governor, would be far from the truth.

We have a charge sheet appearing on page 429 of our bundle of document at volume two. The County Assembly has no intentions whatsoever to prosecute the case that is pending before the court of law, but there is no caveat that an issue that arises in this trial cannot be mentioned for purposes of record.

We have not accused the Governor of murdering Sniper. I do not know whether I have touched a raw nerve, but the objection is not founded. We will only ask the witness in terms of the particulars of the person charged. We will not go to the evidence of who killed who or anything of that sort. We have tendered that evidence, but they did not respond to it in their defense. We understand that it is a very emotive issue as demonstrated by the witness.

The Temporary Speaker (Sen. Abdul Haji): Very well, Counsel. Let us restrict our questioning to matters concerning the impeachment of the Governor. I tend to agree that if this matter of the murder case is in court, then it shall be *sub-judice* for us to discuss it here. Let us steer clear of that.

Counsel, I would urge you to stick to the affidavit provided by the witness, and the line of questioning should be specifically on the impeachment Motion. Let us not divert on that, please.

Mr. Ndegwa Njiru: I am well guided, Mr. Temporary Speaker, Sir. So, with respect to the murder of your dear husband, did the Governor ever send condolences to the family?

Ms. Hyrene Kawira: No.

Mr. Ndegwa Njiru: Could we then have the video played?

Ms. Hyrene Kawira: Yes.

Mr. Ndegwa Njiru: Let us have video 1B played.

Mr. Temporary Speaker, Sir, perhaps, we need an interpreter.

(A video clip was played in Kimeru)

The Temporary Speaker (Sen. Abdul Haji): Okay. Stop the video, please.

Serjeant-at-Arms, please, bring the interpreter here.

Mr. Ndegwa Njiru: May our time be frozen?

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The Temporary Speaker (Sen. Abdul Haji): Stop the time.
Let us play the video.

(A video clip was played in Kimeru)

The Interpreter (Mr. Gitonga Kabori): Bw. Spika wa Muda, jina langu ni Gitonga Kaburi, kutoka shirika la utangazaji la *Kenya Broadcasting Corporation (KBC)*, Mwagu FM. Nanukuu yale Gavana anasema.
Naomba tuanze.

(A video clip was played in Kimeru)

Mr. Ndegwa Njiru: Let us play video 1A.

(A video clip was played in Kimeru)

Mr. Ndegwa Njiru: Please, also play video 1C

(Video was played in Kimeru)

(The witness got overwhelmed)

We can give the witness time to compose herself.

The Temporary Speaker (Sen. Abdul Haji): You can stop the time.

Mr. Ndegwa Njiru: Sorry for that. Tumeweza kumsikiliza Gavana akizungumza kupitia video ambayo imechezwa. Amesema kuwa ulipewa Ksh86 milioni. Je, ni ukweli?

Ms. Hyrene Kawira: Hapana, ni uongo.

Mr. Ndegwa Njiru: Je, hayo matamshi ya Mheshimiwa Gavana yamekudhuru ki vipi?

Ms. Hyrene Kawira: Tangu Gavana aseme kuwa nilipatiwa Ksh86 milioni, sijawahi pata amani. Kwanza, wale wote ambao walikuwa wanakuja kunipa faraja walinitoroka nikabaki peke yangu. Ikabidi mimi nihustle for my kids because their father who was the bread winner is no more. I was the one to hustle for my bills.

Mambo hayo yalifanya hata nikiambia community kuwa mimi niko na shida wanaona tu niko na Ksh86 milioni. Ilifanya nikawa sina hata security na kila mtu ananiona kama pesa tu.

Mr. Ndegwa Njiru: Asante. Amesema kuwa unaishi na Mheshimiwa, MCA Fulani. Je, hiyo ni kweli?

Ms. Hyrene Kawira: Hapana.

Mr. Ndegwa Njiru: Hayo yamekuathiri ki vipi?

Ms. Hyrene Kawira: Aliposema kuwa mimi ninaishi na MCA, hilo lilifanya watu wote kijijini wakaniita malaya mpaka wakaanza kusemu kuwa huyu bibi ya Sniper hawezi kusubiri hadi amzike bwanake. Wote wakaniacha na wakanitenga hata familia. Kwa sasa, relatives wake wote waliniacha na wakanitenga.

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Mr. Ndegwa Njiru: Kwa sasa hivi unaishi wapi?

Ms. Hyrene Kawira: Kwa sasa hivi ninaishi na one of my relatives

Mr. Ndegwa Njiru: Ninapomalizia, je, uliona viongozi wakizunguka na mwili wa sniper?

Ms. Hyrene Kawira: Ndiyo.

Mr. Ndegwa Njiru: Uliwaona wakizunguka na mwili wa Sniper?

Ms. Hyrene Kawira: Actually hawakuwa viongozi, walikuwa ni bloggers and Sniper's friends.

Mr. Ndegwa Njiru: Je, ni kweli ya kwamba kifo cha bwanako kilifanya biashara?

Ms. Hyrene Kawira: Hapana.

Mr. Ndegwa Njiru: Asante. Sina maswali mengine. Utaulizwa maswali machache na wakili anaye muwakilisha Gavana na tena tunasema pole sana kwa kifo cha bwanako.

The Temporary Speaker (Sen. Abdul Haji): Counsel, as we proceed, could you, please, also advise the witnesses to stay back and not to go anywhere, until the Senators ask them questions during the questions of clarification time.

Mr. Ndegwa Njiru: Utakapomaliza kuzungumza usiondoke kwa maana Maseneta watakuuliza maswali ya kudhibithisha mambo mawili ama matatu. Asante.

The Temporary Speaker (Sen. Abdul Haji): The previous witness also could be advised to stay behind, please.

Mr. Ndegwa Njiru: We will trace and recall her. Most obliged.

Mr. Elisha Ongoya: Thank you, Mr. Speaker, Sir. We shall not be cross-examining this witness. We shall reserve our time for the subsequent witnesses. Thank you so much. We are much obliged.

Mr. Ndegwa Njiru: I do not know whether the Senators will wish to seek clarification at this juncture.

The Temporary Speaker (Sen. Abdul Haji): Not now. Once we finish with all the witnesses, we will call her back for cross-examination or questioning.

Mr. Elisha Ongoya: Thank you, Mr. Temporary Speaker, Sir. Our next witness will be Linda Gakii. Mr. Mwenda and Mr. Mwangi will take the witness.

Mr. Temporary Speaker, Sir, as they prepare, Mr. Ndegwa's team went away with our bundle. If they can just return it, so that we can refer to it; the biggest bundle.

*(The Witness for Meru County Assembly
(Ms. Linda Gakii Kiome) took the Oath)*

Mr. Anthony Mwenda: Thank you. Kindly tell the Senate your names.

Ms. Linda Gakii Kiome: My name is Linda Gakii Kiome.

Mr. Anthony Mwenda: What are your qualifications?

Ms. Linda Gakii Kiome: I am an advocate of the High Court of Kenya.

Mr. Anthony Mwenda: When were you admitted to the bar? Kindly, you can give us your P/105.

Ms. Linda Gakii Kiome: My P/105 is 9006/2012.

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Mr. Anthony Mwenda: What are the notable possessions that you have ever held in your career?

Ms. Linda Gakii Kiome: I have been a member in long standing of the Law Society of Kenya (LSK). I am a member of Federation of Women Lawyers (FIDA). I have been the Chairperson of Mount Kenya Branch of the Law Society of Kenya and other positions therein for about 10 years. Thereafter, I was the interim president of the Law Society of Kenya for three months. After which I became a member of the Council of the Law Society of Kenya representing advocates practising in up country. This is the second term now.

Mr. Anthony Mwenda: When were you appointed by the Governor as a legal advisor?

Ms. Linda Gakii Kiome: On 28th March, 2023.

Mr. Anthony Mwenda: When was your contract terminated?

Ms. Linda Gakii Kiome: An alleged termination that was signed by the Chief of Staff, Meru County, Nchamba Mbithii, dated on 26th March this year, 2024.

Mr. Anthony Mwenda: There is an affidavit dated 18th August, 2024. Are you aware of that affidavit?

Ms. Linda Gakii Kiome: I am aware of the affidavit.

Mr. Anthony Mwenda: Where have you filed that affidavit?

Ms. Linda Gakii Kiome: I filed the affidavit before this Senate.

Mr. Anthony Mwenda: Before this Senate?

Ms. Linda Gakii Kiome: Yes.

Mr. Anthony Mwenda: What are the circumstances leading to you filing that affidavit in the Senate?

Ms. Linda Gakii Kiome: Thank you, counsel. While attending the annual conference in Mombasa, Diani Kwale County, yesterday I received a phone call from one of the Members of County Assembly (MCAs) from Meru County, Hon. DMK Kiogora, who asked whether I was aware of a letter that I had written, christened as a legal advice to the Governor of Meru County, while within the term which I was deemed to have been her legal advisor.

When I received that letter through WhatsApp, it was an alien document. I can confirm before this House that yesterday was the first time I saw that document. It is not a document that emanated from me.

Mr. Anthony Mwenda: There is an internal memo in the documents of the Governor brought to this Senate. It is labelled as KM5. I want you to have a look at it. Are you there?

Ms. Linda Gakii Kiome: Yes.

Mr. Anthony Mwenda: I want you to have a keen look at that letter. From whose office is it emanating from?

Ms. Linda Gakii Kiome: The letterhead seems to come from the office of the Governor.

Mr. Anthony Mwenda: Who is the author of the letter?

Ms. Linda Gakii Kiome: It is from the legal advisor, office of the Governor.

Mr. Anthony Mwenda: Who is that legal advisor, office of the Governor?

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Ms. Linda Gakii Kiome: According to that letter, at the very end, it has been signed off, but the name is not indicated.

Mr. Anthony Mwenda: When was that letter, that memo written?

Ms. Linda Gakii Kiome: On 23rd February, 2024.

Mr. Anthony Mwenda: Were you still the legal advisor to the Governor?

Ms. Linda Gakii Kiome: Technically, yes.

Mr. Anthony Mwenda: Why are you saying technically yes?

Ms. Linda Gakii Kiome: In the month of December, 2023, the Governor summoned me in her office in Meru and asked me to tender my resignation. Out of which, the subsequent letter for notice of termination was issued to me by Nchamba Mbithii. That was dated 26th March, 2024.

Mr. Anthony Mwenda: So, substantively, you were the legal advisor by 23rd February?

Ms. Linda Gakii Kiome: Indeed, counsel.

Mr. Anthony Mwenda: Until which date did you vacate the office? When was your contract terminated?

Ms. Linda Gakii Kiome: There was a notice of termination on 26th March, 2024 which forms part of the affidavit that I filed before this Senate. It indicated that my services would be terminated by 30th April, 2024.

Mr. Anthony Mwenda: So, it means by 23rd February, you were the legal advisor to the Governor.

Ms. Linda Gakii Kiome: Indeed so.

Mr. Anthony Mwenda: I want you to look at the signature at the tail end of that letter. It is on page 12 of volume 1B of the Governor's documents. Whose signature is that?

Ms. Linda Gakii Kiome: The signature mimics my signature.

Mr. Anthony Mwenda: Why do you say it mimics your signature?

Ms. Linda Gakii Kiome: I say it mimics my signature because I did not append this signature.

(Loud Consultations)

Mr. Anthony Mwenda: Page 12 of the Governor's documents, volume 1B. It should be a blue copy.

The Temporary Speaker (Sen. Abdul Haji): Counsel, could you also tell us the affidavit by the witnesses is on which document?

Mr. Anthony Mwenda: The affidavit was filed by the witness. That forms the basis of why we called her to be a witness today. It was filed to the Clerk of the Senate yesterday. It should be an independent document.

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

Mr. Anthony Mwenda: So, you said the signature mimics your signature.

Ms. Linda Gakii Kiome: Indeed, counsel.

Mr. Anthony Mwenda: That means it is not your signature.

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Ms. Linda Gakii Kiome: It is not my signature. I did not prepare and sign this document.

Mr. Antony Mwenda: The Governor's team brought this document to this honourable House to rely on it as her evidence and for defence. What would you want this House to treat this document?

Ms. Linda Gakii Kiome: First---

Sen. M. Kajwang': On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. M. Kajwang'?

Sen. M. Kajwang': Mr. Temporary Speaker, Sir, just like you have struggled to get visibility on that affidavit, I am looking at the soft copies here, and I cannot find it. It is such a material submission that it would make sense for us to proceed until and unless we can confirm that we have it.

The Temporary Speaker (Sen. Abdul Haji): Thank you, Senator. Just one moment, counsel. Stop the time, please.

Ms. Linda Gakii Kiome: All right.

Mr. Ndegwa Njiru: Mr. Temporary Speaker, Sir, with your kind permission, we would be able to have the assistance of supplying the hard copies to the honourable Senators as printed.

The Temporary Speaker (Sen. Abdul Haji): Can you say that again, counsel?

Mr. Ndegwa Njiru: Mr. Temporary Speaker, Sir, if it so pleases you, we have the copies printed that the Senators can have access to.

The Temporary Speaker (Sen. Abdul Haji): Okay, give it to the Serjeant-at-Arms times and it will be distributed to the Senators.

Mr. Ndegwa Njiru: We are most obliged.

Sen. Oketch Gicheru: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. Oketch Gicheru?

Sen. Oketch Gicheru: Thank you, Mr. Temporary Speaker, Sir. I needed your pronouncement whether the affidavit was presented on time to the Clerk. That is the materiality with which the Senator for Homa Bay County was referring to that piece of evidence.

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

(Loud Consultations)

The Temporary Speaker (Sen. Abdul Haji): Counsel, could you please explain the affidavit to the Senators?

Mr. Antony Mwenda: Thank you, Mr. Temporary Speaker, Sir. We received the defense documents from the Governor on Saturday past 5.00 p.m., the required time.

Out of that, we realized some anomalies on the part of the affidavits, internal memos and letters given in the defense. Our witness being an advocate and after coming across these documents, vehemently opposed the position of that document that she was

not the author of the document and therefore, we question the authenticity of that document.

That is why she moved to swear an affidavit, yesterday on 18th and it formed the basis of our prayers this morning that this witness be called, as a witness of the Senate, to come and substantiate on the document. This is because, if this is not substantiated and it is a forgery, I am saying if it is a forgery, then this House can form the basis of the final determination of this case based on that document. That is why she was called upon to come and give this evidence.

The Temporary Speaker (Sen. Abdul Haji): What is your point of order, Sen. Eddy? If I could give guidance that this witness was one of the witnesses who were summoned through the Senate on the request of the Counsel. The summons went out this morning.

Sen. Oketch Gicheru: Mr. Temporary Speaker, Sir, the materiality of the fidelity is about the issue of timing and filing. However, for my own purpose and use, I wanted to know whether the counsel for the defence objected to what the counsel has just talked about.

The Temporary Speaker (Sen. Abdul Haji): So far, he has not objected.

Mr. Anthony Mwenda: It was not objected to in the morning.

The Temporary Speaker (Sen. Abdul Haji): Very well. We have established that. Please, proceed.

Mr. Anthony Mwenda: We will proceed to paragraph seven. I will request you to read it for this House.

Ms. Linda Gakii Kiome: Thank you. I have deponed in paragraph seven that I categorically state that the internal memo in question contains advice and information that I must clarify, was neither prepared nor authorized by me. I want to make it unequivocally clear that I did not draft, review or endorse the contents of the said internal memo.

Mr. Anthony Mwenda: I will further request you to read paragraph eight.

Ms. Linda Gakii Kiome: In paragraph eight, I deponed that all the matters therein are alien to me and simply put, the Governor has never sought any such legal advice from me and as such, the internal memo is a forged document. I will not hesitate to report the same for investigations by the DCI.

When I arrived in Nairobi, I went to the Parliament Police Station and they told me that the only place I can lay this claim is before the DCI in Meru County. That will be the first thing that I will do because I feel aggrieved. I was impersonated and as an advocate of the High Court of many years of practice, that even my own pupil could have done better on this advice.

I have a lot of respect for the Governor. In fact, I look up to her in a lot of ways. She is a resilient woman, but when I saw this letter, my heart sank with a lot of regrets.

Mr. Anthony Mwenda: Thank you. I will further invite you to read paragraph 13 on page two. I will tell you where to stop.

Ms. Linda Gakii Kiome: Mr. Temporary Speaker, Sir, I deponed in paragraph 13 that the internal memo has been forged and manipulated to appear as if it originated from me.

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Mr. Antony Mwenda: Thank you. Let us do paragraph 12.

Ms. Linda Gakii Kiome: In paragraph 12, I have deponed that the contents of this internal memo are not only mediocre, but also embarrassing. To say the least, the internal memo could not have been prepared by an advocate of the High Court of Kenya.

Such advice must have emanated from a person who has very little knowledge of serious matters of law and such which were being addressed in that internal memo.

Mr. Antony Mwenda: So, counsel, in the finality of this matter, you want to say that the document forming the basis of the defense of the Governor has elements of forgery, especially on this internal memo?

Ms. Linda Gakii Kiome: Absolutely.

Mr. Antony Mwenda: Thank you. That is all for us.

The Temporary Speaker (Sen. Abdul Haji): Counsel, you can proceed with the cross-examination.

Mr. Elisha Ongoya: Thank you, Mr. Temporary Speaker, Sir.

As a result of time constraints, I will go direct to the issue at hand. I will call you by your formal names, Linda Gakii Kiome, for purposes of these proceedings.

So, Linda Gakii Kiome, please, confirm for the record that you are an Advocate of the High Court of Kenya.

