



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Fourth Session

Wednesday 16th November, 2016

The House met at 2.30 p.m.

(Hon. Deputy Speaker (Mr. Kennedy Ng'ondi) in the Chair)

PRAYER

Hon. Deputy Speaker: Hon. Members, come in.

(Loud consultations)

Hon. Deputy Speaker: Hon. Members, Order! We have the quorum in the House, we may proceed.

PAPERS

Hon. Deputy Speaker: Hon. Chairperson for Budget Committee.

REVENUE AMENDMENT BILL

Hon. Member for Embakasi Ward (Mr. Michael Ogada): Thank you, Mr. Speaker sir. Pursuant to Standing Order 180 (6), I beg to lay the following Paper on the table of the Assembly today, 16th November, 2016: Report of the Select Committee on Finance, Budget and Appropriation on the Nairobi City County Revenue Amendment Bill. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Hon. Members, there is a serious business being transacted in the House by Hon. Chairperson for Budget and Appropriation. Kindly, pay some attention.

NOTICE OF MOTION

Hon. Deputy Speaker: Hon. Elizabeth.

ERECTION OF BUMPS AND SIGNALS ALONG COUNTY ROADS NEAR SCHOOLS AND OTHER SOCIAL AMENITIES

Hon. Member for Kayole South Ward (Ms. Elizabeth Manyala): Thank you, Mr. Speaker. I beg to give notice of the following Motion: THAT, aware that Article 26 (1) of the Constitution of Kenya 2010 provides that “every person has the right to life”; further, Article 53 (2) of the Constitution states that “A child’s best interests are of paramount importance in every matter concerning the child.”; concerned that there is increased rate of road carnage involving school going children in Nairobi City County especially in public schools; acknowledging the measures that the National Transport and Safety Authority (NTSA) has put in place to ensure road safety performance in line with international best practice; this Assembly urges the County Executive to erect or put bumps and signals along County roads that are near schools and other social amenities to save vulnerable school children from accident on roads. Thank you, Mr. Speaker.

Hon. Deputy Speaker: Thank you.

PROCEDURAL MOTION

Hon. Deputy Speaker: Do we have Minority or Majority Leader in the House? Hon. Majority Whip, please can you move the Procedural Motion. Pick it from the Clerk if you don’t have it.

(Loud consultations)

Hon. Deputy Speaker: Order, Members! Can you be orderly? Majority Whip, please. Can you use my desk with your card?

APPOINTMENT OF MEMBERS TO RESPECTIVE COMMITTEES

Hon. Member for Parklands/High Ridge Ward (Mr. Jaffer Kassam): Thank you, Mr. Speaker sir. Pursuant to provisions of Standing Order 156 (1), this Assembly approves the appointment of the following Members nominated by the Committee on Selection to respective Committees---

Hon. Deputy Speaker: Order, Hon. Gari!

Hon. Jaffer Kassam: Mr. Speaker sir;

- i. Hon. Florence Athembo be appointed to the Sectoral Committee on Children, Early Childhood Education and Vocational Training;
- ii. Hon. Alvin Palapala be appointed to the Sectoral Committee on Planning and Housing;

- iii. Hon. Catherine Okoth be appointed to the Select Committee on Agriculture, Environment and Natural Resources;
- iv. Hon. Jairo Atenya be appointed to the Sectoral Committee on Planning and Housing; and
- v. Hon. Mike Obonyo be appointed to the Sectoral Committee on Planning and Housing.

Hon. Deputy Speaker: Hon. Whip, please kindly call one Member to second your Motion.

Hon. Jaffer Kassam: I hereby ask Hon. Karen to second the Motion.

Hon. Karen Wanjiku (Nominated Member): Thank you, Mr. Speaker sir. I beg to second the Motion because these Members need to be in these Committees as our Standing Orders require. Hon. Florence Athembo is very active Member of Education Committee; we need her in that Committee together with Hon. Catherine Okoth. Hon. Jairo Atenya, I can see he is going back to Planning and Hon. Mike Obonyo. Mr. Speaker sir, I second. *(Laughs)*

Hon. Deputy Speaker: Thank you. What do you find funny?

(Question proposed)

Hon. Member for Nairobi West Ward (Mr. Maurice Gari): Thank you, Mr. Speaker sir. I don't see the need of discussing this because these Members were previously on these Committees but it was just like disciplinary measures which were taken against them and now they are back. Let the mover of the Motion to reply so that we can go ahead with other items in the Order Paper. Thank you.

