COUNTY GOVERNMENT OF KISUMU

COUNTY ASSEMBLY OF KISUMU

THE HANSARD

Official Report

THIRD ASSEMBLY – SECOND SESSION

Wednesday 21st June, 2023

House met in the Main Chamber at 9:00 a.m.

(The Speaker (Hon. Elisha Jack Oraro) in the Chair)

PRAYER

The Speaker (Hon. Oraro): Honourable Members, I want to invoke the provision of Kisumu County assembly Standing Order No. 32 (2) that the Serjeant-at-Arms rings the quorum bell for the first five minutes. Remember, no Member is allowed to leave the Chambers except the Whip.

(Quorum bell rung for five minutes)

The Speaker (Hon. Oraro): Whip, can you confirm if we have quorum?

Hon. Obonyo (MCA, South West Kisumu Ward): Mr. Speaker, we have quorum.

The Speaker (Hon. Oraro): Thank you. Mr. Clerk, please take us through the Order Paper of today.

COMMUNICATION FROM THE CHAIR

The Speaker (Hon. Oraro): Honourable Members, I want to confirm that we had our *kamukunji* and I appreciate the Members who attended and we had a number issues to discuss. I want to remind you of one specific item. That is the preparations for the CASA games which Assemblies attend annually. This year's games is planned for August. We agreed that the Members to liaise with Chair Sports and the Clerk of the said committee to agree on the disciplines. That preparation should start immediately.

The Speaker (Hon. Oraro): Next order!!

MOTION

ADOPTION OF REPORT BY SELECT COMMITTEE OF HOUSE POWERS AND PRIVILEGES ON ITS INDUCTIONS EXERCISE HELD IN SOSA COTTAGES IN VIHIGA COUNTY FROM 27TH APRIL TO 04TH MAY, 2023

BY

HON. BENSON ADEGA, MCA, KAJULU WARD

The Speaker (Hon. Oraro): Hon. Adega.

Hon. Adega (MCA, Kajulu Ward): Mr. Speaker and Honourable Members, the Select Committee on Powers and Privileges during its meeting held on 10th November, 2022 resolved to be inducted on the provisions of the County Assemblies powers and privileges Act, 2017 and other relevant statutes as a head start to equip members with skills and knowledge for effective discharge of their mandates. This was after the committee observed that the majority of its members were newly elected members and have not been in political environment. This resolution was afterwards forwarded to Liaison Committee and in its meeting held on 15th November,2022 approved that the Select Committee on Powers and Privileges to proceed on induction as from 27th April, 2023 to 4th May, 2023.

Mr. Speaker and Honourable Members. Pursuant to the approval of the Liaison Committee, the select Committee on Powers and Privileges conducted its induction workshop as from 27th April to 4th May, 2023 at Sossa Cottages in Vihiga County and was facilitated by the Clerk of the Assembly, Adv. Owen Ojuok and the Principal Clerk Assistant, Mr. Peter Anditi.

Establishment and Mandate

Mr. Speaker and Honourable Members, the Committee on Powers and Privileges is established Pursuant to Standing Order No.207 read together with section 15 of the County Assemblies Powers and Privileges Act, 2017. The Committee's mandate amongst others, as outlined under section 15 of the Act is to:

a) Inquire into the conduct of a member whose conduct is alleged to constitute a breach of privilege in terms of section 16 of the Act; and

b) Either of its own motion or as a result of a complaint made by any person, inquire into the conduct of a member whose conduct is alleged to constitute a breach of privilege

c) Issue summons to witnesses to appear before the Committee

d) Receive evidence and to request for and receive papers and documents from the Government and the Public.

Further, as envisaged under section 18 of the Act as read with Article 195 of the Constitution of Kenya, 2010, the committee as constituted has the same powers as the High Court of Kenya.

Committee Membership
Mr. Speaker and Honourable Members, the Committee as currently constituted comprises of the following Honorable Members,

	NAME	DESIGNATION
1.	Hon. Elisha Oraro	Speaker/Chairperson
2.	Hon. Benson Adega	Vice Chairperson
3.	Hon. Sammy Onyango	Member
4.	Hon. Bill Oliver	Member
5.	Hon. Nancy Matara	Member
6.	Hon. Anne Ochola	Member
7.	Hon. Emily Oginga	Member
8.	Hon. Caren Odhiambo	Member
9.	Hon. Samuel Dede	Member
10.	Hon. Zachariah Okoyo	Member
11.	Hon. Ken Ooko	Member
12.	Hon. Peter Obaso	Member
13.	Hon. Miriam Abeid	Member
14.	Hon. Ken Ouko	Member
15.	Hon. Vitalis Oliewo	Member