Ms. Linda Gakii Kiome: Indeed, so, *mwalimu*.

Mr. Elisha Ongoya: Thank you so much. You are aware that the issue you have now brought before this Senate is a controversy as to whether you issued the advice in question or you did not issue the advice in question. Is that a correct summary of the issue?

Ms. Linda Gakii Kiome: Indeed so.

Mr. Elisha Ongoya: Thank you. The Governor's case from your reading of the response to the impeachment is that she received this advice. Is that not correct?

Ms. Linda Gakii Kiome: That is correct.

Mr. Elisha Ongoya: Your position is that it is not you who issued this advice?

Ms. Linda Gakii Kiome: That is true.

Mr. Elisha Ongoya: Just for my understanding, is it your case that the Governor, as a matter of fact, never received this advice?

Ms. Linda Gakii Kiome: I may not know, but I am not the one who prepared this document. I am not the one who signed this document. In fact---

Mr. Elisha Ongoya: Sorry, Linda, let us just stop there. Time here is such a big issue. I just wanted to clarify. Is it your case that, as a matter of fact, the Governor never received this advice?

Ms. Linda Gakii Kiome: From me?

Mr. Elisha Ongoya: No, I am asking from you. I am saying, as a matter of fact, she never received it.

Ms. Linda Gakii Kiome: I may not know.

Mr. Elisha Ongoya: You do not know. What would bother this Senate, if I sat where the Senators seat would be, why would you come to make this kind of grave claim against the Governor? That is a legitimate question, is that not true?

Ms. Linda Gakii Kiome: Indeed so.

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Mr. Elisha Ongoya: Let us see whether we can find an answer to that question. Linda, your services as the legal advisor to the Governor were terminated by the County Government of Meru. Were they not?

Ms. Linda Gakii Kiome: They were terminated.

Mr. Elisha Ongoya: I am happy. I just wanted to confirm that fact.

Now, you did not take this lying low. You filed Meru Employment and Labor Relations Case No.E022 of 2024 against the Governor's Government of the County of Meru. True?

Ms. Linda Gakii Kiome: That is true.

Mr. Elisha Ongoya: So, you have an active dispute with the Governor of Meru County?

Ms. Linda Gakii Kiome: Indeed so.

Mr. Elisha Ongoya: Thank you so much. Before this, Linda, you were the running mate to the Hon.Mithika Linturi in a ticket adverse to the Governor's ticket in the last general election.Is that true or not true?

Ms. Linda Gakii Kiome: That is true.

Mr. Elisha Ongoya: Thank you so much. Are you a resident of Meru County?

Ms. Linda Gakii Kiome: I am a resident of Meru County.

Mr. Elisha Ongoya: It is fair to say that the Governor, Hon.Kawira Mwangaza, does not enjoy a very good relationship with Hon. Mithika Linturi. Is that a fair assessment?

Ms. Linda Gakii Kiome: That is not a fair assessment.

Mr. Elisha Ongoya: Okay, let me put it contrary. The Governor enjoys a fantastic working relationship with Hon. Mithika Linturi. Is that now a fair assessment?

Ms. Linda Gakii Kiome: Mwalimu, if only you had let me finish.

Mr. Elisha Ongoya: No. You have answered my question. I have limited time. The Speaker knows just how much time I have. Therefore, I am asking very limited questions. You said it is not fair that the Governor does not enjoy a good relationship. I am therefore suggesting to you, confirm that the Governor Kawira Mwangaza enjoys a fantastic working relationship with the person to whom you were the running mate, Hon. Mithika Linturi. Is that a fair assessment?

Ms. Linda Gakii Kiome: I may not know about that relationship.

Mr. Elisha Ongoya: You do not know? I am happy with that answer. You are aware that there was an impeachment Motion in Meru County Assembly by the same Mover of the Motion that brings us here today just this month of July.True or not true?

Ms. Linda Gakii Kiome: Mr. Temporary Speaker, Sir, I am aware.

Mr. Elisha Ongoya: You are aware that in that impeachment Motion, the termination of your services as the legal advisor to the Governor was an issue raised for removal of this Governor from office?

Ms. Linda Gakii Kiome: I saw the impeachment Motion and I confirm that is the position.

Mr. Elisha Ongoya: Thank you, Linda. If I look at your affidavit, you want to make us believe that the person who drew your attention to the fact that this legal advice is here in the Senate was hon. DMK Kiogora? Is that correct?

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Ms. Linda Gakii Kiome: Hon. Members, that is the true fact.

Mr. Elisha Ongoya: Thank you. Hon. DMK Kiogora is the same person who moved the first impeachment Motion against this Governor before this Senate. True or not true?

Ms. Linda Gakii Kiome: That is true.

Mr. Elisha Ongoya: Hon. DMK Kiogora is one of the people who signed on the Motion in support of the removal of this Governor which Motion brings us here today? True or not true?

Ms. Linda Gakii Kiome: Mr. Temporary Speaker, Sir, that is true.

Mr. Elisha Ongoya: Therefore, it is fair for us to conclude that you were actually procured by those who are against the Governor to come and state what you have stated before this Senate. Is that not a fair assessment?

Ms. Linda Gakii Kiome: It is a very unfair comment.

Mr. Elisha Ongoya: Thank you. I will leave it with that. Allow me to move to something else very little. You want us to believe that you came to this Senate as an independent witness, not one of those witnesses summoned by the County Assembly. I mean you are voluntarily giving evidence for the County Assembly.

Ms. Linda Gakii Kiome: I came here to clear my name.

Mr. Elisha Ongoya: Somehow, as early as yesterday, in advance of the County Assembly's application today to this Senate, you had a ready affidavit to support their evidence?

Ms. Linda Gakii Kiome: I sent that affidavit to the Speaker at 10.00 p.m. at night.

Mr. Elisha Ongoya: How was it received? The copy I was served does not have any receiving stamp in this Senate.

Ms. Linda Gakii Kiome: Mr. Temporary Speaker, Sir, I may not know how it was received, but I sent it to the email of the Speaker of the Senate.

Mr. Elisha Ongoya: Okay. It is your testimony that this affidavit was sent in soft copy?

Ms. Linda Gakii Kiome: Mr. Temporary Speaker, Sir, I did so, but I sent I also sent Hon. DMK Kiogora to ensure that it has been submitted.

Mr. Elisha Ongoya: You also dispatched DMK Kiogora, a signatory to the impeachment Motion against this Governor, to follow up for you that this has been received here. True or not true?

Ms. Linda Gakii Kiome: Mr. Temporary Speaker, Sir---

Mr. Elisha Ongoya: You also sent hon. DMK Kiogora. Did you not?

Ms. Linda Gakii Kiome: Mr. Temporary Speaker, Sir, I asked him to confirm---

Mr. Elisha Ongoya: Let us use the word asked to save time. You also asked him to confirm for you. True or not true?

Ms. Linda Gakii Kiome: It is true.

Mr. Elisha Ongoya: Thank you, Linda. Having said that, in the case you have filed at Meru Employment and Labour Relations Court, Case number E0/22 of 2024, one of your witnesses in that case is Virginia Kawira. Do you know that?

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Ms. Linda Gakii Kiome: No, she is not my witness. I have sued the County Public Service Board (CPSB) together with the Governor.

Mr. Elisha Ongoya: Is Virginia Kawira one of your witnesses in that case?

Ms. Linda Gakii Kiome: She is not one of my witnesses.

Mr. Elisha Ongoya: Let me move in finalization of this matter. The opinion in question has a signature. Does that signature resemble your signature?

Ms. Linda Gakii Kiome: It resembles. I said it mimics my signature.

Mr. Elisha Ongoya: I am using a different term. Does it look like your signature?

Ms. Linda Gakii Kiome: Mr. Temporary Speaker, Sir, it resembles my signature.

Mr. Elisha Ongoya: It was issued during your term in office?

Ms. Linda Gakii Kiome: I may not know, but the dates are within the timelines--

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Mr. Elisha Ongoya: The date is within the time when you were in office?

Ms. Linda Gakii Kiome: Indeed so.

Mr. Elisha Ongoya: During that time, you used to render legal advice to the Governor?

Ms. Linda Gakii Kiome: At that time---

Mr. Elisha Ongoya: During that period in office?

Ms. Linda Gakii Kiome: The Governor had already asked me to write a resignation letter.

Mr. Elisha Ongoya: I am asking; at the time you were in office, had your services been terminated?

Ms. Linda Gakii Kiome: The Governor was only waiting to write for me a dismissal letter. Verbally, she had asked me to resign in December, 2023.

Mr. Elisha Ongoya: Sorry Linda, let me go back a little; is the advocate in your case in Meru, Ngwele and Company Advocates?

Ms. Linda Gakii Kiome: He is.

Mr. Elisha Ongoya: That case was filed on 21st May, 2024.

Ms. Linda Gakii Kiome: It was.

Mr. Elisha Ongoya: You filed a list of witnesses in that case.

Ms. Linda Gakii Kiome: Yes, I did.

Mr. Elisha Ongoya: You are witness number one in that case.

Ms. Linda Gakii Kiome: In fact---

Mr. Elisha Ongoya: You are witness number one on that list of witnesses in that case?

Ms. Linda Gakii Kiome: Yes.

Mr. Elisha Ongoya: Would it surprise you that in the soft copy in front of me, is that list of witnesses with Virginia Kawira Miriti as your witness number two?

Ms. Linda Gakii Kiome: At the time---

Mr. Elisha Ongoya: Would it surprise you?

Ms. Linda Gakii Kiome: It would not surprise me.

Mr. Elisha Ongoya: So, it is true that in that court case, the list of witnesses filed there for you, lists Virginia Kawira Miriti as your witness?

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- Ms. Linda Gakii Kiome:** At the time before the same---
- Mr. Elisha Ongoya:** Is it true that that list filed in that court lists Virginia Kawira Miriti as your witness number two?
- Ms. Linda Gakii Kiome:** It does.
- Mr. Elisha Ongoya:** Thank you so much.
- Ms. Linda Gakii Kiome:** But circumstances changed.
- Mr. Elisha Ongoya:** I have no problem with that. At least this Virginia Kawira Miriti is the same person the County Assembly has also applied to come here today and give evidence that they were not able to procure her earlier as a witness.
- Ms. Linda Gakii Kiome:** Come again?
- Mr. Elisha Ongoya:** Today, the County Assembly applied for some witness summons. Are you aware that together with you, they also sought that Virginia be summoned?
- Ms. Linda Gakii Kiome:** I am not aware.
- Mr. Elisha Ongoya:** I am now putting it to you as a fact that she was also summoned. Now, I suggest to you that these coincidences are too fantastic to be merely coincidental?
- Ms. Linda Gakii Kiome:** Hon. Members, I was later dismissed after I filed my suit by the same Virginia Kawira and she signed a dismissal letter against me. Now, circumstances have changed, she is no longer my witness. We have admitted to the court to ask to amend our pleadings to reflect as much. So, she is not my witness.
- Mr. Elisha Ongoya:** To your knowledge, do you know of a further list of witnesses filed in that case?
- Ms. Linda Kiome:** I may not reflect my---
- Mr. Elisha Ongoya:** A researcher going to that court file will find only one list of witnesses listing you and Virginia.
- Ms. Linda Gakii Kiome:** Indeed.
- Mr. Elisha Ongoya:** Thank you. The same Virginia who you also know has sued the County Governor for the termination of the revocation of her appointment as the Secretary to the County Public Service Board.
- Ms. Linda Gakii Kiome:** I do not know.
- Mr. Elisha Ongoya:** You do not know that fact. I am suggesting to you that all these things I have pointed here, if you search as an objective observer, it will show that you have a bone to pick with the Governor.
- Ms. Linda Gakii Kiome:** If I was to bring my statements for calls, I have never talked to Virginia nor to any other MCAs.
- Mr. Elisha Ongoya:** The question was different. I am saying that all this; filing of the case, your Mithika's running mate and your name being in the impeachment motion. I would have gone into the public participation where your name was mentioned multiple times as the reason for this Motion before us, but we shall submit that letter to the Senators because the record is before them to show that, generally, you have some bone to pick with the Governor. There is a quarrel you have with the Governor because your services were terminated.

Ms. Linda Gakii Kiome: I have no quarrel with the Governor. In fact, when I received my appointment letter, it is the former Cabinet Secretary for Agriculture and Livestock Development, Hon. Mithika Linturi, who told me to go and help his sister in Meru County. She also affirmed that when she was giving me my appointment letter.

I have no fight with the Governor.

Mr. Elisha Ongoya: Thank you. There is something in the Bible called the keys of betrayal. Thank you so much, I will rest at that.

Mr. Ndegwa Mwangi: Mr. Temporary Speaker, Sir, my name is Ndegwa Mwangi. I will take very few minutes in re-examination.

Madam Linda?

Ms. Linda Gakii Kiome: Yes.

Mr. Ndegwa Mwangi: Did the Governor give you---

The Temporary Speaker (Sen. Abdul Haji): Counsel, you only have 14 minutes, be aware.

Mr. Ndegwa Mwangi: Mr. Temporary Speaker, Sir, I will take less than that.

Did the Governor give you the job knowing that you are the Deputy Governor to Hon. Mithika Linturi?

Ms. Linda Gakii Kiome: She did.

Mr. Ndegwa Mwangi: Did the Governor seem to be having a litany of cases against her former employees?

Ms. Linda Gakii Kiome: Come again, Counsel?

Mr. Ndegwa Mwangi: The Governor seems to be having so many cases in court with her former employees. Are you aware of that?

Ms. Linda Gakii Kiome: I am aware.

Mr. Ndegwa Mwangi: Several issues have been raised before this Senate. There is the issue of whether you have filed a case and whether Virginia is your witness. The issue in question is the memo. Is it your evidence that the signature does not belong to you?

Ms. Linda Gakii Kiome: Mr. Temporary Speaker and Hon. Members of the Senate, I am an advocate of the High Court. I would not come to lie to Hon. Members. This is not my signature. It has been lifted from previous documents and placed on this document.

Mr. Ndegwa Mwangi: Would you know whether the Governor received that advice when it is not you who gave it to her?

Ms. Linda Gakii Kiome: I may not know.

Mr. Ndegwa Mwangi: Now, what is the case that has been mentioned as relating to the question of the internal memo? Is there any relationship?

Ms. Linda Gakii Kiome: There is no relationship. This is about legal advice. I have come to clear my name. Why? It is because of the mediocrity of the advice. I would also have wanted to be a national leader. I had applied to be a Principal Secretary. If I come to the committee that chairs the appointments from the national Government and such a document is presented as to have emanated from me, how would I speak for myself? How would I defend myself?

The only reason I am here is to clear my name. I am so disappointed that such a document would be forged with my name by Her Excellency. I have no ill feelings whatsoever against the Governor.

Mr. Ndegwa Mwangi: A link has been laid relating the honourable Member who called you to the first impeachment Motion. There is a link that has been created that you are here to perpetuate the deeds of the hon. Member who called you to report to you about the internal memo. The question is: Was the first impeachment that was moved by the said hon. Member, before the forged signature?

Ms. Linda Gakii Kiome: It was before the forged signature.

Mr. Ndegwa Mwangi: You cannot be a conduit of the said Member, can you?

Ms. Linda Gakii Kiome: Honestly, I am not.

Mr. Ndegwa Mwangi: That is all, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Abdul Haji): Legal Counsel for the Assembly, be aware that you only have 10 minutes to conclude with providing your evidence and witnesses.

Mr. Ndegwa Njiru: We are most humbled. Within the 10 minutes, allow us to call our next and last witness, Jacob Kirari. Mr. Mawira will take the witness.

The Temporary Speaker (Sen. Abdul Haji): Serjeant-at-Arms, please, bring the witness in.

*(The Witness for the Meru County Assembly
(Mr. Jacob Kirari) was ushered into the Chamber)*

Sen. Faki, what is your point of order?

Sen. Faki: At some point, you had indicated that you would give the Senators opportunities to ask questions. Was that overruled?

The Temporary Speaker (Sen. Abdul Haji): No, we are approaching question time very soon.

Sen. Faki: Okay.

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

[The Temporary Speaker (Sen. Wakili Sigei) in the Chair]

The Temporary Speaker (Sen. Wakili Sigei): Counsel, you can have your witness sworn in. Serjeant-at-Arms, kindly facilitate the swearing-in of the witness.

*(The witness for the County Assembly (Mr. Jacob
Kirari) took the Oath)*

Mr. Boniface Mwereru Mawira: Mr. Temporary Speaker, Sir, my name is Boniface Mawira. I will take this witness through cross-examination.

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I have a few questions for you, Mr. Witness. Kindly introduce yourself. What is your name?

Mr. Jacob Kirari: My name is Jacob Kirari. I am the Clerk to the County Assembly of Meru.

Mr. Boniface Mwereru Mawira: Mr. Temporary Speaker, Sir, when we made the request for summons in the morning, we requested that the Clerk should avail the original register of documents that are received by the County Assembly as and when they are served. He has the original register here.

I am truly sorry for this. He has just arrived with this original register. You might not have the benefit of the copies because he has just arrived a few minutes ago. So, probably after this, copies of this original register can be made for the benefit of the Speaker and the Hon. Members.

Mr. Elisha Ongoya: Mr. Temporary Speaker, Sir, I would desire to respond to that request before a ruling is made.

The Temporary Speaker (Sen. Wakili Sigei): All right. Counsel, for the Governor, you had an intervention. Please, proceed.