Hon. Member for Woodley/Kenyatta Golf Course Ward (Mr. Njoroge Kairu): Thank you, Mr. Speaker sir. I beg to support the Motion. I want to ask the leadership of the House to consider other Members who are suffering with one Committee. They are not meeting their demands. Thank you.

Hon. Majority Leader (Mr. Elias Otieno): Thank you, Mr. Speaker. I want to contribute. As much as we are discussing it, there were no disciplinary measures against these Members. They came to my office, like Hon. Catherine and Florence, and requested to be in Planning Committee. Hon. Mike Obonyo and his friend, wanted to be the Chair of ICT. Since Jubilee side did not bring their names for ICT and Agriculture, I reinstated them back because they had one or two Committees. Mr. Speaker, I request you that we give them up to Monday next week. If they don't bring their names, we just table our names for ICT and Agriculture Committees.

As much as Hon. Njoroge is requesting that there are some people who have one or two Committees, you should direct that to your bosses. Our side is very much organized. You are on Speaker's panel; I don't want you to interject.

Hon. Deputy Speaker: Order, Hon. Member! Please don't belittle your colleagues in the House. Thank you, Hon. Majority Leader. There is a microphone which is on.

Hon. Member for Dandora Area III Ward (Mr. Charles Thuo): Thank you, Mr. Speaker sir. I want to congratulate the Leader of Majority and inform him that as the Acting Minority Leader---

Hon. Deputy Speaker: Order, Hon. Member!

Hon. Charles Wakarindi: The list is ready, Mr. Speaker sir. I have done my duty today as the acting Leader of Minority and we are going to bring it to the House tomorrow. Thank you, Mr. Speaker sir.

Hon. Deputy Speaker: That is a bit weird.

Hon. Member for Umoja I Ward (Mr. George Maina): Mr. Speaker, I would like to thank you for giving me this opportunity. But we are going to start bringing sideshows here. Would you just call the mover of this Motion so that we can move on to other business?

Hon. Deputy Speaker: Thank you.

Hon. Member for Laini Saba Ward (Mr. Boniface Kitavi): Thank you, Mr. Speaker. I also stand here to support this procedural Motion. However, Mr. Speaker, I think there is an error in the printing of this paper. I stand to be guided if there is a Committee on selection that has approved and I don't remember when that Committee sat. Shouldn't this paper read that we congratulate the leadership of the House that has selected these people instead of putting their selection Committee which is non-existent at the moment? I think these Members have been only suggested by the leadership of the House not the Selection Committee. So, there is an error in this paper Mr. Speaker.

Hon. Deputy Speaker: Hon. Kitavi, in the Order Paper, it appears we have a procedural Motion moved by the Chairperson of the Select Committee. On the details, you need to enquire from that Committee but not in the Plenary. May I call the mover to reply?

Hon. Majority Leader: Mr. Speaker, I think the Select Committee sat last week on Wednesday. So, I don't know if he is a member of the Select Committee. Maybe he ceased to be a member of that Committee because if I am not wrong, we sat. You acquire from the clerk of that Committee rather than coming and telling us if there is any error.

Hon. Member for Kahawa West Ward (Mr. Ngaruiya Chege): Thank you Speaker. I think it is not right for a Member to bulldoze other Members in this House. I think we have equal votes and equal rights in this House. It does not matter how many megabyte you have.

Mr. Speaker, I also want to contribute and say that this particular procedural Motion has an error in it. Because Mr. Speaker if Hon. Florence Atembo is going to come back to the Education Committee and already the appointing authority in that particular committee had selected another person in that particular Committee. And I cannot see his or her name in this particular procedural Motion. Then it means you are going to have an extra person in that particular Committee.

So, I would wish this particular Motion is withdrawn until the appointing authority realizes the mistake they have made so that at least they can come up with a Motion that is agreeable to all. I want to tell the Majority Leader that Florence Athembo was a replacement and you are aware of that. Meaning if tomorrow the Education Committee is to sit, it is going to have more than 18 Members. So I think that is an error that cannot be taken lightly and I think he should correct that one before we pass the Motion.

Hon. Deputy Speaker: Hon. Majority Leader, can you clarify the question of the Membership?

Hon. Majority Leader: Mr. Speaker, that is the reason why I am saying that it is a sideshow because if Florence Athembo was replaced, where is that person who has replaced her because the name was not passed in this Assembly? How did the name go to that Committee without passing through the Assembly?

Hon. Deputy Speaker: Order, Members!