Secretariat

Mr. Speaker and Honourable Members, the secretariat facilitating the committee in executing its mandates comprises of the following technical team;

1) Ms. Annebelle Wabuge -Senior Clerk Assistant
2) Mr. Wagude Rodgers -Clerk Assistant
3) Mrs. Vallery Achieng -Hansard Reporter
4) Mr. Silas Kapesa -Sergeant-at-Arms

Objectives of the Induction
Mr. Speaker and Honourable Members, the specific objectives of the workshop was to enable the committee;

1. To learn and appreciate the provisions of the County Assemblies Powers and Privileges Act,2017
2. To acknowledge the roles and mandate of the Committee
3. To understand the scope of parliamentary Immunity and Privileges

ACKNOWLEDGEMENT

Mr. Speaker and Honorable Members, I wish to take this opportunity to thank the Honourable Members of the Select Committee of Powers and Privileges for their punctuality, dedication and substantial input and valuable contribution exhibited during the entire induction exercise which took place from 27th April, 2023 to 07th May, 2023 at Sosa Cottages in Vihiga County.

My sincere gratitude goes to both the Office of the Speaker and the Clerk for the extreme support that they accorded this House Committee during the Induction Exercise.

Finally, I wish to convey my heartfelt appreciation to the secretariat for their dedication and untiring commitment during the Induction Workshop and equally for coming up with a report.

Mr. Speaker, it is therefore my pleasant duty and privilege to present this report to this Honourable House for deliberation, consideration and adoption. Thank you.

KEY ISSUES LEARNT DURING THE INDUCTION WORKSHOP

The Meaning and Origin of Parliamentary Privileges
Mr. Speaker and Honourable Members, the committee was informed that according to Sir. Thomas Erskine May, parliamentary privileges means; The sum of the peculiar rights enjoyed by each House collectively and by Members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals. Thus privilege, though part of the law of the land, is to a certain extent an exemption from the general law.

Mr. Speaker and Honourable Members, the committee was also made to understand that Parliamentary privileges were first claimed centuries ago when the English House of Commons was struggling to establish a distinct role for itself within Parliament. That in the earliest days, Parliament functioned more as a court than as a legislature, and therefore it needed certain privileges and immunities such as freedom of speech and debate among others. These privileges were found to be necessary to protect the House and its Members, not from the people, but from the power and interference of the Kings and the House of Lords. Over time, as the House of Commons gained stature and power as a deliberative assembly, these privileges were established as part of the general public law of the land.

Legal framework Underpinning Parliamentary Privileges in Kenya
Mr. Speaker and Honourable Members, during the Induction exercise the committee found that the County Assembly derives its Privileges, Powers and Immunities from the Constitution of Kenya, 2010, and the following statutes;

i. The County Government Act,2012
ii. The County Assemblies Powers and Privileges Act,2017

The committee further found that the applications of the County assembly Powers, Privileges and Immunities are expressly provided for in the County Assembly Standing Orders and may be expounded from time to time by the Speaker's Rulings.

The County Assemblies Powers and Privileges Act, 2017
Mr. Speaker and Honourable Members, the Secretariat did an in-depth presentation covering the following subject areas of the Act, as discussed hereunder

1.0 Access to precinct of the county assembly and offences relating thereto
Mr. Speaker and Honourable Members, The committee learnt that the precincts of a County Assembly include,

a) The chambers in which the proceedings of a county assembly are conducted including the galleries and lobbies of the chambers

b) Committee rooms and other meeting places provided or used for the county assembly's purposes
c) All the parts of the buildings in which the chambers are situated including the entrances, forecourts, yards ,gardens, enclosures or open spaces appurtenant thereto

d) The offices of a county assembly including the places within such offices that are provided for the use of members ,members of staff, members of public and the press

e) All other buildings or part of a building provided or used in connection with the proceedings of a county assembly or its committees while so used by the county assembly including such premises as may be leased by a county assembly.

Mr. Speaker and Honourable Members, The committee was further reminded as follows:

a) That an officer of a national Security organ may, with the permission of and authority of the speaker-Enter upon or remain in the precincts of a county assembly for the purposes of performing any function of that national security organ or Perform any other function within the precincts of the assembly and;

b) That a Member of the public may also subject to the county assemblies powers and privileges Act, 2017, the County Assembly Standing Orders and such orders and directions as may be issued by the speaker, enter or access such places within the precincts of a county assembly as may be specified.