Mr. Elisha Ongoya: Mr. Temporary Speaker, Sir, the procedure of this House is that the notice by the Clerk gave all of us up to Saturday, 17th August, this year, to furnish our documents to the Clerk.

My colleagues will confirm we actually, both of us, met at the Clerk's office at the same time. In fact, the Clerk did not have to incur any expense serving these documents. The parties just exchanged the documents there.

We have just dealt with a witness here whose affidavit was brought to us for the first time when we were sitting here. We have had to collect all this information you have seen me using to cross-examine, including getting information from court in Meru to confirm who these witnesses are, because she had lied to you that so-and-so is not my witness, Virginia is not my witness. I had to get that evidence from Meru.

It is an unfair approach to a trial for parties to keep subjecting us to new documents that we have not had a chance to discuss with our client and other persons who may have knowledge, so that we can fairly engage in cross-examination.

Mr Temporary Speaker, Sir, I humbly beseech that parties having filed their documents, this witness' evidence be limited to commenting on the documents already filed and not introducing new documents. It is becoming an extremely punitive trial process to us, as counsel and to our client, if we will continue facing a trial by ambush. Fortunately for me, this Senate has a number of lawyers who know just how egregious trial by ambush is to our justice system. We are here in a justice process.

We beseech you, Mr Temporary Speaker, Sir, to make a definitive ruling that the evidence of this witness is limited to commenting on the documents already filed by the parties, where both parties have had a fair chance to look at and not ambushing us with new documents which we do not know how we shall interrogate them before we cross-examine them.

I humbly beseech you.

The Temporary Speaker (Sen. Wakili Sigei): Counsel Ongoya, you will note that in the morning, there was an application under Regulation 10 by the Counsel for the

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County Assembly with regard to these two particular witnesses. That is the basis upon which they were allowed to come in and was summoned.

The first witness has already been dealt with and you dealt with it very well whichever way you did, whether it was out of your ability to do it, you did it within that short time.

I believe equally, that this particular witness, because of the summons that the House issued earlier because we have not yet seen the documentation they are going to rely on, it will be on the basis of your documents and whatever registers that we will shortly direct, that it will be available to the Members of the House for them to print out of it as the witness proceeds to testify. I believe that in the shortest time that we have, we will have the witness take the stand and will be guiding the witness along the way.

Counsel for the County Assembly, please, proceed to take the witness and make available the document that you want to have your witness testify on.

Mr. Boniface Mwereru Mawira: Mr. Temporary Speaker, Sir, the witness has come with the original register. For context, the reason as to why this witness has been summoned is because we discovered forgeries in the Governor's documents after we exchanged documents on Saturday at around 6.00 p.m.

The only reason this witness has come - It is a fairly short witness and in our summary request that we have built the original register there is only one original register. This is the original register he has brought for the letters and other correspondences that are served in the County Assembly.

So, I implore and I would seek your guidance, Mr. Temporary Speaker, Sir, as to whether you can assist us to make copies so that they are available to Members or the original register can be circulated to Members. I am lost on the transcript there.

The Temporary Speaker (Sen. Wakili Sigei): Counsel, as you run the witness to the document, we will need definitely for you to table the original document, as well as making available copies for counsel for the governor as well as the House to interrogate whether or not we will admit it, but we must get a copy of that register.

Sen. Faki, what is your point of order?

Sen. Faki: I am trying to understand this procedure. What I understand is that, whatever evidence that was before the County Assembly is what was brought here. Now, if they are bringing in new evidence, I do not think it is admissible.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Faki, if you followed the proceedings in the morning, pursuant to the application made and the ruling of the Speaker, the reason as to why we have this witness is on the basis of that ruling. That has not been vacated. We are proceeding to deal with it.

Proceed, Sen. M. Kajwang.

Sen. M. Kajwang: Mr. Temporary Speaker, Sir, it would be academic for us to proceed in the manner that has been suggested by the counsel for the County Assembly. We cannot listen to the submissions and entertain the interrogation if we do not have visibility of the documents or records.

We are the judges in this matter. We are not the spectators. I know there is a past impeachment proceeding where we found ourselves in such a situation where a witness had been summoned and the documents had not been availed to Members of the Senate.

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The Speaker sitting where you are sitting made a ruling that we could proceed with the next witness, and if we do not have the next witness, then the House could consider listening to the testimony of the witness tomorrow in the morning, when all Members are able to be seized of the records or the substance that he wants to use to convince the Senate. Therefore, let us not do an academic exercise.

The Temporary Speaker (Sen. Wakili Sigei): Sen. M. Kajwang', the ruling that I have made is to the effect that we get documents in the form of register for purposes of the Members to interrogate as well as the counsel for the Governor. This is the last witness by the County Assembly and they have limited time.

You know, we are prosecuting this Motion within limited time, and therefore, we will, in the next five minutes, be able to conclude on this particular document available to Members, and then we close on this particular case.

For now, the position is, we will avail the document they rely on, as well as, if any, important comments that they want to make or interrogate on the evidence that already had been supplied by both parties. I do not want to deviate from that early ruling. We will give them a few minutes to avail that document.

*(The Clerk-at-the-Table consulted with
the Temporary Speaker (Mr. Wakili Sigei))*

The Temporary Speaker (Sen. Wakili Sigei): Sen. Faki, I will not allow you to intervene any further. What I will do is to give direction, which is that we will stand down this particular witness.

We have got questions and clarifications by Members from among the witnesses who already testified. We will go back to them to get clarifications. Once we are done, we will come back to this particular witness. By that time, we will have had time to look at the document, including giving an opportunity to the counsel for the Governor to look at that particular register before they take the witness to the stand.

Can we have the witnesses who testified, probably starting with the first one, put to the stand? Let Members ask questions and clarifications and make inquiries they would like to have from that particular witness, so that we immediately embark on that session. Once we are done, we will go back to the gentleman who was on the stand. That is the direction of the Chair. The witness can step back as we prepare to avail that document to the House.

Mr. Boniface Mwereru Mawira: We are most obliged, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Hon. Members, the witness is already here. For purposes of time management, we will ask questions and seek clarification from the witness. Each Member to inquire and get clarification under two minutes because we have one hour starting from now. This session should end one hour after 9.15 p.m, which is at 10.15 p.m. From my dashboard, I can see the requests from Members is almost everyone in the House. So, when you have the opportunity to ask, kindly do so under two minutes and make sure you go straight to the inquiry you want to

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make. Do not unnecessarily waste time in laying a lot of foundation. Whoever is not in, we will forfeit the opportunity. Then next on the line is Sen. Orwoba, who is not in.

Senator Joe Njutu, proceed.

Sen. Joe Nyutu: Thank you, Mr. Temporary Speaker, Sir, for this opportunity. I want to seek clarification from the witness. I hope she is listening. There was a video that was played that showed one person that was said to be an activist in Meru, talking about something very malicious against the Senate. I would like the witness to tell us the circumstances surrounding those comments.

Two, there was a fire in the witness's compound. However, looking at the image on the video clip, the fire was just next to the wall. There were some goods that would have been destroyed by this fire, which did not catch fire. Would the witness clarify exactly how the fire that was supposed to be damaging her property fell just next to the wall?

In conclusion, there is a claim that there was a disease that was killing cattle in Meru. Would the witness tell us whether she made a Statement, a Question or a Petition to the County Assembly, being a Member of the County Assembly, instead of prosecuting this matter in public? Those are the clarifications I will be seeking from the witness.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Madam Zipporah, you may respond to those three questions.

Hon. Zipporah Kinya: Thank you, Mr. Temporary Speaker, Sir. I started by saying I regret the comments made by the activists against this honourable House. They do not form the opinion of the County Assembly of Meru on the opinion of this House. I also trust they do not form the opinion of the Meru people. According to the video, because I was not present in that meeting, it shows that there were some prayers for the late blogger that we have talked about. It is in those circumstances that the person commented that. Personally, I may not understand why the activist went into castigating this honourable House in his own comments. I believe it is unfortunate, unwarranted and uncalled for. I regret that. I personally disassociate myself from the comments. I do not share the same opinion.

The Temporary Speaker (Sen. Wakili Sigei): You have answered that one. I want you to answer the second and third question under one minute. We are running against a crazy timeline.

Hon. Zipporah Kinya: Thank you, Mr. Temporary Speaker, Sir. I am well guided.

On the second question on the fire, I informed this House that the fire was thrown into my house from the fence. It did not originate from my house. There is some distance between the cowshed that you saw and the fence. That is the reason why the cow was not burnt because of that distance.

Also, the watchman who was awake at that time could be seen trying to find out what had caused that fire and was using a torch. At that time, he woke up the people who take care of the cows to come and assist him put off the fire. I cannot confirm the origin of the fire, but it was thrown. When I reported to the police, they came and collected

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exhibits, including what was thrown into my compound. It smelt of petrol and even now, those exhibits are still at Nkubu Police Station.

Mr. Temporary Speaker, Sir, on question three, I submit that the disease that the farmers from Uruko were talking about was the lumpy skin disease. I am also a farmer and I do farming. I also had the same challenge and I submit that I did not seek a statement from the County Assembly of Meru. I did not file a petition, but I have sought over 15 statements of other issues in the County Assembly of Meru.

I thank you.

The Temporary Speaker (Sen. WakiliSigei): Thank you. I will allow Sen. Maanzo and Sen. Wakoli to ask questions so that you answer the two Senators at once.

Sen. Maanzo: Thank you, Mr. Temporary Speaker, Sir. About the fire in the County Assembly, she already provided a video of her home. Is there any evidence that the County Assembly ever caught fire? If it did, how come she still went to spend the night there and use the Chamber the following day?

Secondly, on the diseases of the cows, I believe these cows are owned by individuals and are associated with a co-operative society. When a disease breaks out, do the owners of the animals seek their private vet or they take the long process, where they go to the county government, which has to go through a procurement process? What would be the most logical thing to do for an owner of a cow, which gets sick because we saw videos of people complaining? Do they immediately deal with it or they look for the county government which is a longer route?

The witness showed a video of Buuri and someone saying that Buuri will burn down. Can she confirm to the Senate whether the whole of Buuri Sub-County was burnt down?

The Temporary Speaker (Sen. WakiliSigei): Sen. Wakoli. Hon. Zipporah, you will wait for the second set of questions from Sen. Wakoli and answer both of them at once.

Sen. Wafula: Asante, Bw. Spika wa Muda. Ningependa kumwuliza Mhe. Zipporah, katika mkutano wa wakulima, pale ambapo ng'ombe walikuwa wanafariki kutokana na ugonjwa wa ngozi---

(Sen. Cheruiyot and Sen. Cherarkey consulted loudly)

Bw. Spika, ninaomba utulivu kati ya viongozi wenzangu.

The Temporary Speaker (Sen. Wakili Sigei): The Senate Majority Leader and Sen. Cherarkey, allow Sen. Wafula to be heard in silence.

Sen. Wafula: Asante, Bw. Spika wa Muda, ningependa kujua iwapo katika mkutano huo kulikuwa na moafisa wa kaunti ambao walijiunga nawe, kushuhudia vifo vya ng'ombe ana mifugo kwa sababu ya maradhi ya ngozi.

Pili, katika Bunge la kaunti pale ambapo mulikesha usiku kwa sababu ya kushambuliwa, je, ilinakiliwa kwa vitabu vya Bunge la Kaunti ya Meru, wawakilishi wa wadi kwamba maisha yenu yako hatarini? Tukiangalia stakabadhi za Bunge lenu

tutaweza kudhibitisha kwamba ni haki na ukweli kwamba viongozi walitafuta hifadhi kwa sababu ya vitisho mliyopata kutokana na kazi mliyojitwika katika kaunti yenu?

Asante, Bw. Spikawa Muda.

The Temporary Speaker (Sen. WakiliSigei): You may now proceed to respond to those questions.

Hon. Zipporah Kinya: Thank you, Mr. Temporary Speaker, Sir. On the fire in the Assembly, I submit that I was inside the Assembly. I saw the fire on the roof of the Assembly from inside. I submit that a report on the occurrence was made at the Meru Police Station. I submit that the County Assembly of Meru has CCTV footage, although I did not have adequate time to extract it. It can be good evidence of how the Assembly was torched.

Then, on the disease, it is true that the individual farmers take care of their livestock, especially when the animals have some problems. However, I submit that vaccination is a very big issue that is usually done by the governments, simply because the farmers cannot keep those vaccines. There is no single private practitioner who vaccinates the cows.

Secondly, the farmers cannot afford the vaccines, which are very expensive. In the past, as it is the standard practice, the government subsidizes the vaccinations to ensure even these diseases do not spread. A disease can be led by an ignorant farmer, and then it spreads, and this disease wipes out all the cows.

Thirdly, regarding the public participation in Buuri, the officer tried to disrupt the public participation. However, our staff from the County Assembly insisted and said that those that wanted to participate to write written memoranda. So, from Buuri Sub-County, we relied heavily on written memoranda because many of the participants shied away from the public participation venues because of the said threats.

On the second question about the disease, I submit that I did not say there was a meeting. I said that these farmers consulted me or talked to me about their plight. They explained to me that they suffered these losses and we did not have any meetings. I submitted that. Immediately, after I got the report, I called the Director of Livestock Production and Veterinary Services to find out why the county was not vaccinating cows at that particular time as is the norm. I made that great effort. However, it was to no avail because we did not get any assistance.

On the County Assembly again, I have noted that the reports by the investigators indicated that it was a petrol bomb that was thrown. I read those charges here. It was retrieved by the investigators and they have it as part of their evidence as they were charging these criminals.

I submitted that MCAs, including myself, were feeling threatened and that is exactly why we slept in the Chamber in order to be secure. I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Sen. Osotsi proceed. After Sen. Osotsi we will have Sen. Kinyua. You will answer questions from those two Senators.

Sen. Osotsi: Thank you, Mr. Temporary Speaker, Sir. I have two clarifications. The first is on the Petition No.5 by the members of the public to the Meru County

Assembly, which was filed on the 15th November, 2023. You note that this was just seven days after the last impeachment, which we had done on the 8th November, 2023.

I would like to find out from the witness whether she finds this to be a bit sinister. This particular Petition was calling for the impeachment of various County Executive Committee Members (CECM) and Chief Officers (COs) by the County Assembly, and therefore, further, dismissal by the Governor. Was this a continuation of your effort to derail the County Government of Meru?

Second issue; the witness confirmed to this House that she is a member of the Public Accounts Committee (PAC) and hence has obviously interacted with the Public Audit Act. Sections 31, 50 and 53 of the Public Audit Act are very clear that the report of the Auditor-General has to be considered, processed and reported to in the county assembly----

(Sen. Osotsis' microphone switched off)

The Temporary Speaker (Sen. Wakili Sigei): Sen. Osotsi, your time is up. You have asked the first question.

Sen. Kinyua, kindly ask your share of questions.

Sen. Kinyua: Asante Bw. Spika wa Muda. Katika kanda za video ambazo---

(Loud consultations)

The Temporary Speaker (Sen. Wakili Sigei): Order, Hon. Senators. Let us have Sen. Kinyua being heard in silence.

Sen. Kinyua: Bw. Spika wa Muda, katika kanda za video ambazo tumeonyeshwa hapa, tulimwona Gavana Kawira akisema kuwa kuna pesa ambazo zimechangwa. Hii ilinikanganya kidogo kwa sababu alipokuwa akinena kwa lugha ya Kimeru alisema kuwa pesa zilizokusanywa ni shilingi milioni 87. Lakini alipozungumza kwa lugha ya Kiswahili alisema pesa zilizokusanywa ni shilingi milioni 60 na akasema zinaweza tumika kumjengea nyumba ya ghorofa yule mjane na vilevile anunuliwe gari.

Bw. Spika wa Muda, katika kanda nyingine ya video, nilimsikia MCA akisema kuwa Gavana wa Meru County ni wazimu. Lakini, baadaye alipokuwa akiulizwa kuhusu swala lile alisema kuwa alinukuliwa vibaya. Mimi nashindwa kama ni yeye alimnukuu Gavana wa Meru na kusema kuwa amesema mambo mawili ambayo hayaambatani.

Kwanza, pesa zilizokusanywa ni shilingi milioni 87 tena kwa Kiswahili, nikaskia akisema kwamba, yeye alinukuliwa vibaya. Inaonekana waziwazi ya kwamba amesema mambo mawili tofauti. Akiongea kwa lugha ya Kimeru, alisema tofauti na yale yaliyosema akiongea kwa lugha ya Kiswahili. Yeye mwenyewe anaweza kusema ya kwamba alinukuliwa vibaya katika ile tuhuma ambayo imeletwa katika Seneti hii.

Nashukuru.

The Temporary Speaker (Sen. Wakili Sigei): Zipporah, respond to those two questions.

Hon. Zipporah Kinya: Thank you, Mr. Temporary Speaker, Sir and hon. Senators. On the question on Petition No.5 that was presented to the County Assembly

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on 15th November, 2023; I may not be in a position to explain whether it was a sinister motive because the members of the public that presented this petition did it on their own volition.

Petition No.5 was committed by the Speaker of the County Assembly of Meru to a Joint Committee on Labour and Justice; two committees that I am not a member of. So, just like any MCA who is not a member of those two committees, I consumed that report only on the day it was tabled on the Floor of the House. So, about the sinister motive; I may not be able to explain because I consumed the report on the Floor of the honourable Assembly.

Number two; yes, I submit I am a member of the Public Accounts Committee (PAC) and the section that has just been quoted is indeed correct. However, I submit that apart from that section, Article 229(6) also indicates that an audit report can indeed, be considered by the County Assembly, but it also clear that the audit report is final.

In this regard, I submit that in the audit report, it was clearly indicated that the management of the County Government of Meru was in breach of the law. So, I do not feel that the County Assembly could have said the management is not in breach of the law.

Mr. Temporary Speaker, Sir, the next question was from Sen. Kinyua. In the video, the Governor talks about a contribution of Kshs86 million; she is not giving two amounts. She only said that if that money is not above Kshs60 million, then those who are collecting that money are *wakora na wezi* in Kiswahili. That is what she insinuated, she did not give two figures. I believe it is the Governor who can speak for herself on whether she was taken out of context or not.

In the video that I am talking, I submit that that video was a media interview that I had taken for more than an hour. Although I said I cannot remember the dates, I submit that I had talked about so many governance issues. If that video was played in full, I would be able to explain the context and the circumstances under which I made that comment. That is why I feel it was out of context. Thank you.

The Temporary Speaker (Sen. Wakili Sigei): You have answered the questions. We will have Sen. Oketch Eddy and Sen. Mundigi, in that order.

Sen. OketchGicheru: Thank you, Mr. Temporary Speaker, Sir.

Witness, I know it has been a long day. I will be brief. I have two questions. You have confirmed that you belong to the Committee on County Public Accounts Committee (CPAC) in the Assembly.

Hon. Zipporah Kinya: Indeed.

Sen. OketchGicheru: I wanted to know, in your own understanding and knowledge, do all the Members of County Assembly (MCAs) in Meru County, those who voted for and against this impeachment, in your best of knowledge, belong to committees? If they do not belong to any committees, can you tell this House the circumstances that make them not to belong?

The last question is still on CPAC. The question that Sen.Osotsi asked is still not exhaustive to me. If you read Article 229(8) of the Constitution, read together with Section 31(5) of the Public Audit Act, the question is more of the responsibility to you as a member of CPAC and to the Assembly as a whole.

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This is your evidence in chief. In your best knowledge possible, was this report considered and thereafter---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Oketch Gicheru, your time is up. Proceed, Sen. Mundigi.

Sen. Munyi Mundigi: Asante, Bw. Spika wa Muda. Mheshimiwa, swali langu ni kuhusu kilimo. Kila kaunti ina kamati ya kilimo na mifugo. Ng'ombe ishirini ilikufa na kila ng'ombe ilikuwa ni shilingi elfu mia mbili. Hizo ng'ombe zilikuwa katika kijiji kimoja. Kila kijiji kina mbuzi, kondoo, ngamia na punda.

Wakati ugonjwa uliingia, je, kamati ya kilimo na mifugo ilitembea kona zote za Meru County kufanya hesabu ili waweze kuona ni mufugo wangapi wamekufa ili tuweze kujua kama uchumi wa Meru umeimarika au umekuwa ukirudi chini.

Ng'ombe ishirini kwa shilingi elfu mia mbili ni milioni nne. Ukihesabu utaona kuna ward ambapo ng'mbe arubaini na tano wakufa, hizo pesa zinakuwa ni kiwango cha juu sana. Mlipata wakati wa kasaidia ua mlifanya vipi kuinua uchumi wa Meru kuhusu mifugo hii?

The Temporary Speaker (Sen. Wakili Sigei): Hon. Zipporah, respond to those questions.

Hon. Zipporah Kinya: Thank you, Mr. Temporary Speaker, Sir.

I confirm that all the MCAs who did not support this impeachment are in the committees. I can start with the first committee, the Select Committee on Budget, in our volume six of the County Assembly documents. Number one, we have Hon. Jacob Mwirigi Muthuri, the Chairperson of the Budget Committee and he did not support this impeachment. They actually voted against this impeachment.

On No.14 on page seven of volume six, we have an Hon. Martin Kimathi Muriungi, Hon. Member for Timau Ward. He is a Member of the Budget Committee and did not support the impeachment of the Governor of Meru. The last one on that list is Hon. Jennifer Makena Morogocho who voted against this Motion. She is a member of the Budget Committee.

Mr. Temporary Speaker, Sir, if you allow me, I can go to the other committees.

The Temporary Speaker (Sen. Wakili Sigei): You do not need to---

Hon. Zipporah Kinya: I submit---

The Temporary Speaker (Sen. Wakili Sigei): Zipporah, I am speaking to you. You do not need to go to those other committees.

Hon. Zipporah Kinya: I am sorry, Hon. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Proceed to the next.

Hon. Zipporah Kinya: On the other issue of the Public Accounts Committee (PAC) Section, 31, I stand guided.

Sorry, the Hon. Senator can repeat that question and give me the section that he referred to. I am sorry, I did not get it right.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Eddy, do you want to give the witness the relevant Article of the Constitution?

Sen. Oketch Gicheru: Thank you, Mr. Temporary Speaker, Sir. I will be fast. I referred to Section 229(8) of the Constitution and Public Audit Act, Section 31(5). It is a

simple question. It is a matter of responsibility over such report that is supposed to be considered, debated and action taken about it by the Assembly.

I am asking you, to the best of your knowledge, both in your committee that you sit in and the Assembly, did you consider, debate and take action on that particular report, which is your evidence-in-chief in this matter? If not so, are you inviting the Senate to do the work of the Assembly?

Hon. Zipporah Kinya: Thank you, Hon. Temporary Speaker, Sir and Hon. Members. I earlier on submitted that even if the audit report, indeed, should be considered by the County Assembly, still Article 229(6) is clear that the audit report is final.

Mr. Temporary Speaker, Sir, under no circumstances, in my own opinion, the County Assembly of Meru can negate a decision that has been made in the Auditor-General's report.

The Temporary Speaker (Sen. Wakili Sigei): Alright.

Please respond to the second question that was asked by Sen. Mundigi.

Hon. Zipporah Kinya: Thank you, Mr. Temporary Speaker, Sir and Hon. Members.

On the question of the loss of around Kshs4 million - because the farmer is talking about 200,020 cows - I do not belong to the Agriculture Committee, but I can say that a number of reports have been tabled in the County Assembly in respect of management of livestock development and other aspects of agricultural activities in Meru County.

I cannot single out one that is specifically for the lost animal, but I can assure this House that a number of reports have been tabled in the County Assembly of Meru which considered recommendations given to the County Executive. They are all awaiting implementation.

The Temporary Speaker (Sen. Wakili Sigei): Thank you so much, Hon. Zipporah.

Hon. Members, for purposes of time management, I have an indication that certain Members have got questions with regards to the other witnesses other than the witness at the stand. I would like to know for purposes of allowing you to speak.

From the dashboard, I have only one, so far, and we have expended 30 minutes of the one hour that is available. Kindly give that indication, so that we can get to know how to manage the time with hon. Zipporah. For now, we will have Sen. Beth Syengo and Sen. Mungatana in that order.

Sen. Beth Syengo: Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to ask Hon. Zipporah two questions. Before I ask the questions, allow me to make this declaration. It is interesting---

The Temporary Speaker (Sen. Wakili Sigei): Sen. Beth, please ask your questions.

Sen. Beth Syengo: It is interesting, Mr. Temporary Speaker, Sir, for a woman to bring a Motion against another woman and also line up three women witnesses.

The first question is in regard to video VKM09. Madam Zipporah, you declared the Governor's seat vacant. I know you were not speaking for the Independent Electoral

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and Boundaries Commission (IEBC), but I would like to ask. As an MCA together with the others, have you been operating without a governor?

Secondly is on the fire that was on your compound. Did you say that the watchman was the one who was taking the video?

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Sen. Mungatana.

Sen. Mungatana, MGH: Mr. Temporary Speaker, Sir, first, it pains me as the Senator for Tana River and this Senate that we are where we are again on this matter. We want to help the people of Meru.

In the video clip that was played, you said that even if we return this matter, you will go for six times. The question I have is this. Is there a deeper problem in Meru and do you think that by sending away the Governor, we shall resolve this problem on behalf of the people of Meru, or are we making the problem worse? Kindly clarify that.

The Temporary Speaker (Sen. Wakili Sigei): Proceed to respond, hon. Zipporah.

Hon. Zipporah Kinya: Thank you, Mr. Temporary Speaker, Sir, and hon. Members for those questions. I will start with the first one, which was not a question, but a comment, which I believe was directed to me about a woman removing another woman from the office.

I submit to this House---

The Temporary Speaker (Sen. Wakili Sigei): Madam Zipporah, that was a comment. Please, respond to the question.

Hon. Zipporah Kinya: Thank you, Mr. Temporary Speaker, Sir.

Regarding to the video that I referred to and said that the position is vacant, I submitted here that concerning all those videos, I had a media interview of more than one hour. Since the videos are not dated, I could not extract them to exactly get what I talked about. That is just a small segment of 20 seconds. I want to submit to this House, I must have raised very serious governance issues during that media interview. I cannot remember under which context that one was sent which is exactly why I said I could have been taken out of context.

I again submit that I never said my watchman took the video. Indeed, the video was retrieved from the CCTV cameras from my home. I submitted that the watchman heard something fall because he was not far. He went to check what had fallen and found the fire. That was my initial submission and I still insist that is the position.

On the six times question from hon. Sen. Mungatana, I want to note that it is not about the many times that the Governor of Meru is impeached. It is about fighting for good governance, accountability, delivery of services in Meru County and someone taking responsibility for the position given.

It is not about witch-hunt or anything. I think that shows the determination that we need a Meru County that is functional, where services are being delivered and where the county government is serving the people of Meru.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Thank you. Let us now, hear from Sen. M. Kajwang' and thereafter Sen. Tabitha Mutinda.

Sen. M. Kajwang’: Thank you, Mr. Temporary Speaker, Sir. I want to be very direct and go to the exhibit that was submitted by the County Assembly. On page 353 of volume two, you took us there to demonstrate that the wage bill grew by Kshs500 million from Kshs4.4 billion to Kshs4.9 billion. Did the County Assembly approve the Kshs4.9 billion budget or was the Kshs500 million, excess expenditure over and above what the County Assembly approved?

Number two; on page 375 of volume two, you have a schedule there showing the transfers that were made to the various entities. These entities include the Meru Investment and Development Corporation, the Meru County Revenue Board, the Meru Youth Service and Meru Microfinance Corporation, which in your submission you said the Governor violated the Constitution by not appointing the chairs of the boards.

At the same time, on page 375, we have the report of the Auditor-General showing Kshs699 million, close to Kshs700 million was transferred to some of these boards. Did the County Assembly approve the Kshs699 million transfer? If the County Assembly did approve it, then what then would be the matter of saying that the boards were not effective due non- appointment?

Finally, you took us to Section 58 of the County Governments Act that talks about the Chief Executive Officer (CEO) of the County Public Service Board (CPSB). I want to get your views on Section 56 and 57 of the same Act. The Head of the County Public Service is the County Secretary. The CPSB works with the County Secretary to ensure that---

The Temporary Speaker (Sen. Wakili Sigei): Sen. M. Kajwang’, your time is up.

Proceed, Sen. Tabitha Mutinda.

Sen. Tabitha Mutinda: Thank you, Mr. Temporary Speaker, Sir. Hon. Zipporah, Clause 4 of the Meru County Revenue Board indicates that “there shall be an established Board.” Clause 6 talks about the composition of the board and it further emphasizes that the Act, therefore, requires the board to have a Chair.

Since you are a Member of the PAC as you have stated before this House, did you have any opportunity to have an audit query in regards to how funds were allocated or approved because we have seen that funds have been utilized? Putting in mind, Article 229(6) of the Constitution says that an audit report shall confirm whether or not public money has been applied lawfully and in an effective way.

Lastly, after the second impeachment of the Meru Governor as the County Assembly, what remedy did you put in place as the leaders and the MCAs to ensure that you sought the issues of Meru County, once and for all?

The Temporary Speaker (Sen. Wakili Sigei): Hon. Zipporah Kinya, proceed to respond to those questions. Be mindful of the time.

Hon. Zipporah Kinya: Thank you, Mr. Temporary Speaker, Sir and hon. Members. On the first question, indeed, the Assembly approved the funds. Whereas, it is the responsibility of the County Assembly to approve the funds, Section 30 of the County Government Act, 2012, mandates the governor of any county to be accountable for the management and use of the county resources.

I submit to this honourable House that the County Assembly allocates funds and then the Governor together with the County Executive Committee Members (CECM) is to be accountable for the management and use of the county resources. It is not the responsibility of the County Assembly to manage the resources. It is the work of the Governor together with the staff that the Governor supervises according to that section.

Secondly, concerning the Meru County boards that have not been operational because they were not constituted, I submit that the County Assembly of Meru made various communications through the clerk of the County Assembly to the County Executive. That, they needed to submit documents to the County Assembly to enable it carry out its mandates, which were never received. Similarly, as I have said, it is the work of the County Executive to use the funds allocated well.

Mr. Temporary Speaker, Sir, and hon. Members, the third question is on the Chief Executive Officer (CEO) of the County Public Service Board (CPSB) and the County Secretary. These two offices in county public service have distinct functions. They board is mandated to recruit through interviews. After recruitment, it is the county secretary who deploys, supervises and does the other work. So, the two have distinct functions. It is only that they work very closely.

The other question from Sen. Tabitha Mutinda is still on the chairperson of the board. I believe I have already submitted. That, it is the responsibility of the Governor of Meru County and the other officers to ensure the boards are legally constituted. It is not the duty of the County Assembly of Meru.

Concerning the remedy about this issue, I have already submitted that the County Assembly has worked so hard to implore on the County Executive to carry out their mandate in order to make even our work as the County Assembly very easy.

Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Thank you. Hon. Members, you have 12 minutes remaining to conclude this session. Let us be mindful of time once you are allowed to seek your clarifications.

Sen. Ledama and Sen. Tobiko.

Sen. Olekina: Thank you, Mr. Temporary Speaker, Sir. I will start by asking the witness to clarify on her last submission, on the failure by the County Government to appoint people in these boards. I will take the witness to Volume 1B, page 53 and I do not know whether she has had a chance to look into it.

Mr. Temporary Speaker, Sir, this issue of two minutes is doing us a big disservice. I would like her to tell me what page 53, 57, 58, 60, 61, 62, 65 and page 67 of the Governor's response, Vol 1B in terms of the responsibility of the County Assembly when it comes to the issue of confirming those nominees. Did the County Assembly ignore the request by the County Executive to confirm it? Refer to those and tell us what that equates to.

Secondly, I would like to understand whether impeachment equates to oversight. In her submissions when she was being taken through her video No. 17, she was asked by her lawyer in her evidence in chief, what she meant by, it is in the business of the Assembly to impeach. She changed her mind and then later on said that it is the business of the County to oversight.

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Finally, and this is important and I also hate the fact that we have little time, on the issue asked by Sen. M. Kajwang' in terms of the documents presented, what should the Executive do if the County Assembly fails to approve the nominees. Do those departments stay without being operational?

The Temporary Speaker (Sen. Wakili Sigei): Sen. Peris Tobiko?

Sen. Tobiko: Thank you, Mr. Temporary Speaker, Sir. I am curious and I wanted the hon. MCA to confirm to us when it was she started feeling insecure so as to have a CCTV in her home and for how long she has had a watchman in her home. She should also confirm that the video we watched of a small portion of her home burning is from a CCTV download because not many Kenyans do have that level of security apparatus.

Secondly, of the County Assembly's bundle of documents, we were referred to page 31 of 173, which had a list of directors. Those directors are low in scale, but act as directors. Have they attached letters of appointments for those directors for the Senate to confirm?

The Temporary Speaker (Sen. Wakili Sigei): Proceed to answer those questions.

Hon. Zipporah Kinya: Thank you, Mr. Temporary Speaker, Sir. On the first issue with the Governor's documents, Volume I, it is true that there are some nominees that were forwarded to the County Assembly for vetting. However, immediately the nominees were forwarded for vetting, the Clerk of the County Assembly through a letter in our Volume II, page 61, wrote back to the County Executive and requested for more information and clarification regarding the existence of vacancies in the offices within which the nominations were being made.

Sen. Olekina: On a point of Order, Mr. Temporary Speaker Sir.

Temporary Speaker (Sen. Wakili Sigei): Sen. Olekina?

Sen. Olekina: I think it is important that the witness refer to the pages that I led her to because it is specific to the board appointments. If you look at page 53. We want her to be very clear on that. We just want clarity.

The Temporary Speaker (Sen. Wakili Sigei): Witness, please go to those specific pages that you were referred to as you make your responses.

Hon. Zipporah Kinya: Thank you very much. I am referring to the letter that the hon. Senator is talking about in the bundle of the Governor's response is on page 53. In response to this letter, the Clerk of the County Assembly responded to this letter in our bundle of documents Volume II on page 61, requesting for more information on the nominees on 21st July, 2023.

I may not read because of time constraints. Then again, the Clerk of the County Assembly wrote again to the County Government thus: "this is kindly to make a follow-up on the requested information to facilitate the committal of the 400 nominees to the various Boards." That was a reminder on page 62 of our bundle of documents.

From that time---

Sen. Methu: On a point of Order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): What is your point of order, Sen. Methu? Give him the microphone.

Sen. Methu: Since this is evidence-in-chief, and it will go on record, it is fair that the witness refers to the content of the letter that the Clerk has written, “would wish to kindly inform you that my office is unable to recommend the same for the appointment, to be transmitted to the County Assembly for action”.

What the witness is saying is that they wrote to ask for more information, which is a not accurate. The fact is that the Clerk said that the County Assembly is unable to process their vetting since their offices have been occupied by other occupants.