Mr. Speaker and Honourable Members, the Committee further learnt that a person commits an offence where the person; Enters or attempts to enter a chamber of a county assembly or the precincts of a county assembly in contravention of section 5 of the Act or Fails or refuses to withdraw from the precincts of a county assembly when ordered to do so. The Committee further learnt that a person who contravenes this section is liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year or both.

Service of Civil Process
Mr. Speaker and Honourable Members, The Committee noted that section 6 of the County Assemblies Powers and Privileges Act, provides that;

a) No process issued by any Court in Kenya in the exercise of its civil jurisdiction shall be served or executed-(a) Within the precinct of a County Assembly while the County Assembly is sitting; or (b) Through the speaker or any officer of a county assembly unless it relates to a person employed within the precincts of a County Assembly or to the attachment of a member's salary. And that the right to access to Justice under Article 48 of the constitution shall be limited under section 6 of the Act for the purposes of facilitating the conduct of the business and the affairs of a county Assembly.

Assembling, demonstrating and picketing

Mr. Speaker and Honourable Members, the committee learnt that pursuant to Article 37 of the Constitution of Kenya 2010, every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities. Further pursuant to the county assemblies' powers and privileges Act, Section 7(1) provides that the speaker may designate areas within or outside the precincts of a County Assembly where members of the public may, pursuant to Article 37 of the constitution, assemble, demonstrate, picket or present petitions or memoranda to the county Assembly

Any assembling, demonstration, picketing and presentation of petitions or memoranda to a county assembly shall be in accordance with such guidelines as the speaker may issue. A Person who assembles, demonstrates or pickets contrary to the provisions of the Act, may be removed from the precincts of a county assembly on the direction of a speaker, a duly authorized member of staff or a police officer. The committee further learnt the rights of assembling, demonstration, picketing and petition under Article 37 of the constitution shall be limited as specified under section 7 (1) of the Act for purposes of facilitating the orderly conduct of the business and affairs of a County Assembly

Privileges and Immunities of Members

Mr. Speaker and Honourable Members, during the induction workshop the following were identified as some of the immunities and privileges accorded to members of a county assembly by the County Assemblies Powers and Privileges Act, 2017

Freedom of speech and debate

Mr. Speaker and Honourable Members, the Committee was informed that freedom of speech and debate is the most fundamental right accorded to Members of County Assemblies under Article 117 (1) of the Constitution Kenya, 2010 without which they would be hampered in the performance of their duties. That this right permits members to speak in the House without inhibition, to refer any matter or express any opinion as they see fit or to say what they feel need to be said in the furtherance of the national interest and the inspirations of the constitution.

The Committee was further informed that the County Assembly Powers and Privileges Act, 2017 provides that "*No civil or criminal proceedings may be instituted in any court or tribunal against a member of a county assembly by reason of any matter said in any debate, petition, motion, or other proceedings of a county assembly"*

Mr. Speaker and Honourable Members, it was observed that the right of freedom of speech applies to Members speech in the House and other Proceedings of the House itself. That Parliamentary privileges may not protect a member publishing his or her own speech separate from the official report. In addition, comments made by a member at a function as an elected representative but outside the forum of parliament would not be covered by this special privilege, even if the member were quoting from his or her own speech in the debate of the House.

Proceedings of a County Assembly not to be questioned in courts

Mr. Speaker and Honourable Members, the Committee learnt that pursuant to Section 10 of the County Assemblies Powers and Privileges Act, 2017 the Act provides that:

> "*No proceedings or decision of a county assembly or the committee of Powers and Privileges acting in accordance with this Act shall be questioned in any court.*"

However, the facilitator informed the committee that the constitutionality of this section has been challenged in court together with section 6 of the Act, which stipulates that:

> *"No process issued by any Court in Kenya in the exercise of its civil jurisdiction shall be served or executed-(a) Within the precinct of a County Assembly while the County Assembly is sitting; or (b) Through the speaker or any officer of a county assembly unless it relates to a person employed within the precincts of a County Assembly or to the attachment of a member's salary"*

Mr. Speaker and Honourable Members, the facilitator cited the holding of J. M. Mativo in the case of Apollo Mboya v Attorney General and 2 Others (Petition No.472 of 2017) where the learned Judge issued a decree that sections 6 and 10 of the County Assemblies Powers and Privileges Act,2017 are inconsistent with and contravenes Article 1,2,3,10,19,20,21(1),22,23,24,48,50,93(2),94(4),159 and 258 of the constitution of Kenya ,2010 and therefore null and void.