The Temporary Speaker (Sen. Wakili Sigei): Madam Zipporah, kindly restrict yourself to the contents of the letter in responding to that particular question and be very mindful of the time that is already out.

Hon. Zipporah Kinya: Well guided. I read the second letter, maybe the hon. Senator in the first letter, I am sorry about that. However, my submission is that despite the constant communication, the information was not provided, so it became difficult for the County Assembly of Meru to continue with the process.

Sorry for that. Hon. Members. On the second question from Sen. Olekina, on whether impeachment is an oversight; the impeachment of a Governor is based on violations of the Constitution and other laws. In my own opinion, I describe impeachment as part of the oversight. I believe there is no other question from Sen. Olekina.

I will move to the question from hon. Sen. Tobiko. I submit that I did not install a CCTV just because of these insecurities. My home has been under the surveillance of the CCTV camera for the last five years. I also submit that I did not secure the services of a watchman because of this. The watchman has worked for me for several years.

(Sen. Tobiko spoke off record)

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

Hon. Zipporah Kinya: Maybe I can rephrase it---

The Temporary Speaker (Sen. Wakili Sigei): Hon. Zipporah, proceed to conclude on the response to the question.

Hon. Zipporah Kinya: My home has always been guarded by a watchman since I established it in the year 2003. There has been a watchman although he is not the same.

The Temporary Speaker (Sen. Wakili Sigei): You have already answered the question. Are you done?

Hon. Zipporah Kinya: Mr. Temporary Speaker, Sir, I am not done yet. I have the last one.

The Temporary Speaker (Sen. Wakili Sigei): Conclude in under one minute.

Hon. Zipporah Kinya: Mr. Temporary Speaker, Sir, the last one is on the directors. I confirm that the document that I have presented in this House is an official document that was submitted to the honourable House by the County Executive Committee Member (CECM) for Public Service on Legal Affairs. It is an official document that was adopted in the House. I believed I did not need to have appointment letters because that is a document that was submitted to the House by the CECM in the summons. Therefore, the County Assembly adopted it as an authentic document.

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I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Thank you. Now, Hon. Members, we have fully utilized the one hour that had been granted for purposes of clarifications. Therefore, as I directed earlier on, everyone had requested to seek clarifications. We cannot be here until midnight. We must limit and manage our time so that the session is done.

Madam Zipporah, you are excused from this point.

Hon. Members, we are proceeding to the next witness.

(Loud consultations)

Order, Hon. Members! The Chair is speaking. Sen. Cherarkey and Sen. Omogeni, order, please. We are closing that part. We have discharged the witness and that session is concluded.

Hon. Members, the next session is with regard to the second witness who has been summoned. We stood him down, so that the document he was to rely on, was circulated. That is the witness whom I would like to---

Very well. Proceed with what you need to ask for the witness to respond.

Very well, just a confirmation. There is a second witness whom we need to call upon; Ms. Hyrene Kawira Kamenchu.

Take the stand for Members to seek clarifications. We will do this section immediately and thereafter go back to the witness whom we stood down.

All right Members, with regards to the witnesses who have testified, we have Madam Hyrene Kawira Kamenchu and Linda Gakii. We will take 15 minutes to seek clarifications from the witness on the dock right now and another 15 minutes with Linda Gakii. Once we are done with the two, we will deal with Jacob Kirari.

So, for those who were unable to seek clarifications with the previous witness, this could be an opportunity to seek any additional clarifications with the other two witnesses.

From the dashboard, I have Sen. Okiya Omtatah.

Sen. Okiya Omtatah: Mr. Temporary Speaker, Sir, thank you for the opportunity, although I had prepared to ask the previous witness questions. However, with your direction, I will not hesitate to ask the learned counsel who was before us---

Mr. Temporary Speaker, Sir, where is the other witness that was here?

(Laughter)

The Temporary Speaker (Sen. Wakili Sigei): Sen. Okiya Omtatah, resume your seat, please.

Hon. Members, the witness on the stand now is Ms. Hyrene Kawira Kamenchu. If you have any question or clarification from her, this is the opportunity.

From my dashboard, the first person is Sen. Okiya Omtatah. If you have a question to the witness, proceed; if you do not, I will ask Sen. Samson Cherarkey.

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Sen. Cherarkey: Mr. Temporary Speaker, Sir, under Standing Order No.1---

The Temporary Speaker (Sen. Wakili Sigei): Order, Sen. Cherarkey.

Sen. Cherarkey: This is my time, I thought I could use it the way I want.

The Temporary Speaker (Sen. Wakili Sigei): Order, Sen. Cherarkey. Are you asking a question?

Sen. Cherarkey: Yes, I am asking a question---

The Temporary Speaker (Sen. Wakili Sigei): Proceed to ask the witness the question.

Sen. Cherarkey: With your guidance because under Standing Order No. 1, which is part of our rules and regulation, the Mover of the Motion was the key witness that we wanted to seek clarification from her. That will affect our judgment at the end of these proceedings. It will be very unfair.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, resume your seat, so that I give further guidance.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, but these are the Standing Orders; they are not strange to the House.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, resume your seat so that I give further guidance to the House.

Sen. Cherarkey: Yes, please.

The Temporary Speaker (Sen. Wakili Sigei): If you have no question to the witness on the stand, you may sign out. If you do, remain so that I give you the opportunity to ask those questions. Clear the screen.

I still have Members lined up, so I will give those who are still on the screen.

Sen. Joyce.

All right, Sen. Hamida Kibwana.

Very well, I will discharge the witness.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Veronica, proceed.

Sen. Veronica Maina: Kwanza nikukuambia pole sana kwa maafa ya mume wako Daniel Muthiani *Alias* Sniper. Kuna swali ningependa ueleze Seneti au hawa waheshimiwa kuhusu hii Pay Bill No.247247 Account No.0400163917899. Hiyo Pay bill ya mazishi ilifunguliwa na nani?

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Sen. Veronica.

Sen. Veronica Maina: I have asked her a question. Who opened this Paybill number?

The Temporary Speaker (Sen. Wakili Sigei): Sen. Veronica, proceed.

Sen. Veronica Maina: I have asked her a question. Who opened this door? Who opened this door? This Paybill No.247247 Account No.0400163917899. Hiyo akaunti iliyopata pesa Kshs286,516, ni nani aliifungua?

Ms. Hyrene Kawira: Ni mimi. It was initiated by Sniper's friends and bloggers. However, I was the one responsible for the account.

Sen. Veronica Maina: Kwa hivyo ni wewe ulikuwa unaangalia *balance* ya pesa zile imepata.

Ms. Hyrene Kawira: Yes. The notifications were being forwarded to me.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Veronica, address the Speaker.

Sen. Veronica Maina: Through the Speaker, kuna *control* yoyote ambayo gavana alipewa---

The Temporary Speaker (Sen. Wakili Sigei): Are you able to respond to that question? Your question is made, Sen. Veronica. Take your seat, you have asked the question. Allow the witness to respond to that question.

Ms. Hyrene Kawira: Mr. Temporary Speaker, Sir, and hon. Members, I would answer the question to my Senator. As I have said, the Paybill was initiated by Sniper's friends and the bloggers. I was the one accountable for the Paybill and the notifications were being forwarded to my phone. I am the holder of the account.

The Temporary Speaker (Sen. Wakili Sigei): Thank you. That question is answered.

Proceed, Sen. Mutinda.

Sen. Tabitha Mutinda: Nakupa pole zangu kwa kumpoteza mume wako Sniper. Nimeona katika video kwamba ulikerwa sana wakati Gavana alieleza kwamba ulipokea Shilingi milioni 86 taslimu na kwamba unaishi na Member of the County Assembly (MCA) mmoja wa Kaunti ya Meru. Ulichukuwa hatua gani kuondoa maneno haya ambayo kulingana nawe sio maneno ya kweli? Kwa kizungu tunasema, to clear the air.

Asante Bw. Spika wa Muda.

Ms. Hyrene Kawira: Mr. Temporary Speaker, Sir and the hon. Senators, it is the reason I am here today. I want to shed light to the whole House and to Kenyans that I do not have such amount. Na sikufichwa na MCA fulani.

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Sen. Olekina.

Sen. Olekina: Mr. Temporary Speaker, I do have a question for this witness. However, I have a question to the Attorney of the County Assembly in regards to the same issue.

(Loud consultations)

I need some clarification on the same issue of the Kshs86 million, not from the witness standing, but from the lawyer.

The Temporary Speaker (Sen. Wakili Sigei): You want to seek clarification from the lawyer? Take your seat so that the opportunity will be made available to you.

Sen. Olekina: Mr. Temporary Speaker, Sir, I think you are mixing issues because we are asking on the same matter of Kshs86 million. If you are going to allow us time to ask the lawyer, that is fine.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Ledama, take your seat.

(Sen. Olekina sat at his place)

Sen. Beth, please proceed.

Sen. Beth Syengo: Thank you, Mr. Temporary Speaker, Sir.

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Kwanza nakupa pole kwa sababu najua ni hali ngumu. Swali langu pia lingenda kwa wakili, sio kwa madam.

The Temporary Speaker(Sen. Wakili Sigei): Very well, Sen. Beth.

Is there any other Member? I have three Members on my dashboard. I do not want Members to complain. If there is none, then the witness is discharged.

Let us call upon the second last witness, Ms. Linda Kiome.

Sen. Cherarkey: Point of order!

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, what is your point of order? Please give Sen. Cherarkey the microphone.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, under Article 181 that talks about the process of removing a governor, would I be in order to make an application that we stand down this witness and have the Mover of the Motion come back for clarity of the House? I beg to move that Motion and request Sen. Ledama to second me.

(Sen. Olekina spoke off record)

We can rewrite the rules because there are many issues that we need to clarify.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Cherarkey, take your seat. You are out of order. Is there anyone with any specific clarification that they would like to have from witness? Sen. Mbugua, please proceed.

Sen. Mumma: Thank you, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Mumma, I have given the opportunity to Sen. Mbugua. I will give it to you afterwards.

Sen. Mbugua: Mr. Temporary Speaker, Sir, I would like to have two clarifications from Linda Gakii Kiome.

You served as an advisor to the Governor for one year. I would like you to tell this House how the communication from the Governor and your response was done, so that we can interrogate this matter.

Secondly, during this one year that you served the Governor, the issue of appointment of the boards was a live matter. Did the Governor ever seek an advisory from you on how to deal with it and how did you respond?

Ms. Linda Gakii Kiome: Mr. Temporary Speaker, Sir, and hon. Members, thank you, Senator, for that question.

When I was appointed by the Governor, I was almost due to have my third baby. Her directions were that I should go back after my maternity leave was over. That was in September and I went back. From September, when I went back, she advised that I should work under the County Executive Committee member (CECM) for Legal Affairs, Mr. Dickson Munene. She had instructed that I would be working on a need basis and that when she requires my advice, she would call me.

The only time the Governor called me was when the second impeachment came up. Out of the respect that I have for the Governor, and of course advocate-client relationship, I will not disclose the information, or rather, the advice that she sought from me. I owe her that much.

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Thereafter, after the impeachment, that is when she called me to her office in Meru just before Christmas and asked me to resign.

Mr. Temporary Speaker, Sir, our relationship got sour immediately after the second impeachment. There was no further communication from the Governor until I believe the 26th of March this year. In between, the CECM, Mr. Dixon Munene, kept pressuring me to resign. So, I felt that if the Governor had said that she would seek legal advice from me on a need basis, at no time did she ask me about the legality of any appointments of the boards in the Meru County Government. There is no written advisory that I have given the Governor within that period of time.

The nature of the advice---

The Temporary Speaker (Sen. Wakili Sigei): That is all, Ms. Linda. Make your responses short and respond directly to the question.

Ms. Linda Gakii Kiome: Thank you, Mr. Temporary Speaker, Sir. I stand guided.

The Temporary Speaker (Sen. Wakili Sigei): Did I cut you short or you were done?

Ms. Linda Gakii Kiome: I was on the last issue where I was saying that the nature of the legal advice that she had sought was verbal and she had asked me to go to her home to give her the legal advice. Thereafter, any other advice I was giving was through the CECM, Mr. Dixon Munene.

The Temporary Speaker (Sen. Wakili Sigei): Thank you.

Sen. Mumma, please, proceed.

Sen. Mumma: Thank you Mr. Temporary Speaker, Sir. Witness, you are a former legal advisor to the Governor. You have sued the Governor. We understand that is not very apparent. Did you see the need to declare conflict of interest in coming to give evidence against somebody whom you have had advocate-client relationship and whom you were advising? I did not hear you declare that when you were called on the witness box.

Ms. Linda Gakii Kiome: Thank you, Mr. Temporary Speaker, Sir. Hon. Senators, I said in my submission that I came to clear my name from an allegation of giving mediocre advice to the Governor.

I am an advocate of many years of practice. Ordinarily, in the very least, I would have at least written my name at the end of that advisory. I came here to clear my name for future prospects and I indicated that very clearly when I was giving evidence. I did not withhold any information regarding my relationship with the Governor.

The Temporary Speaker (Sen. Wakili Sigei): Very well. Senator Mugatana?

Sen. Mungatana, MGH: Mr. Temporary Speaker, Sir, just a quick clarification. The witness may need to tell us what the probative value of her denial is as we stand now because it is not accompanied by a forensic document examiner who can back up her assertions.

It is her word against the word of the Governor; the letters that were there. So who do we believe without expert support and how do we go about it? How, how do we decide within the time constraints that we have?

I submit, Mr. Speaker.

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The Temporary Speaker (Sen. Wakili Sigei): Ms. Linda, please respond.

Ms. Linda Gakii Kiome: Thank you, hon. Members of the Senate. I believe that my cause to come and make a request to attend this session was, first of all, for my own future prosperity. I had indicated earlier I would not have wanted to be associated with that kind of advisory.

Number two, I got this information while I was in Mombasa. The first time I saw the document was on *WhatsApp* yesterday at about 2.00 p.m. That is the first time I saw it.

Number three, I am yet to see the original document. At least, can it even be supplied before this Senate? I know they have lifted that signature from another document. Let them be tasked to produce the original document of that advisory or internal memo.

I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Sen. Okiya Omtatah.

Sen. Okiya Omtatah: Mr. Temporary Speaker, Sir, thank you for the opportunity. Counsel, I just want a clarification on your signature. Did you say that the signature on the advisory was not yours; did you say the signature was similar to yours or did you say the signature was lifted from the other documents that you had signed? You made a reference to all the three and maybe clarify for me which one is which. I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Ms. Linda.

Ms. Linda Gakii Kiome: Thank you, Mr. Temporary Speaker, Sir. Hon. Members, I was very categorical that I did not sign that document hence making a conclusion that, that signature was lifted from other documents that I had signed. That is why I am asking, can I be provided with an original document because what we have is a photocopy? I know with a clean heart, I have not signed that document and I have not prepared it.

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Sen. Cherarkey.

Sen. Cherarkey: Mr. Temporary Speaker, Sir, through you, counsel, in some of the charges the Governor has been accused of appointing chairpersons to the Meru County Revenue Board, Meru Microfinance Corporation, Meru Youth Service Board and Meru County Investment.

You were the legal advisor to the Governor. Did you at any point give advice to the Governor to comply with both county legislation and national legislation on the importance of appointing the chairpersons of these corporations?

Finally, having been a running mate of the Governor's opponent, I heard you saying you enjoy a cordial relationship. Is that still the case? You said you hold the Governor in high regard.

Ms. Linda Gakii Kiome: Absolutely.

Sen. Cherarkey: In conclusion, before the Governor appointed you to that position, did you seek the blessings of your former gubernatorial candidate, Sen. Mithika Linturi?

The Temporary Speaker (Sen. Wakili Sigei): Before you answer that, Linda, let us hear from Sen. Veronica, so that you answer both questions.

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Sen. Veronica Maina: Could the witness clarify how many legal advisory opinions she proffered to the Governor during her short stint? When she discovered according to her that her signature had been used without her consent, did she take any action to forestall a criminal activity of forgery or using her signature without consent? How many opinions did you proffer which were official?

Sen. Oketch Gicheru: On a point of order, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): What is your point of order, Sen. Oketch Gicheru?

Sen. Oketch Gicheru: Mr. Temporary Speaker, Sir, I rise under Standing Order No.88 and the rules that are related to this. Where we have any evidence, where we cannot be able to interpret that evidence, our rules require that we must get an interpreter.

Mr. Temporary Speaker, Sir, you have seen this issue of signature bouncing from one Senator to another. It is not clear. Do you not think that there is need to get an examiner for the signature or examine the lifting as evidence given by the witness? Otherwise, we cannot pronounce ourselves on the broader allegation of that fraud.

The Temporary Speaker (Sen. Wakili Sigei): Sen. Oketch Gicheru, if you followed the sequence of the evidence the witness gave, and the questions from cross-examination to now, she is objecting that the documents have been signed by her. That is what the Hon. Members are seeking clarification on.

Your concern is as good as the concerns that the rest of the Members have raised. I do not think in these circumstances, we need any expert examination of what the witness said, she did not sign. Nonetheless, let us allow her to respond to the questions by Sen. Cherarkey and Sen. Veronica Maina.

Ms. Linda Gakii Kiome: Thank you very much, Mr. Temporary Speaker, Sir and Hon. Members. As I said, the Governor advised that I could only give any legal advice on a need basis. As an advocate, you cannot solicit to give advice. You can only wait to be requested for the advice. When the second impeachment came, around November, 2023, the Governor called me in her residence. Before that, I was in Kakamega. She called me through the telephone and asked for certain legal advice, which, as I said before, I am restricted through advocate-client relationship. Out of the respect that I have for the Governor, I will not disclose the advice that she required. Soon after the impeachment is when she called and asked me to resign. So, which means, our relationship did not last long.

I was shocked yesterday while in Diani where we were attending an annual conference for the Law Society of Kenya (LSK), when I was sent a copy of that document. It was the first time that I saw that document. I had to travel with a small baby at night, so that I could come and see whether I would be allowed to clear my name out of that document.

When I came, I submitted before that I went to the Parliament Police Station. The Officer Commanding Station (OCS called the Director of Criminal Investigations (DCI) and they said I can only make a report in Meru, where the issue had arose. I said earlier that I am going to pursue it because I believe that the truth shall set me free. Even if a document examiner was to come here, for sure he will exonerate me. I am speaking the truth and only fearing God.

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I thank you.

The Temporary Speaker (Sen. Wakili Sigei): Thank you, Ms. Linda. Any other person? We are out of the 15 minutes time we granted to this clarification. Sen. Ogola, do you have a question to the counsel? That will be the last Member I am granting this opportunity, so that we close on this witness.

Sen. Ogola: Thank you, Mr. Temporary Speaker, Sir. My initial comment is on that the burden of proving forgery. Who alleges the forgery? Linda needed to have submitted evidence that it is not her signature. However, Linda, you were a legal advisor to the Governor at some point and you know in the Constitution, alternative dispute resolution methods are catered for there. Did you at any point advice the Governor on any alternative dispute methods that could have been used in this long running dispute and if you did, what attempts were made?

The Temporary Speaker (Sen. Wakili Sigei): Ms. Linda, I want you to respond to that question in under one minute.

Ms. Linda Gakii Kiome: Thank you, Mr. Temporary Speaker, Sir. In my relationship with the Governor, she was very secretive. She did not consult a lot and my options were very limited. She is my employer and she tells me that I will only come to you when I need to. Limited only.

Even if you asked me for a written legal opinion that I have written in that short period of three months, I would say I do not have because the Governor told me to work with the CECM of Legal Affairs. I can produce documents that I have prepared on behalf of this CECM. However, for the Governor, she only allowed me to advise her during the second impeachment and I can confirm that I attended the High Court of Meru before the Court of Appeal Judges who were hearing her matter in the Meru High Court.

The Temporary Speaker (Sen. Wakili Sigei): That is sufficient.

Hon. Members, that brings us to the end of the clarification session that we had with the witnesses. Ms. Linda, you can take your leave. You are released.

We have the last witness, Mr. Jacob Kirari. Hon. Members, I believe you have been served with a copy of a section of the register, which was shared. We would like to have the witness brought into the stand.

*(The Temporary Speaker (Sen. Wakili Sigei) consulted
with the Clerk-at-the-Table)*

Clerk, you were earlier sworn in and the Counsel for the County Assembly has only nine minutes to conclude with this witness, out of your time that had earlier on been shared with other witnesses. Therefore, starting now, run through with the witness.

This document has been shared with the Members and the original version of it has been shared with the Counsel for the Governor. There is also a soft copy that has been shared and I believe Members have gotten an opportunity to look at it.

Counsel, it is your turn to take the witness through, being mindful of the nine minutes at your disposal.

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Mr. Boniface Mwereru Mawira: I will quickly take you to page 53 of the Governor's Index 1B because of the time constraints. There is a volume of documents. You confirm that the county assembly received that letter?

Mr. Jacob Kirari: Yes.

Mr. Boniface Mwereru Mawira: On which date? On the top left corner. Can you see the date?

Mr. Jacob Kirari: It is not clear, but is it 14th?

Mr. Boniface Mwereru Mawira: The document is dated the 18th of June 2023. Correct? Page 53 of the Governor's Volume 1B. It is dated 18th June, 2023.

Mr. Jacob Kirari: Yes.

Mr. Boniface Mwereru Mawira: So, that is the first list of the nominees that were sent to the county assembly by the governor. Of all the documents that are filed by the governor, that are in contention concerning the Meru County Revenue Board, that is the list of nominees that was sent. Correct?

Mr. Jacob Kirari: Yes.

Mr. Boniface Mwereru Mawira: Turn with me to page 57 of the Governor's Volume. The Governor sent another list of nominees on the 21st June, correct?

Mr. Jacob Kirari: Yes.

Mr. Boniface Mwereru Mawira: Another one was equally sent on the 21st June, which is on page 58.

Mr. Jacob Kirari: That is true.

Mr. Boniface Mwereru Mawira: There is a response by yourself actually, on page 60 of the governor's Index.

Mr. Jacob Kirari: Yes.

Mr. Boniface Mwereru Mawira: I will read it out in the interest of time. In paragraph two, in the last sentence you say, from our present records--- First of all, you refer to the letters dated 21st of June from the governor, correct?

Mr. Jacob Kirari: Yes.

Mr. Boniface Mwereru Mawira: In paragraph two, the last sentence you say- "From our present records, we observe that most of the offices to which the nominees have been forwarded have substantive office holders whose terms are yet to expire".

Correct?

Mr. Jacob Kirari: That is true.

Mr. Boniface Mwereru Mawira: What was the basis for you to say that their terms are yet to expire?

Mr. Jacob Kirari: The record in the office of vetting the respective nominees was very clear that those offices are still occupied. They were to expire around December.

Mr. Boniface Mwereru Mawira: I will refer you to page 52 of the County Assembly's volume two. For instance, concerning the Meru County Revenue Board, I want you to confirm whether, on Page 52 of the County Assembly's volume two, that is, the Exhibit supporting the Impeachment Motion, the Meru County Revenue Boards' term was extended for three years from 15th of November 2020, correct?

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Mr. Jacob Kirari: Yes.

Mr. Boniface Mwereru Mawira: So, it means it was expiring on the 15th of November 2020, correct? Three years from the 15th of November 2020.

Mr. Jacob Kirari: Very true.

Mr. Boniface Mwereru Mawira: So, at the time of receiving nominees to the Meru County Revenue Board, in the letter we have seen by the governor, the letter on page 53 of the governor's Volume 1B, the Meru County Revenue Board had a fully constituted board, correct?

Mr. Jacob Kirari: Yes.

Mr. Boniface Mwereru Mawira: Therefore, the nominees could not have been appointed to those offices unless the existing appointments were revoked or on account of natural attrition.

Mr. Jacob Kirari: Yes.

Mr. Boniface Mwereru Mawira: I will take you to the County Assembly's volume two, the letter on page 58. That is a letter you wrote to the County Secretary, correct?

Mr. Jacob Kirari: Yes.

Mr. Boniface Mwereru Mawira: What do you tell the County Secretary in that letter? Are you there?

Mr. Jacob Kirari: Yes.

Mr. Boniface Mwereru Mawira: What do you say in that letter?

Mr. Jacob Kirari: Delay in approval of board nominees.

Mr. Mr. Boniface Mwereru Mawira: Pardon? Before you get there, turn to page 61, in volume 1B of the Governor's documents. The annexure KM9 (I), is a letter by yourself, correct?

Mr. Jacob Kirari: Yes, Mr. Temporary Speaker, Sir.

Mr. Mr. Boniface Mwereru Mawira: In fact, you make reference to your previous letter dated 20th July.

Mr. Jacob Kirari: That is true.

Mr. Boniface Mwereru Mawira: What do you inform the County Secretary in the second paragraph.

Mr. Jacob Kirari: This is to kindly note---

Mr. Boniface Mwereru Mawira: This is to kindly make a follow up on the requested information to facilitate the committal of the forwarded nominees to the various semi-autonomous boards of the county government, to the relevant committees of the Assembly for vetting. Correct?

Mr. Jacob Kirari: Yes, Mr. Temporary Speaker, Sir.

Mr. Boniface Mwereru Mawira: So, you are making a follow up with the office of the County Secretary, correct?

Mr. Jacob Kirari: That is true.

Mr. Boniface Mwereru Mawira: Kindly turn to page 58 of volume two of the County Assembly's document. In fact, the first letter is on page 60 of the same document. After you wrote on the 31st August, 2023, did the County Assembly ever

receive any other response to that letter for that period between 31st August, 2023 until 15th July? Did you receive any correspondence from the County Executive?

Mr. Jacob Kirari: No, Mr. Temporary Speaker, Sir. Not at all.

Mr. Boniface Mwereru Mawira: The next letter you received is on 15th July, 2024. Correct?

Mr. Jacob Kirari: Yes, Mr. Temporary Speaker, Sir.

Mr. Boniface Mwereru Mawira: Do you recall what other activity was happening on the 15th July, 2024, in the County Assembly?

Mr. Jacob Kirari: Mr. Temporary Speaker, Sir, I think there was an impeachment.

Mr. Boniface Mwereru Mawira: You think there was an impeachment Motion.

Mr. Jacob Kirari: Yes.

Mr. Boniface Mwereru Mawira: That is the first impeachment Motion that was stopped by the court. Correct?

Mr. Jacob Kirari: Very true.

Mr. Boniface Mwereru Mawira: On the date that the impeachment Motion was forwarded to your office, you received a letter from the County Secretary, accusing you at paragraph two, of deliberately failing to approve and or communicate your rejection of the employees and purporting that you want to cripple the overall performance of the government agencies. Correct?

Mr. Jacob Kirari: Mr. Temporary Speaker, Sir, very true.

Mr. Boniface Mwereru Mawira: You responded with the letter on page 58. That is two days later on 17th July. Correct?

Mr. Jacob Kirari: Yes, Mr. Temporary Speaker, Sir.

Mr. Boniface Mwereru Mawira: What do you tell the County Secretary at paragraph two? At paragraph one, you make reference to your earlier letter of 20th July, which was close to a year later dated 17th July, 2024. When you were making the follow up to the previous correspondence, it was dated 20th July, 2023. Correct?

Mr. Jacob Kirari: Yes, Mr. Temporary Speaker, Sir.

Mr. Boniface Mwereru Mawira: There was a letter of 31st August, 2023, which you sent to them from the governor's own documents, correct?

Mr. Jacob Kirari: Yes.

Mr. Boniface Mwereru Mawira: At paragraph two, what do you tell the County Secretary? Let me read so that you can agree with me for the benefit of time. As per our earlier communications, the Assembly repeatedly requested additional information and clarifications regarding the filling of available vacancies in the respective boards.

You then urge them at paragraph three to kindly refer to the afore-mentioned letters for clarity and the Assembly remains willing. Would you say that the County Assembly was intentional in crippling the functions of the County Executive at all times?

Mr. Jacob Kirari: It is not true.

Mr. Boniface Mwereru Mawira: Did the governor respond to that letter dated--- Or you can turn to Page 62---

Mr. Jacob Kirari: No, Mr. Temporary Speaker, Sir.

Mr. Boniface Mwereru Mawira: The letter at Page 62 of the Governor's Volume 1B. That is a response by the governor, correct?

Mr. Jacob Kirari: Yes.

Mr. Boniface Mwereru Mawira: The response by the County Secretary?

Mr. Jacob Kirari: Mr. Temporary Speaker, Sir. It is the response by the County Secretary and not the governor.

Mr. Boniface Mwereru Mawira: The letter is dated 17th July, correct?

Mr. Jacob Kirari: Yes, Mr. Temporary Speaker, Sir.

Mr. Boniface Mwereru Mawira: Save for these correspondences, I want you to check in your original register; the one that copies have been made and availed to the Clerk; specifically, did your office receive the letter on page 54 of the governor's Volume 1B? Turn with me to page 54 of the governor's Volume 1B; the blue copy. The letter dated 18th September, 2023.

The Temporary Speaker (Sen. Wakili Sigei): Counsel, your time is up. I am giving you 30 seconds to conclude on what you need to ask for the witness to respond.

Mr. Boniface Mwereru Mawira: Mr. Temporary Speaker, Sir, I will just take two minutes to conclude on this question; It is the main reason why I called this witness.

The Temporary Speaker (Sen. Wakili Sigei): Just close in one minute.

Mr. Boniface Mwereru Mawira: Very well. Mr. Witness, the documents at pages 54, 55 and 56 in the governor's volume 1B are letters date 18thSeptember, 2023. Did your office receive these three letters?

Mr. Jacob Kirari: Not yet.

Mr. Boniface Mwereru Mawira: I want you to confirm from the original register.

Mr. Jacob Kirari: They are not in my record so far.

Mr. Boniface Mwereru Mawira: So, from your record, is there any document that you received from the County Secretary on 18th September?

Mr. Jacob Kirari: Not yet.

Mr. Boniface Mwereru Mawira: From your record in the register contained in your office for all correspondences. Did you receive any letter on the 11th January? The letter at Page 55?

Mr. Jacob Kirari: Not at all.

Mr. Boniface Mwereru Mawira: Did you receive any letter dated 18th September, 2023. That is the document appearing on page 54.

Mr. Jacob Kirari: No.

Mr. Boniface Mwereru Mawira: So, to the best of your knowledge, are these documents legitimate documents served upon your office or are they forgeries that were manufactured for the purpose of hoodwinking this Hon. House?

Mr. Jacob Kirari: I confirm that these documents are not in my records. Therefore, they must have been authored outside my office.

Mr. Boniface Mwereru Mawira: Is it a coincidence---

The Temporary Speaker (Sen. Wakili Sigei): Your time is up. Yield the witness to the Governor's team.

Mr. Boniface Mwereru Mawira: Very well, I yield the witness for cross-examination.

Mr. Elisha Ongoya: Mr. Temporary Speaker, Sir, we had been given one hour which we used 20 minutes for the first witness and approximately, 10 minutes for the other witness. I will not use my entire 30 minutes; I just want to confirm that that is the range of time I have. I will use less than that.

The Temporary Speaker (Sen. Wakili Sigei): That is the position.

Mr. Elisha Ongoya: Thank you.

Mr. Jacob, let me just have your full name, so that I can be able to call you formally.

Mr. Jacob Kirari: Jacob Kirari.

Mr. Elisha Ongoya: Thank you, so much. Jacob, you were brought to this House for the limited purpose of producing that register. True or not true?

Mr. Jacob Kirari: Pardon.

Mr. Elisha Ongoya: You were brought to this House to produce this register before this House.

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: Thank you. For how long have you served as Clerk of Meru County Assembly?

Mr. Jacob Kirari: From 2020.

Mr. Elisha Ongoya: Does Meru County Assembly have any other register for receiving correspondence or that is the only register?

Mr. Jacob Kirari: We use a register and when it is full, we open another one for purposes of accountability.

Mr. Elisha Ongoya: So, does Meru County Assembly operate multiple registers simultaneously or does it operate one register at a time?

Mr. Jacob Kirari: One register at a time.

Mr. Elisha Ongoya: Thank you. When was the register that you have opened?

Mr. Jacob Kirari: It was opened on 15th September, 2023.

Mr. Elisha Ongoya: Are you sure of that fact? Answer that question; are you sure of that fact?

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: There are papers you are holding with your hand. You have opened many papers, yes, those ones. What are they? Remove that stapler. Why have you stapled them? That is one of the things I wanted to ask you. Do those papers show correspondence?

Mr. Jacob Kirari: No, because they are not carrying all the necessary details.

Mr. Elisha Ongoya: You are answering a completely different question. Do they show correspondence?

Mr. Jacob Kirari: No.

Mr. Elisha Ongoya: What do they show?

Mr. Jacob Kirari: It was just a writing, which had no details.

Mr. Elisha Ongoya: Those writings are something. What are those writings? Okay, let us go systematically. Open the first page of that book. Are we there?

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- Mr. Jacob Kirari:** Yes.
- Mr. Elisha Ongoya:** It is divided into columns, is it not?
- Mr. Jacob Kirari:** Yes.
- Mr. Elisha Ongoya:** Those columns have headings, is it not?
- Mr. Jacob Kirari:** Yes.
- Mr. Elisha Ongoya:** Read for us column one.
- Mr. Jacob Kirari:** Date.
- Mr. Elisha Ongoya:** Date of what?
- Mr. Jacob Kirari:** It is just date.
- Mr. Elisha Ongoya:** Column two?
- Mr. Jacob Kirari:** Particulars of contents of the items.
- Mr. Elisha Ongoya:** Column three.
- Mr. Jacob Kirari:** Request.
- Mr. Elisha Ongoya:** Column four.
- Mr. Jacob Kirari:** Authorize to buy.
- Mr. Elisha Ongoya:** Column five.
- Mr. Jacob Kirari:** Signature.
- Mr. Elisha Ongoya:** Column six.
- Mr. Jacob Kirari:** Nothing.
- Mr. Elisha Ongoya:** Okay, let us go to the place called particulars. Do not close that page. Read the first entry on the first row. What particulars are entered there?
- Mr. Jacob Kirari:** Integrated Financial Management Information System (IFMIS).
- Mr. Elisha Ongoya:** The second column?
- Mr. Jacob Kirari:** Lunch allowance.
- Mr. Elisha Ongoya:** Sorry?
- Mr. Jacob Kirari:** In the second column, we have Phineas Mwenda.
- Mr. Elisha Ongoya:** You are looking at the second page of that document, are you not?
- Mr. Jacob Kirari:** Yes.
- Mr. Elisha Ongoya:** When did those entries began being entered on that document?
- Mr. Jacob Kirari:** In 2015.
- Mr. Elisha Ongoya:** Look at the cover page of that document. It states what the book is, does it not? What is the title of that book?
- Mr. Jacob Kirari:** Memos Register.
- Mr. Elisha Ongoya:** It is a Memos Register. Is that correct?
- Mr. Jacob Kirari:** Yes.
- Mr. Elisha Ongoya:** There are memos from page two of that book. True or not true?
- Mr. Jacob Kirari:** I want to explain that---
- Mr. Elisha Ongoya:** You will not explain. Answer my question. There are memos from page two of that book, are they not there?
- Mr. Jacob Kirari:** Yes.