Immunity from legal proceedings

Mr. Speaker and Honourable Members, the committee further learnt that section 11 of the County Assembly Powers and Privileges Act,2017, provides that; "*No civil or criminal proceedings shall be instituted against any Member for words spoken before, or written in a report, petition, Bill, resolution, motion or other documents written to a county assembly"* and that "*No civil suit shall be commenced against the speaker, the leader of majority party, a chairperson of a committee or any member for any act done or ordered by them in the discharge of the functions of their office*". The Committee was further informed that the Clerk or other members of staff shall not be liable to be sued in a civil court or joined in any civil proceedings for an act done or ordered to be done in the discharge of their functions relating to proceedings of a county assembly or its committees.

Freedom from arrest for civil debt during session

Mr. Speaker and Honourable Members, during the exercise the committee noted that a member shall not be liable to arrest for a civil debt while the member is going to, attending or returning from a sitting of a county assembly or committee of a county Assembly

Giving evidence of proceedings
Mr. Speaker and Honourable Members, the committee was further reminded that No Member or members of staff, and no person employed to take minutes of evidence before a county assembly or any committee, shall give evidence in any court, tribunal or elsewhere in respect of the content of those minutes of evidence or of the contents of any document laid before a county assembly or that committee or in respect of any proceedings or examination held before a county assembly or that committee without special leave first obtained from the county assembly

Mr. Speaker and Honourable Members, the committee further learnt that the special leave referred under section 13 of the Act, may be granted during a recess or adjournment by speaker or in the absence or other incapacity of the speaker or the clerk.

Other Immunities and Powers **Granted** to Members
Mr. Speaker and Honourable Members, the facilitator highlighted the following as other immunities and powers granted to members

a) Where a member has been sentenced to an imprisonment for a period of at least six months, adjudged to be of unsound mind or is found in accordance with any law to have misused or abused a state office or a public office or in any way to have contravened chapter six of the constitution, the decision shall not have effect for the purposes of Article 103 (1) (g) of the constitution until all possibility of appeal or review of the relevant decision or sentence has been exhausted.
b) A member who has been sentenced to an imprisonment for a period of at least six months, adjudged to be of unsound mind or is found in accordance with any law to have misused or abused a state office or a public office or in any way to have contravened chapter six of the constitution shall not be disqualified from being elected as a member of county assembly until all possibility of appeal or review of the relevant decisions or sentence has been exhausted…..

Hon. Omollo (MCA, West Nyakach Ward): (On a Point of Order). Mr. Speaker, I know you are blind but there is commotion outside. The Members may not feel safe and I believe that our Serjeant-at-Arms should inform us what is going on before we proceed.

The Speaker (Hon. Oraro): Honourable Members, I want to direct the Serjeant-at-Arms to confirm what is taking place and communicate to me immediately.

(Loud consultations)

The Speaker (Hon. Oraro): Honourable Members, it has been brought to my attention on what is taking place outside is in line with what we were discussing. There is a team from Nyamlori Business who feels that their rights have been infringed. They have the right to Petition the Assembly. For us to proceed peacefully, it is important for us to give them audience. So, we should also not infringe on their rights.

A Honourable Member has requested that for us to have a peaceful process, it is important that we give them audience so that they disperse and we proceed. If you agree with me, then I want to direct that we suspend the House discussion for 30 minutes then we hear them and then come back. So, the proceedings are suspended for thirty minutes.

(*House resumes after a suspension of 30 minutes*)

The Speaker (Hon. Oraro): Honourable Members, I want to suggest that as the Clerk is helping the team to draft their petition, I want to suggest that we proceed with the motion. However, I would request the Leader of Majority or any Member of the House Business Committee that you can interject in between the motion so that we allow for the discussion of the Petition when it comes. Alternatively, we will agree that if it comes, we can make it our agenda in the afternoon so that we can exhaust or we dispense with it based on the recommendations therein. In the meantime, it is only important that we proceed. We are safe, and we have liaised with the security personnel who have assured us of our safety. So, Hon. Adega, you can proceed with the report of the Committee on House Powers and Privileges.

(*Continuation of the interrupted moving of report*)

Hon. Adega (MCA, Kajulu ward): Thank you, very much Mr. Speaker for the duty that you have just concluded because we want peace. If you may allow me to continue moving the report from where we left: It was on the Establishment, Composition and the mandate of the committee on Powers and Privileges

Establishment, Composition and the mandate of the committee on Powers and Privileges
Mr. Speaker and Honourable Members, the facilitator walked the committee through the establishment, Composition and the mandates of the committee during which, the committee was informed that the Committee on powers and privileges is established pursuant to Standing Order No.207 read together with section 15 of the County Assemblies Powers and Privileges Act,2017.The committee membership shall comprise of the Speaker who shall be the chairperson of the committee, the Majority leader, the Minority leader and not less than five and not more than seven other members as evidently stipulates in the Kisumu County assembly Standing Order No.207.The quorum of the committee shall be a third of members of the committee, including the speaker. The functions of the committee shall include but not limited to;

a) To inquire into the conduct of a member whose conduct is alleged to constitute a breach of privileges; and
b) Perform such other functions as may be specified in the Act.