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Mr. Elisha Ongoya: Those memos run from which date? What is the first date when the first memo is registered in that book?

Mr. Jacob Kirari: It is 25th June, 2015.

Mr. Elisha Ongoya: Move to the entry of 17th November, 2015. There is a memo on that date, is it not?

Mr. Jacob Kirari: Just facilitation.

Mr. Elisha Ongoya: There is a memo for facilitation on that day. Is that true or not true?

Mr. Jacob Kirari: It is recorded here as facilitation, but not---

Mr. Elisha Ongoya: Sorry, Jacob. I am going to---We are just starting.

Mr. Jacob Kirari: It is true.

Mr. Elisha Ongoya: After that memo entered in that register on 17th November, 2015, when is the next entry of any memo or letter in that register?

Mr. Jacob Kirari: We closed it.

Mr. Elisha Ongoya: I have asked you a simple and straightforward question.

Mr. Jacob Kirari: No other in respect of facilitation.

Mr. Elisha Ongoya: What other entry is entered in that book?

Mr. Jacob Kirari: Other entries as from 15th November is---

Mr. Elisha Ongoya: Of which year?

Mr. Jacob Kirari: 2023.

Mr. Elisha Ongoya: There is no entry of a memo being received in that register from 17th November, 2015 to 15th November, 2023, a period of eight years. True or not true?

Mr. Jacob Kirari: There are other memos. There are other registers in the office.

Mr. Elisha Ongoya: Sorry?

Mr. Jacob Kirari: There could be other registers there.

Mr. Elisha Ongoya: I thought you told me that you do not operate multiple registers simultaneously.

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: So, if you do not operate multiple registers simultaneously, that book was not full. It was not filled as at 17th---

By the way, let us move step by step. How many pages of that hard copied book are full as at 17th November, 2015?

Mr. Jacob Kirari: Four of them.

Mr. Elisha Ongoya: Only four pages in a book of how many pages in total?

Mr. Jacob Kirari: This could be 384 pages.

Mr. Elisha Ongoya: A total of 384 pages! You have 380 pages to go, by the time you receive the last memo of 17th November, 2015. Is this true or not?

Mr. Jacob Kirari: That is true.

Mr. Elisha Ongoya: The next memo to be received in that book or correspondence is 15th November, 2023. Did I get you right?

Mr. Jacob Kirari: 15th of September.

Mr. Elisha Ongoya: Did you say 15th September?

Mr. Jacob Kirari: Okay, let us use September.

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Mr. Elisha Ongoya: 15th September, 2023, almost eight years down the line, your office was not receiving and registering correspondence?

Mr. Jacob Kirari: No, they were.

Mr. Elisha Ongoya: Where were they being registered?

Mr. Jacob Kirari: If it were not for those particular period---

Mr. Elisha Ongoya: Where were they being registered?

Mr. Jacob Kirari: In other registers.

Mr. Elisha Ongoya: So, you were running multiple registers, simultaneously?

Mr. Jacob Kirari: Very.

(Laughter)

Mr. Elisha Ongoya: Were you running multiple registers in the period between 17th November, 2015 and 15th September, 2023?

Mr. Jacob Kirari: It does not mean multiple. It could be a whole register.

Mr. Elisha Ongoya: We are dealing with facts, Mr. Jacob. We are not dealing with hypothesis. You are either dealing with multiple registers or not. Between 17th November, 2015 and 15th September, 2023, you were running multiple registers for receiving correspondence?

Mr. Jacob Kirari: That is not true.

Mr. Elisha Ongoya: You running one register?

Mr. Jacob Kirari: Yes, when it could get filled, we would then open another one.

Mr. Elisha Ongoya: When was that register used to record correspondence? Which day was that?

Mr. Jacob Kirari: That was in 2015.

Mr. Elisha Ongoya: Give me the date.

Mr. Jacob Kirari: It was on 25th June, 2015.

Mr. Elisha Ongoya: It has 384 pages. Ordinarily, filling that book means using all pages. Does it have any other meaning?

Mr. Jacob Kirari: It will depend with the content, which you are using there.

Mr. Elisha Ongoya: I am saying, filling that book means using all the pages, in other words, the book getting used up. Am I correct?

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: When was that book completely used up, to date?

Mr. Jacob Kirari: It is not yet over.

Mr. Elisha Ongoya: It is not yet over. So, that is the register. However, after 17th November, 2015, from your register, the office of the Clerk of the Meru County Assembly receives no letter for eight years, until 15th September, 2023. Mr. Jacob, does that make sense to you?

Mr. Jacob Kirari: That is not true.

Mr. Elisha Ongoya: Does that make sense to you?

Mr. Jacob Kirari: We just brought the register that has issues.

Mr. Elisha Ongoya: Are there other registers without issues?

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Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: So, you are running multiple registers.

Mr. Jacob Kirari: No. When a register is over---

Mr. Elisha Ongoya: Mr. Jacob, where are those registers without issues as we speak now?

Mr. Jacob Kirari: They are in the office.

Mr. Elisha Ongoya: Why did you not bring them for us to fully interrogate this question?

Mr. Jacob Kirari: I got this information yesterday.

Mr. Elisha Ongoya: Mr. Jacob, what is your professional background?

Mr. Jacob Kirari: Me?

Mr. Elisha Ongoya: Yes, you.

Mr. Jacob Kirari: I am a Clerk.

Mr. Elisha Ongoya: Which area of learning are you an expert in? For example, I am a lawyer by training, but I can be a teacher, an advocate, or a Speaker of this Assembly but I am a Lawyer. What about you?

Mr. Jacob Kirari: I have a Bachelor's Degree in Finance.

Mr. Elisha Ongoya: Finance people are good in record keeping, Mr. Jacob.

Mr. Jacob Kirari: I also have a Degree in Law.

Mr. Elisha Ongoya: Oh, you also have a Degree in Law?

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: That is the shocking news of this evening for me, Mr. Jacob, for good reasons. So, we can talk the same language?

(Laughter)

Mr. Jacob Kirari: Oh yes.

Mr. Elisha Ongoya: Thank you. Mr. Jacob you know as a law graduate that, if facts are within your peculiar knowledge, as the multiple registers you have not brought here and you do not bring here, a fact finder like these Senators must make an adverse finding against you on that fact.

Did you learn that in the law of evidence?

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: Thank you. So, you are knowledgeable in that area.

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: I am therefore inviting these Senators to make an adverse finding that, had you brought those registers, these things you are saying are not in the registers would have been found there. Is that invitation not sound in the law of evidence that you learned?

Mr. Jacob Kirari: Actually, as a result of time when I was told this---

Mr. Elisha Ongoya: Is that suggestion of mine not sound in the law of evidence that you and me learnt?

Mr. Jacob Kirari: Yes.

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Mr. Elisha Ongoya: Thank you. So, let us now make progress. Look at the Governor's bundle 1B. My assistant will show you. That is a letter received in your office. Is that not so?

Mr. Jacob Kirari: Very true.

Mr. Elisha Ongoya: Thank you. The receipt of that letter is not disputed. Is that not so?

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: Go to your register and show us where you have indicated the receipt of that letter. Which page in your register shows that letter received? Check the dates, because the register operates along the lines of dates.

Mr. Jacob Kirari: The register, which is here actually starts from September.

Mr. Elias Ongoya: By the way, let me ask you; you said you became the clerk when?

Mr. Jacob Kirari: 2020.

Mr. Elisha Ongoya: Where is the register of the documents you have been receiving since you became the Clerk in 2020?

Mr. Jacob Kirari: In the office.

Mr. Elisha Ongoya: Sorry?

Mr. Jacob Kirari: In the office.

Mr. Elisha Ongoya: How many pages is it?

Mr. Jacob Kirari: It will depend with what the is---

Mr. Elisha Ongoya: How many pages is it?

Mr. Jacob Kirari: It will depend with what is in the store.

Mr. Elisha Ongoya: Sorry.

Mr. Jacob Kirari: Any register in the store we can use.

Mr. Elisha Ongoya: Is that register full?

Mr. Jacob Kirari: The one in the office?

Mr. Elisha Ongoya: Yes. Where is it?

Mr. Jacob Kirari: It is in the office.

Mr. Elisha Ongoya: You did not think it fit to bring it here?

Mr. Jacob Kirari: I never brought it here.

Mr. Elisha Ongoya: Let us go to page 65 of the Governor's bundle 1B. That is a letter undisputedly received in your office.

Mr. Jacob Kirari: Very true.

Mr. Elisha Ongoya: Where is evidence of receipt of that letter in your register?

Mr. Jacob Kirari: I told you that the register I have starts--- The issue of this correspondence starts from---

Mr. Elisha Ongoya: The register you have starts from 25th June, 2015. You are the one who has read it for us.

Mr. Jacob Kirari: It has different content.

Mr. Elisha Ongoya: Sorry?

Mr. Jacob Kirari: That part of it was slightly used for facilitation but here---

Mr. Elisha Ongoya: Sorry, what is the title of that book you are holding?

Mr. Jacob Kirari: It does not matter.

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Mr. Elisha Ongoya: Sorry, it matters, Mr. Jacob. Titles matter. What is the title of that book you are holding?

Mr. Jacob Kirari: Memo Register

Mr. Elisha Ongoya: Does it have any other title for any other purpose? Is there any other title on that book anywhere?

Mr. Jacob Kirari: There is not.

Mr. Elisha Ongoya: So that is a Memo Register. What do you understand by a memo register?

Mr. Jacob Kirari: It is a register that we record memos.

Mr. Elisha Ongoya: It is a register where you record memos. Is that not so?

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: From that cover page, we then go to page two, which is the first place where the first entry is made. Yes?

Mr. Jacob Kirari: Yeah.

Mr. Elisha Ongoya: That is 25th June, 2015.

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: Then we run simultaneously with that document bearing the name of memo register up to 17th November, 2015. Fact or not true?

Mr. Jacob Kirari: Yeah. The content we are talking about started from 15th September, 2023.

Mr. Elisha Ongoya: I am talking about the content of that book. That book is a book--- By the way, this is a government register, is it not so?

Mr. Jacob Kirari: It is a government register.

Mr. Elisha Ongoya: This register uses a government book. It is a book used by the government of Kenya and if you are me, like a responsible citizen, you will take government seriously. Do you take government seriously?

Mr. Jacob Kirari: Of course.

Mr. Elisha Ongoya: Thank you. This serious government has told us what that book is used for on the cover.

Mr. Jacob Kirari: The cover should not actually be the content.

Mr. Elisha Ongoya: That book you are holding has told us what that book is used for on the cover.

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: The use of that book is?

Mr. Jacob Kirari: Memo register.

Mr. Elisha Ongoya: That book has not told us any other purpose on its cover.

Mr. Jacob Kirari: It is true.

Mr. Elisha Ongoya: Look at page 59 of volume 1B. That is a letter undisputedly received in your office.

Mr. Jacob Kirari: True.

Mr. Elisha Ongoya: Where is it received in that register?

Mr. Jacob Kirari: Counsel, I told you, any record not from September, I do not have it here.

Mr. Elisha Ongoya: By the way, that letter is received in the period after 25th June, 2015. Yes?

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: When that book you are holding is in existence.

Mr. Jacob Kirari: Pardon.

Mr. Elisha Ongoya: This letter that I have shown you at page 59 is received after 25th June 2015.

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: When that book you are holding as a register is in existence.

Mr. Jacob Kirari: This book was not there by then.

Mr. Elisha Ongoya: When was that book bought by the Meru County Government?

Mr. Jacob Kirari: It was bought in 2015.

Mr. Elisha Ongoya: Correct. That is why I am saying it was in existence.

Mr. Jacob Kirari: It is not a must that we use it consistently. It was being used slightly for other purposes before we corrected the use.

Mr. Elisha Ongoya: Mr. Jacob, are you a respecter of yourself?

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: Thank you. Look at page 58 of volume 1B. That letter is undisputedly received in your office.

Mr. Jacob Kirari: Very true.

Mr. Elisha Ongoya: Where is it indicated in that register?

Mr. Jacob Kirari: As I said, I do not have that register here.

Mr. Elisha Ongoya: And yet that letter is received during the subsistence of this book.

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: Thank you. Let us go to the transactions of 28th September, 2023. There is a letter received in your office on that day. I am talking about the register. The register shows a letter received in your office on that day.

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: Who received it in your office from your register?

Mr. Jacob Kirari: My secretary, Ms. Joy.

Mr. Elisha Ongoya: You can see the name of your secretary Joy, against that letter?

Mr. Jacob Kirari: Yes, 28th September, 2023.

Mr. Elisha Ongoya: Hon. Senators, that is part of the document photocopied and before you on page one. If you look at column two, that is the column in which documents are received. I want you to look at the second last entry on the first page, 28th September, 2023.

When we began this morning, we talked about lying. We talked about that word. It was a bit controversial, but I want to contextualize it. On 28th September, 2023, Mr. Jacob, are you there?

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: Who has committed herself or himself as receiving that letter in your office?

Mr. Jacob Kirari: There was a letter received on 28th September, 2023.

Mr. Elisha Ongoya: I am talking about the second last entry. On 28th September, 2023 Prof. Jotham Mishemi, EBS--- Can you see that letter?

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: Who received that letter in your office?

Mr. Jacob Kirari: Ms. Joy.

Mr. Elisha Ongoya: Where is that entry?

Mr. Jacob Kirari: You can see the same 28th is just ---

Mr. Elisha Ongoya: No, I am talking about Joy who makes an entry against every letter. You can see, 9th September, 19th September, 20th September and 22nd September. Let us go to 22nd September. Can you see 22ndSeptember?

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: You see Joy has received a letter from the County Executive Committee Member (CECM), Agriculture.

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: The same 22ndSeptember is a letter from CECM Finance. You see it?

Mr. Jacob Kirari: True.

Mr. Elisha Ongoya: Who received it?

Mr. Jacob Kirari: Joy.

Mr. Elisha Ongoya: On the same day, is it?

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: Let us go to 28th September, the second last letter. Who has indicated having received it?

Mr. Jacob Kirari: She has not, but the signature.

Mr. Elisha Ongoya: No. Who has indicated as having received it?

Mr. Jacob Kirari: Nobody.

Mr. Elisha Ongoya: Nowhere, is it?

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: This is the record you want this Assembly to rely on to make a decision on this matter?

Mr. Jacob Kirari: It is true.

Mr. Elisha Ongoya: This is the record?

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: On a serious matter like impeaching a governor?

Mr. Jacob Kirari: This is a truthful record.

Mr. Elisha Ongoya: I am asking you; this is the record you want this Senate to rely on to remove a governor from office? Not to caution, but to remove a governor from office? You know how serious that enterprise is?

Mr. Jacob Kirari: My main idea is to protect the integrity of that office.

Mr. Elisha Ongoya: Let us look at page 60 of the bundle. I cannot see clearly. Are those 10 minutes? Thank you, so much. Let us go to page 60 of bundle 1(B). Who is the author of that letter?

Mr. Jacob Kirari: It is me.

Mr. Elisha Ongoya: What are you saying in that letter in one minute? Let me read it for you. I would ask the County Assembly's counsel to put their copy to the witness so that we use the microphones properly for the HANSARD purposes. Volume 1(B) of the governor's documents, page 60. County Assembly's Counsel, kindly put the document to your witness. Mr Ndegwa, my time is running very fast. Kindly, give the witness the document, so that we make progress.

Mr. Witness, that is your letter.

Mr. Jacob Kirari: It is my letter.

Mr. Elisha Ongoya: You are referring to the letters from the County Secretary, dated 18th and 21st June, 2023.

Mr. Jacob Kirari: Very true.

Mr. Elisha Ongoya: The subject of this letter is, "Nominees to various Semi-Autonomous Boards of the County Government of Meru."

Mr. Jacob Kirari: Yes, Mr. Temporary Speaker, Sir.

Mr. Elisha Ongoya: As at 21st July, 2023, you admit that the Meru County Governor had nominated various nominees to semi-autonomous boards of the County Government of Meru.

Mr. Jacob Kirari: Yes, we received those lists.

Mr. Elisha Ongoya: Correct. Those boards are the same that the governor is accused of not appointing people to in this impeachment. True or not true?

Mr. Jacob Kirari: Very true.

Mr. Elisha Ongoya: Thank you. The law requires the County Assembly to approve those nominees before the Governor appoints them. True or not true?

Mr. Jacob Kirari: Very true.

Mr. Elisha Ongoya: As at 21st July last year, you had received the Governor's nominees.

Mr. Jacob Kirari: Yes, but not to be acted because there were no existing vacancies.

Mr. Elisha Ongoya: Thank you. Let us go to paragraph two. By the way, let us deal with this fairly first. The governor wrote to you seeking to know which of those offices had vacancies. Do you remember that correspondence?

Mr. Jacob Kirari: I think they have record.

Mr. Elisha Ongoya: Do you remember that correspondence?

Mr. Jacob Kirari: No.

Mr. Elisha Ongoya: By the way, as a clerk, you received these nominees and vetoed them. You never tabled them to the Assembly.

Mr. Jacob Kirari: No, that is not right.