Conduct constituting to Breaches of Privileges
Mr. Speaker and Honourable Members, the committee was informed that the committee on powers and privileges may find a member to be in breach of privilege if the member commits the following offences;

a) Assaulting , threatening, using abusive language, obstructing, molesting or insulting any member proceeding to ,being within or leaving the precincts of a county assembly, or compelling any member by force to declare himself or herself in favor of or against any proposition or matter pending or expected to be brought before a county assembly or any committee

b) Assaulting, threatening, using abusive language, interfering with, ,molesting, resisting or obstructing any member of staff while in the execution of his or her duty
c) Assaulting or threatening a member or unlawfully deprive a member of any benefit on account of the member's conduct in a county assembly
d) While a county assembly or a committee is sitting, create or take part in any unlawful disturbance which interrupts or is likely to interrupts the proceedings of a county assembly or any committee while a county assembly or the committee is sitting
e) Failing or refusing to comply with an instruction by duly authorized member of staff or a police officer regarding ;the presence of the public in the precincts of a county assembly including a meeting within the precincts of a county assembly or the possession of any article, including a firearm ,within the precincts
f) broadcasting, televising or otherwise transmit by electronic means the proceedings of a House or a committee of a county assembly or any part of those proceedings except by order or under the authority of relevant speaker or chairperson of a committee of a county assembly and in accordance with the standing orders and the conditions and directions determined by the speaker
g) Having been duly summoned in terms of section 18 of the Act, fails without sufficient cause to attend at the time and place specified in the summon or remain in attendance until excused from further attendance by the person presiding at the inquiry
h) Willfully fails or refuses to obey any rule, order or resolution of a county assembly
i) Conduct himself or herself in a manner which, in the opinion of the committee on Powers and Privileges is intended, or is likely to reflect adversely on the dignity or Integrity of a county assembly, or of the members or to be contrary to the best interests of a county assembly or its Members

Determination of Breach of Privileges

Mr. Speaker and Honourable Members, the committee noted that; a county assembly shall have all the powers necessary for inquiring into and pronouncing upon any act or matter constituting breach of privilege in terms of section 16 of the Act. And that an inquiry by a county assembly into a matter shall not preclude criminal investigation or criminal proceedings against a member in connection with the matter concerned. The Committee further noted that where a county assembly finds that a member has committed a breach of privileges, the county assembly may, in addition to other penalty to which the member may be liable under the Act or any other law, impose any or more of the following penalties

a) A formal warning
b) A reprimand
c) An order to apologize to the county assembly or a person in a manner to be recommended by the committee of powers and privileges
d) The withholding, for a specific period of time, of the member's right to the use or enjoyment of any specified facility provided to members by a county assembly
e) The removal or suspension for a specified period of time of the member from any county assembly position occupied by the member
f) Such fines in terms of the member's monthly salary and allowances as the House may determine-the fine imposed under this section shall be paid by the member into such bank

account of the assembly as shall be specified by the accounting officer of the county assembly or be deducted from the member's salary or be recovered by means of civil action in court

g) The suspension of the member for such periods as the House may decide, whether or not the county assembly or any of its committees is scheduled to meet during that period
h) Vacation of seat pursuant to Article 75(2)(b) and 194(1)(C) of the Constitution

Roles of the Director of Public Prosecution

Mr. Speaker and Honourable Members, the committee further noted that; where an offence is suspected to have been committed under County Assembly Powers and Privileges Act, the clerk shall, on the directions of the speaker, make a request to the Director of public prosecution to make such actions as may be appropriate. And that the Director of public prosecution shall, within thirty days from the day of receipt of a request from the clerk and within such other subsequent period as the speaker may determine, submit a report to the clerk stating the action taken on the matter.

Summoning, Invitation and Examination of Witnesses

Mr. Speaker and Honourable Members, the committee learnt that; a county assembly or its committees may invite or summon any person to appear before it for the purposes of giving evidence or providing any information, paper, book, record or document in the possession or under the control of that person and, in this respect, a county assembly and its committees shall have the same powers as the High Court as specified under Article 195 of the constitution. That the summons shall be issued by the clerk on the direction of – (a) the speaker; or (b) the chairperson of a committee acting in accordance with a resolution of the committee. In addition, where a county assembly or a committee requires that any information be verified or otherwise ascertained by oral examination of a witness, the county assembly or the committee may-(a) Cause such witness to be examined on oath; and (b) require the witness to produce any document, paper, book or record in the possession or under control of the witness which may have a bearing on the subject of the inquiry.

Privileges of Witnesses

Mr. Speaker and Honourable Members, the facilitator informed the committee that every person who is summoned to give evidence or to produce a document before a county assembly or a committee shall be entitled to the same rights and privileges that are applicable to a witness before a court of law. And that a person who is being examined under oath or affirmation shall be required to swear any question put to the person in connection with the subject of the inquiry and to produce any document or information that the person is requested to produce under that section despite the fact that the answer or the document would incriminate or expose the person to criminal or civil proceedings in a court of law.

The Evidence given under oath or affirmation by a person before a county assembly or a committee shall not be used against the person in a court or other place outside the county assembly except in criminal proceedings where the person concerned stand trial on a charge of perjury or a charge contemplated under section 27(1) (c) or (3) (g) or (h) of the County Assembly Powers and privileges Act.

Offences relating to witnesses
Mr. Speaker and Honourable Members, the committee was further informed that the following are some of the offences relating to witnesses;

a) An offence where the person having been duly summoned in terms of relevant section of the County Assemblies Powers and Privileges Act, fails without sufficient cause to
   i. attend at the time and place specified in the summons
   ii. Remain in attendance until excused from further attendance by the person presiding at the inquiry
   iii. when called upon refuses to be sworn in or make an affirmation as a witness or disobey without sufficient cause to answer fully and satisfactorily all questions lawfully put to the person or fails to produce any document, paper, book or record in the person's possessions, custody or control which the person has been required to produce.

Mr. Speaker and Honourable Members, a person who commits these offences is liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months or both

Duties of public officer to give Evidence
Mr. Speaker and Honourable Members, the committee learnt that;

a) No public officer shall refuse to produce before a county assembly or a committee any paper, book or document
b) Any County public officer who contravenes section 22 (1) of County Assembly Powers and Privileges Act commits an offence
c) Where a county assembly passes a resolution that a County public officer has contravened Section 22 (1) of County Assembly Powers and Privileges Act, the resolution of the county assembly shall constitute a ground for removal from office of the county public officer in accordance with the constitution or any applicable law

PUBLICATIONS AND BROADCASTING
Mr. Speaker and Honourable Members, the Committee was informed that; a person shall not be liable to civil or criminal proceedings in respect of the publication of any journal by order or under the authority of a county assembly or a committee.

Unauthorized publications
Hon. Speaker and Hon. Members, the committee noted that a person shall not publish or tender in evidence-

a) Any journal if the publication of that journal is prohibited by or in terms of standing orders or an order or resolution of a county assembly
b) Any journal purporting that it has been published under the authority of a county assembly or a committee or the speaker while it has not been published under such authority

c) Any journal purporting that it is a verbatim account of the proceedings of a county assembly or a committee while it is not such account.

The committee further noted that in any civil or criminal proceedings instituted for publishing any extract from or abstract of any journal referred to in the section above, if the court is satisfied that the extract or abstract was published bona fide and without malice, judgment or verdict, as the case may be, shall be entered for the defendant or accused

Broadcasting of proceedings

Mr. Speaker and Honourable Members, the committee learnt that a person shall not broadcast, televise or otherwise transmit by electronic means the proceedings of a House or a committee of a county assembly or any part of those proceedings except by order or under the authority of relevant speaker or chairperson of a committee of a county assembly and in accordance with the standing orders and the conditions and directions determined by the speaker.

Mr. Speaker and Honourable Members, the committee further learnt that; the right of access to information under Article 35 and freedom of the media under Article 34 of the Constitution shall be limited under this section for the purposes of facilitating the immunities of the House and the committees of a county assembly and the freedom of speech and debate as set out in Article 117 of the Constitution.

COMMITTEE OBSERVATIONS

Hon. Speaker and Hon. Members, the committee makes the following observations from the training exercise.

i. That the current membership of the committee stands at 15 members which is against the provision of Standing No.207 of the County Assembly Standing Orders.

COMMITTEE RECOMMENDATIONS

Mr. Speaker and Honourable Members, Based on the forgoing observations, the Committee makes the following recommendations;

THAT

i. The Committee membership be reviewed to comply with the provisions of Standing Order No. 207 of the County Assembly Standing Orders
ii. The committee to have more trainings to allow members acquaint themselves with the provisions of powers and privileges Act, 2017 and other relevant statutes to enable them dispense their mandates amicably.