Mr. Elisha Ongoya: Okay, let us read. Paragraph two reads, and I quote-

"We wish to kindly inform you that my office is unable to recommend the same for their consideration to be transmitted to the County Assembly (technical hitch)."

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Is that a correct reading or am I exaggerating?

Mr. Jacob Kirari: Can you repeat?

Mr. Elisha Ongoya: I am reading paragraph 2. It says, “We wish to kindly inform you that my office is unable to recommend the same for their consideration to be transmitted to the County Assembly for action.”

Is that a correct reading of what you wrote?

Mr. Jacob Kirari: Yes, because---

Mr. Elisha Ongoya: By your office, you meant the office of clerk.

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: You believe that in law, the office of clerk can veto documents before they are tabled before the Assembly.

Mr. Jacob Kirari: It is not issue of vetoing. It is a procedure.

Mr. Elisha Ongoya: So, which procedure or step had been failed?

Mr. Jacob Kirari: Section six of the Public Appointment (County Assemblies) Approval Act, 2017.

Mr. Elisha Ongoya: Let us go to the next paragraph. You say, “This is largely because we observe that there may be missing information on the status of the offices the nominees have been nominated to occupy.”

Are we clear up to that point?

Mr. Jacob Kirari: Yes.

Mr. Elisha Ongoya: Which offices are these you are referring to?

Mr. Jacob Kirari: These semi-autonomous bodies.

Mr. Elisha Ongoya: Sorry?

Mr. Jacob Kirari: The semi-autonomous bodies.

Mr. Elisha Ongoya: Which ones? Give us their names.

Mr. Jacob Kirari: Nominees for the revenue board and the rest.

Mr. Elisha Ongoya: Sorry?

Mr. Jacob Kirari: Nominees for the revenue board and other agencies.

Mr. Elisha Ongoya: Mr. Clerk, did you ever table this letter from the governor's office to the County Assembly?

Mr. Jacob Kirari: Yes, it was.

Mr. Elisha Ongoya: Where is the memorandum tabling them?

Mr. Jacob Kirari: We never tabled this one. When we cleared, we wanted the clarification. When a letter is received in the office of the clerk, as a procedure, the clerk has to check the compliance of that letter.

Mr. Elisha Ongoya: You are dealing with the House of Parliament, Mr. Jacob.

Mr. Jacob Kirari: Very well.

Mr. Elisha Ongoya: Are you aware that when letters are tabled, they are endorsed as tabled? You will see an endorsement.

Mr. Jacob Kirari: That stage was not yet. When they come to the office of the speaker, as per the law, under Public Appointments (County Assemblies) Approval Act, 2017, Section 64---

Mr. Elisha Ongoya: Let us move to the next stage.

Mr. Jacob Kirari: All these documents have to be logged through the office of the clerk.

Mr. Elisha Ongoya: Let us move to the next stage. You say, “From our present records, we observe that most of the offices, which nominations have been forwarded to, have substantive holders.” Which are those most that had substantive holders and which are those least that did not have substantive holders?

Mr. Jacob Kirari: Mr. Temporary Speaker, Sir, according to the County Assembly records---

Mr. Elisha Ongoya: I want the names of offices. Which are those most that had substantive holders and those least that did not have substantive holders? Give me the names, so that we identify the most.

Mr. Jacob Kirari: I cannot remember them off head, but they are there on record.

Mr. Elisha Ongoya: We want to know which ones they are. This Senate must make a decision factually.

Mr. Jacob Kirari: Like the Micro Finance.

Mr. Elisha Ongoya: Who were the office holders?

Mr. Jacob Kirari: The board is there in the law.

Mr. Elisha Ongoya: Who are the office holders?

Mr. Jacob Kirari: Mr. Temporary Speaker, Sir, I cannot remember them off head.

Mr. Elisha Ongoya: Does your letter tell us which office was occupied and by whom? Does it tell us which office was held by an office holder?

Mr. Jacob Kirari: No.

Mr. Elisha Ongoya: You find that to be proper correspondence without particulars?

Mr. Jacob Kirari: It is out of what they submitted.

Mr. Elisha Ongoya: In good conscience, you find that to be proper correspondence? You as the Clerk, the CEO of Meru County Assembly found that to be proper correspondence without particulars? Do you regret that kind of correspondence?

Mr. Jacob Kirari: Not at all.

Mr. Elisha Ongoya: Without particulars, you can stand by it?

Mr. Jacob Kirari: Yes, I can stand by it.

Mr. Elisha Ongoya: You wanted the governor to take remedial action for something you have not given any specifics?

Mr. Jacob Kirari: It was the County Secretary.

Mr. Elisha Ongoya: The County Secretary was corresponding for the governor. It was from the office of the governor. Do you remember that?

Mr. Jacob Kirari: Very true.

Mr. Elisha Ongoya: You wanted the governor to take remedial action for something you have not particularized. You, Jacob, wanted the governor, Meru County to take remedial action for something you have not particularized, is that correct?

Did you particularize which office is occupied? You did not want, but you wanted the governor to take remedial action for something you have not particularized?

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Mr. Jacob Kirari: Yes, she could have enquired.

Mr. Elisha Ongoya: Kirari, when will you people end this manifest malice against this governor and when do you propose to end it?

Mr. Jacob Kirari: There is no malice to the governor.

Mr. Elisha Ongoya: When do you propose to end it?

Mr. Jacob Kirari: I am not supposed to have such a situation. I am an officer, not a politician.

Mr. Elisha Ongoya: Correct. So, when do you propose to end this malice against the governor?

Mr. Jacob Kirari: There is no malice to the governor.

Mr. Elisha Ongoya: You want to say that it is the right thing to do to ask the governor to take remedial action for boards that you have not specified the people you are say are occupying.

Mr. Jacob Kirari: That cannot limit the big responsibility from the other office to even enquire more.

Mr. Elisha Ongoya: Do you have a responsibility---

The Temporary Speaker (Sen. Wakili Sigei): Counsel Ongoya, your time is up.

Mr. Elisha Ongoya: Thank you, Mr. Speaker, Sir. I rest at that.

I also would like to request that the Senate retains the original register because the copies they have and the physical one has a big discrepancy.

The Temporary Speaker (Sen. Wakili Sigei): That one is noted. We will make appropriate arrangements for that.

Counsel for the Assembly, you recall that your time is up. I believe that you do not expect any other opportunity, other than at the discretion of the Chair to permit you in the shortest time possible and if there is any re-examination.

Mr. Eric Muriuki: Yes, Mr. Temporary Speaker, Sir. I kindly beg your indulgence that you humbly allow me to ask a few questions in the re-exam.

Mr. Elisha Ongoya: Mr. Temporary Speaker, Sir, I may have to raise on that issue because there is something called equality of arms. The County Assembly had 3:10 hours to deal with their first witness and we were given one hour strictly with no extension. The 20 minutes we were given ate into our time of cross-examining the other witnesses.

It will be impossible for the public following these proceedings to get a feeling that there is even-handedness if this County Assembly is given one more minute. You will notice that I stopped my question in the track when you stopped me. This county government is the real author of all misfortune of time mismanagement today, 19th August, 2024.

The Temporary Speaker (Sen. Wakili Sigei): Counsel, you have made your point.

Mr. Elisha Ongoya: Thank you so much, Mr. Temporary Speaker, Sir. I urge that you deny them that.

The Temporary Speaker (Sen. Wakili Sigei): You must have noted that I notified the counsel that they did not have any extra time because they ate into their time in the earlier proceedings.

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Nonetheless, I will exercise my discretion. I will allow you two minutes, both to ask and to respond. So it will be up to you to decide how to utilize the two minutes. Whether to ask the question or allow the witness to get an opportunity to respond.

Mr. Erick Muriuki: Thank you very much, Mr. Temporary Speaker, Sir. My name is Eric Muriuki. Mr. Witness, in your re-exam, what was that book used for and at what date?

Jacob Kirari: This book from September, has been used for correspondences that I received and that go out of the office.

Mr. Erick Muriuki: Now, you were asked about some documents appearing on pages 59 and 60, the ones whose authenticity is not controverted.

Jacob Kirari: Very true.

Mr. Erick Muriuki: In response to that question, or in follow-up to that question, I want us to look at pages 54, 55, and 56 of the Governor's 1B.

Jacob Kirari: Yes.

Mr. Erick Muriuki: Are those documents that were received by your office?

Jacob Kirari: They are not. These are forged documents.

Mr. Erick Muriuki: Are the issues of confusion or the issues of the dates in that book in any way an answer to those forgeries and those documents that were never received by you?

Jacob Kirari: In my record, they were never received in my office.

Mr. Erick Muriuki: My question is; the questions you have been asked here about that book, are they in any way an answer to those forged documents that you have referred to?

Jacob Kirari: Not at all. They are meant actually to divert this criminal activity which was going on.

Mr. Erick Muriuki: When did you become the clerk?

Jacob Kirari: In 2020.

Mr. Erick Muriuki: Why are the first few pages of that book stapled?

Jacob Kirari: It is as a result of when the Secretary possibly was using this one and found that there was a lot of wastage. They decided actually to proceed with this one.

Mr. Erick Muriuki: Thank you very much, Mr. Temporary Speaker, Sir.

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, we have 18 minutes to the close of the day. You are all aware that we cannot go beyond midnight. I know Members have questions or clarifications they might need to have with the witness.

We should do this in under 10 minutes to allow us to adjourn the session in good time. I have got requests on the dashboard from the Members, and we will end when time ends.

So, by show of hands, who are the Members who want to seek clarification? I am very sure it is not all the Members. Sen. Cherarkey Sen. Olekina and Sen. Mumma.

Very well. I will start with Sen. Cherarkey.

Sen. Cherarkey: Clerk, mine is quick. I do not know whether the witness is distracted. Just a quick one. In this letter written to you - summons by the Senate, Mr. Jacob Kirari---

Jacob Kirari: Yes, *Mheshimiwa*

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Sen. Cherarkey: I can see that the letter was specific, that you confirm the authenticity of the letters dated 18thSeptember, 2023, 2024, 11thJanuary, 2024, and then number two, provide the official register of the documents as maintained by the Office of the Clerk of the County Assembly.

Jacob Kirari: Yes, true.

Sen. Cherarkey: How many registers do you have? Was it convenient for you to bring all the registers that you run in the County Assembly to refer to your correspondents? Were you confirmed as substantive Clerk of the Meru County Assembly, or were you in an acting capacity?

Mr. Temporary Speaker, Sir, finally, in keeping the records of Meru County Assembly, are there records you keep in soft copy? Do you have an Information Communication Technology (ICT) policy in terms of storage of data in terms of correspondence within the County Assembly?

I submit.

The Temporary Speaker (Sen. Wakili Sigei): Clerk, proceed.

Mr. Jacob Kirari: Thank you, Mr. Temporary Speaker, Sir, and Hon. Members. We used these registers from September, 2023 and I was not---

The Temporary Speaker (Sen. Wakili Sigei): I want to direct you. We have less than 10 minutes. Kindly respond to that question in under one minute. Do not give stories.

Mr. Jacob Kirari: Mr. Temporary Speaker, Sir, it was not convenient for me to bring all other registers because of the short period that I received.

The Temporary Speaker (Sen. Wakili Sigei): Proceed, Sen. Olekina.

Sen. Olekina: Thank you, Mr. Temporary Speaker, Sir. My question is straightforward. I have listened to the witness being cross-examined by the Governor's attorney. I have also listened to him giving the same answers when he was being re-examined by his attorney. I want to be clear on this question. Were these documents ever received in your office?

When you were being asked by the Governor's attorney, you made responses to the affirmative. When you were being re-examined, you introduced a new word and said, it was a forgery. Which is which? That really bothers me.

I want to be clear; in Volume 1B of the Governor's documents from page 55 all the way to page 68, there are letters which have got stamps from your office. The governor's lawyer has also referred you to the register.

In your submissions, you affirmed that the record was indeed from your office. Which is which? Did you ever receive these? Is it a forgery and if it is, which statement do you stand with? Do you stand with the statement you gave during your re-examination or the one you gave during the cross-examination?

Mr. Jacob Kirari: Mr. Temporary Speaker, Sir and Hon. Senators, the questions, which I have been asked by the Governor's Counsel did not relate at all to the three documents which have been purported to come from my office. What the Senior Counsel questioned me about is on June and other records before that. What has been forged are those appearing as from September to March.

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I have confirmed that these have been forged even by the way the stamp has been put. If you compare with any other correspondence from my office, you will realize that this was actually a fraudulent act in those three documents.

Mr. Temporary Speaker, Sir, I received a correspondence from the County Secretary the other day 17th July about the same delay; we received it in the same book and it is here.

The Temporary Speaker (Sen. Wakili Sigei): Clerk, you have responded to the questions. I will allow two last clarifications. One from Sen. Mumma and then from Sen. Korir. You will listen to both then answer. Sen. Mumma proceed.

Sen. Mumma: Thank you, Mr. Temporary Speaker, Sir. Mr. Kirari, you are the Clerk of Meru County Assembly. I believe that your staff must have assisted in the impeachment process. You are familiar with all the counts and charges, including charge No.2 around appointment to the boards. You were aware of what you were coming to give evidence on.

Can you truly tell the Senate that you were not able to bring other registers, which you say you received, but only gave this one which you are now disowning because you have another with correct entries. Do you want us to believe that?

Mr. Jacob Kirari: Thank you, Mr. Temporary Speaker, Sir---

The Temporary Speaker (Sen. Wakili Sigei): Clerk, please wait. Sen. Joyce, ask your question.

Sen. Korir: Mr. Temporary Speaker, Sir, allow me to raise a question to the Clerk. The Clerk allowed admissibility of a Motion by the County Assembly. What was his technical advice to the County Assembly bearing in mind that they have brought here and this is the third impeachment Motion using public resources?

The Temporary Speaker (Sen. Wakili Sigei): Mr. Clerk, answer those two questions.

Mr. Jacob Kirari: Thank you, Mr. Temporary Speaker, Sir. The first question was about the registers and nomination in respect to the Motion. I was aware of these three documents only about the board. I was to remind the office of the Clerk to ensure that the board is in place.

When I came here, I learnt that the three letters are purported to have come from the County Secretary. Since I am fully aware of how and when we communicated to the County Secretary, because the issue was in July but these letters are dated between September and March, I sensed something is not right.

The recent letter over the same issue came on 17th July and it was recorded. That is the time I realised that there was a sinister motive to have those three letters to show that they have been reminding us.

Secondly, when they brought the names of the nominees in the Assembly around July, we questioned and told them that those offices were not vacant, unless they advise otherwise on whether there were vacancies. They stayed for six months and we still reminded them that they had not responded to our letter on clarity as to whether those vacancies existed. It was on 17th July when they brought another letter. We were still worried because they were the same positions. That is why I responded very fast. That is

the position. I disown the three letters totally. Those of September to March are not from my office.

The Temporary Speaker (Sen. Wakili Sigei): You have responded, Mr. Clerk. Answer the other question.

Mr. Jacob Kirari: The other question was about my advice on the impeachment procedure. You are all aware of the work of the Clerk. When proper procedures and relevant laws have been complied to, the Clerk definitely talks with Members. However, when there is breach of laws and other issues, of course that is their role. When they comply with the relevant laws as per the Standing Orders, they bring documents to my office. Definitely I will have to act on them.

The Temporary Speaker (Sen. Wakili Sigei): Proceed to conclude on that if you had not concluded.

Sen. Eddy, what is it that you want clarified?

Sen. Oketch Gicheru: Mr. Temporary Speaker, Sir, it is due to lack of the registers that I did not see.

If I got it correctly, you have been the Clerk since 2020. Other than the documents that you have alluded to in these volumes that have been forged, since the governor got into office until to date, have you received or had any correspondences that are forgery in nature?

Mr. Jacob Kirari: Not at all. We have been having a very cordial relationship as to record and the rest.

Sen. Oketch Gicheru: Let me just finish my question. Other than the documents we are talking about here, have there been any other documents or any correspondences whatsoever from the office of the governor that allude forgery to this magnitude?

Mr. Jacob Kirari: No.

The Temporary Speaker (Sen. Wakili Sigei): If you have been answered, I want to close. Let us not reopen any clarification.

Sen. Joyce, what is it that is burning?

Sen. Korir: Thank you, Mr. Temporary Speaker, Sir. I just want to know the cost implication of these impeachment Motions that have been done from the first to the last one. Finally, if there is an appeal case, how much have they used? These are public funds.

The Temporary Speaker (Sen. Wakili Sigei): Clerk, are you able to answer that question?

Mr. Jacob Kirari: Mr. Temporary Speaker, Sir, we have never got to an extent of leaving this hon. House on a matter of impeachment going to court. Where I stand as a Clerk---

The Temporary Speaker (Sen. Wakili Sigei): Are you able to answer the question as to the cost implication?

Mr. Jacob Kirari: I cannot answer the cost implication so far because we do not incur.

The Temporary Speaker (Sen. Wakili Sigei): Very well. You do not know the cost. That should be your simplest answer, right?

Mr. Jacob Kirari: There is no cost.

The Temporary Speaker (Sen. Wakili Sigei): Thank you. Hon. Members, that brings us to the end of the session. Order, Sen. Joyce. Let us all be upstanding.

ADJOURNMENT

The Temporary Speaker (Sen. Wakili Sigei): Hon. Senators, it is now 11:57 p.m., time to adjourn the Senate. The Senate, therefore, stands adjourned until tomorrow Tuesday, 20th August, 2024 at 9.00 a.m.

The Senate rose at 11:57 p.m.