CONCLUSION

Mr. Speaker and Honourable Members, it is now my pleasure and privilege on behalf of the committee to submit this report on the committee's induction exercise held at Sosa Cottages in Vihiga County from 27th April to 1st May, 2023, before this Honourable House for Adoption. May I call upon Hon. Anne Ochola to second the report.

Hon. Ochola (Nominated Member): Thank you Mr. Speaker, I stand to second the report.

The Speaker (Hon. Oraro): Honourable Members, now that the Select Committee on Powers and Privileges has presented the report on their Induction Exercise held at the Sosa Cottages on the Provisions of the County Assemblies' Powers and Privileges Act, 2017, submitted pursuant to the provisions of Standing Order No. 182, seconded. As per our Standing Orders, I want to propose a question that the report of the Select Committee on Powers and Privileges on the Induction of the Committee on the provisions of the County Assemblies Powers and Privileges Act, 2017 is open for debate.

The Speaker (Hon. Oraro): Yes, Hon. Ken Ouko, West Kisumu Ward.

Hon. Ouko (MCA, West Kisumu Ward): Thank you Hon. Speaker for this very good opportunity. I would like to thank the Committee for the good work they have done and to present what is expected of them. Mr. Speaker, I realized that we have a lot of powers which were actually curtailed from some of us Members. I can state that we have more powers than that of a Magistrate sitting in a Court of Law. We also have more powers than the President of Kenya, when it comes to the discharge of our duties here.

Mr. Speaker, it is very clear that all these powers are under your care. I would actually urge Members to use these powers accordingly and adequately, for the benefits of the people who elected us to be in this House, and for the interest of Kisumu County and the Country as a whole. I also understand that there are some silent powers that I have realized exist but aren't explained before. For example, when we come to your office up there Mr. Speaker, we may find several people lining up to see you but for an MCA, I only have to show my face and you allow me to get inside. Those are also powers like the others but, maybe they are not written for us the other ones which are explained here. Mr. Speaker it is very important for us that we must also realize that there are limitations to those powers. We must observe that and we must show respect to powers given to us so that we do not abuse them as well as we do not get into bad book. Otherwise, we must stand to be counted for enjoying these privileges. Even if it is enjoyed for only five years, but, it is a good gesture from the House, thank you Mr. Speaker.

The Speaker (Hon. Oraro): Yes, Honorable Vitalis K'Omudho.

Hon. K'Omudho (MCA, Muhoroni/Koru Ward): Thank you so much Honorable Speaker and Honorable Members. Indeed, this is a very good report our able Deputy Chairperson has presented. I happen to be a member of this committee; very excellent work. I wish there was time to clap we should have done so. I have two observations to put across.

Honorable Speaker, there are two incidences that I have noticed on the report, but, first, I support the report fully (101%). Two incidences have risen; one is actually an incident and another one is captured in the report. It is stated very clearly in that report, that the precincts of the Assembly and its environs shall be properly taken care of. Mr. Speaker Sir, we are exposed. We are terribly exposed. Even when we got outside the House concerning the incident that has just happened; when we reached the gate, those guys could do anything with us. My strong suggestion and as an active member of the committee of Powers and Privileges. I even presented this one when we went to our report writing.

Mr. Speaker Sir, we are Honourable Members, it is high time that the two roads; the one behind the Assembly building and the one in front be barricaded. Mr. Speaker, we are exposed and these

people could start throwing stones at us here. When we went to the main gate, they were again all over. We were at the mercy of God. Let us do something so that *hata wakija*- if you go to the National Assembly, you cannot approach the Parliament. You cannot even approach where those guys are. We are terribly exposed; we are at the center of the City of Kisumu. Anything can happen to us. Anybody can come through the gate; as long as you drive out of that gate, anybody can do anything to you. If we have got the barrier, by the time the barrier is released and you are passing, you are able to speed with your car and leave. That cannot happen today. Anytime we leave our compound here we are exposed. Let us do something about this.

Mr. Speaker, I believe that we have a case. Even if we present it to the authorities; just the two roads, the one behind and that other one in front so that we have a barrier. As long as we are still here, I want to believe that good things are happening and soon we are moving to the bigger premises and with the bigger offices.

Number two, this morning incident that occurred here that interrupted the morning session relates directly to what we were reading here in the House. When you go to the report and you read it very clearly, you will find it under the duties of public officer. Number 8.3 Section (3) where a County Assembly passes the resolution that a County Public Officer contravenes Section 22 (1) of the County Assembly Powers and Privileges Act, resolution of the County Assembly shall constitute a ground for removal from office of the county officer in accordance with any applicable law.

Mr. Speaker, I believe that something came here and we passed. Like one of my colleagues had said, we just need it to be implemented. I rest my case and support the report fully and kindly, let us look into those areas.

The Speaker (Hon. Oraro): Yes Hon. Henrietta Bodo.

Hon. Bodo (Nominated Member): Thank you Mr. Speaker. I stand to support the report; it is well done and well moved by Hon. Adega. One thing which has come to my attention is that I didn't capture everything that was being read but I captured something which touched on the House Committees. I believe that we have heard issues, not only in my Committee that is Implementation Committee but I believe that even other committees are also facing the same challenges. The numbers that we have in those committees are huge and if we can agree as a House to implement the report of the Powers and Privilege Committee then this will help majority of the House Committees. I therefore, stand to support the report and maybe to review the membership of the House Committees. Thank you.

The Speaker (Hon. Elisha J. Oraro): Yes Hon. Emily.

Hon. Oginga (Nominated Member): Thank you Mr. Speaker, observing the mood of the House, may I call the mover to reply.

The Speaker (Hon. Oraro): Why are you standing Hon. Dede.

Hon. Dede (MCA, Kisumu North Ward): Thank you Mr. Speaker, I also have something to contribute.

The Speaker (Hon. Oraro): Honourable Member, you want to contribute?

Hon. Dede (MCA, Kisumu North Ward): Mr. Speaker, just accord me one minute which I believe will be enough for me to present what I have.

The Speaker (Hon. Oraro): Fair enough. Please proceed. .

Hon. Dede (MCA, Kisumu North Ward): Thank you Mr. Speaker for according me the opportunity to also echo my sentiment concerning the report. Being that I am a member of the committee who went to Sosa in Vihiga for the report writing retreat, all that is captured are the true sentiments that were made at Sosa Cottages.

Mr. Speaker, I just want to stress on one issue, under the recommendation and observations, you find that the number of committee members being fifteen is much compared to Standing Order No. 207. In the recommendation part of it, it read that we should review the committee membership from 15 members to 7 or 12 members so that our work is made easier and to enable Member concentrate at the Committee level. I recommend that and support it by saying that after the review of the number, the committee should do something about it so that the small numbers in the House Committees can do more work with the little budgetary allocation provided to House committees. Thank you.

The Speaker (Hon. Oraro): Honourable Members, it is my belief that the mover had been called to reply. Hon. Adega the floor is yours.

Hon. Adega (MCA, Kajulu Ward): Thank you Mr. Speaker and Honourable Members for deliberating on this report. I heard the sentiment of my friend Hon. Ouko who talked about abusing privileges. Honorable Members, it is essential that we exercise caution when utilizing our privileges. On certain occasions, I have observed some members engaging in confrontations, while at other occasion laughter fills the room. Such behavior is not conducive to a productive environment. I would like to remind each and every Member that, there are consequences for such actions. If any member is found guilty, they may face a fine of not less than Ksh. 200,000 or imprisonment in a civil jail. Moreover, it has come to my attention that Hon. K'Omudho made remarks about the committee's potential relocation from this venue. I urge you all to remain patient and refrain from resorting to drastic measures like road blockades, which would impede your access to this place. Thank you, Mr. Speaker, I therefore reply.

The Speaker (Hon. Oraro): Honourable Members, now that the report the Select Committee on Powers and Privileges on the Induction of the Committee on provision of County Assembly Powers and Act 2017 has been presented and debated, I want to put a question on the adoption of the same?

(Question put and agreed to)

The Speaker (Hon. Oraro): Honourable Members, the report the Select Committee on Powers and Privileges on the induction Exercise of the House Committee on provision of County

Assembly Powers and Act 2017 has been adopted today Wednesday, 21st June 2023 at 10:49 hours and I direct that the recommendations therein be implemented as appropriate.

The Speaker (Hon. Oraro): Next Order!

ADJOURNMENT

The Speaker (Hon. Oraro): Honourable Members, there being no any other business to transact, the House stands adjourned to today Wednesday, 21st June, 2023 at 2.30 p.m.

(House rose at 10.50 p.m.)

Addendum

The Hansard Team

Zablon Otiende – Senior Hansard Reporter (Ag. Editor)

Edward Odanga – Hansard Reporter

Fanuel Okode – Hansard Reporter

Patrick Okoyo – Hansard Reporter

Jacklyne Otieno – Hansard Reporter

Jesca Otieno – Hansard Reporter

Vallery Achieng' – Hansard Reporter