Hon. Majority Leader: Hon. Ngaruiya, you should understand and just go back to the Committee Members. They are supposed to be 19 Members, and if Florence is there, then Deputy Speaker was one of the Members of that Committee and he is not there. So, that means he replaced him.

Hon. Deputy Speaker: Order, Hon. Members!

Hon. Majority Leader: I just wanted to know. How did the name come into that Committee without passing the Assembly?

Hon. Deputy Speaker: Order Hon. Ngaruiya. Hon. Muthama, this is a House of procedure and rules. There is no way or provision in the Standing Orders where singlehandedly a Member can nominate another Member to sit in a Committee without being approved by the House. So, if there is such kind of an attempt, then that is null and void.

Hon. Members, may I call the mover of the Motion to reply?

Hon. Jaffer Kassam: Thank you, Mr. Speaker sir. We wish to thank the seconder and the Members who contributed. But it is on sad note, Mr. Speaker sir, that I observe that Hon. Ngaruiya wishes to micromanage the CORD side of the House because as you can see all the names appearing here are from the CORD part of the House and I think it is very important he observes that sanctity and allows us to manage our side of the coalition.

There is nothing wrong with contributing but to say why so and so and how this and that, I think we know and we are aware of what is happening on our side of the House and we have done it properly. However, errors can happen and if they do happen this can be brought to the attention of the relevant arm of the House and they will be rectified. Thank you Mr. Speaker sir.

(Question put and agreed to)

THE NAIROBI CITY COUNTY PUBLIC NUISANCE BILL 2016 (ASSEMBLY BILL NO. 7 OF 2016)

(SECOND READING)

Hon. Deputy Speaker: Hon. Samuel.

Hon. Member for Viwandani Ward (Mr. Samuel Nyangwara): Mr. Speaker, I beg to move that the Nairobi City County Public Nuisance Bill of 2016, Assembly Bill no. 7 of 2016 be read the second time.

Mr. Speaker, allow me to give the Plenary a brief importance of this Motion. Mr. Speaker, it is important that we understand that this particular Bill is of paramount importance to this City and to this County in general because it will bring about sanity in the City. I want the Members to note that this particular Bill will actually add some value to this County and this one is because the national organizations have taken the role of restoring sanity in this City and thus acquiring money which would have come to this County and benefit this County.

Allow me to name the organizations like NEMA which is actually collecting money simply because they want to restore sanity in this City. And that money which goes to NEMA because of issuing certificates does not actually benefit this County in any way. Mr. Speaker, if this Bill is enacted, I know that it will assist this County in many ways.

Mr. Speaker, there are issues like hooting of vehicles which bring a lot of noise in the City and even from the estates where we live you can imagine very early in the morning when kids are asleep as early as 4, you will find these vehicles hooting simply because they want to attract customers. And Mr. Speaker it is important to note that all working class in this City know what time to wake up so that they can go to work. So, I want to request the Members of this Assembly to actually scrutinize this Bill, pass it so that we can move with speed to make sure that this City is properly managed.

I will also take Members through the memorandum of the objects and reasons for this Bill. The main objective of this Bill is to outline legislative measures for the control of public nuisance within the precincts of Nairobi City County pursuant to functions vested on the County Government by part two of the fourth schedule of our Constitution. Mr. Speaker, you see that it has already outlined the measures that should be taken in part one, two, three and four and I want to single out part four which contains the provision and delegated powers.

Clause 23 empowers the Minister of the County Executive Committee with prior approval of the County Assembly to make rules for better operationalization of the proposed law Mr. Speaker. The enactment of this Bill shall not occasion the additional expenditure of funds. That is the importance of this Bill and I would want the Hon. Members to contribute to it and let there not be side shows as the Majority Leader said

because it does not attract any financial obligations. For those few remarks Mr. Speaker, allow me to request Hon. Karen Wanjiku to second the Motion.

Hon. Deputy Speaker: Hon. Karen

Hon. Nominated Member (Ms. Karen Wanjiku): Thank you Mr. Speaker sir. Indeed this is a very good Bill. I want to believe that it has emanated from the By-laws that we had; the one we had that was about controlling nuisance in the defunct city. Mr. Speaker sir, looking at the various areas they have touched on such as the impounding of certain animals as explained and street offenses on hawkers. Allow me to read part 8 of this that reads: Any person who on any street ignites any firework and any person on any street without a permit for the purposes of hawking, selling, distributing or otherwise outdoor advertising any article or event, shouts or uses any bell or any other noisy instrument or loud speaker.

Mr. Speaker sir, this means that our hawkers will have a permit and am assuming that we will have a policy from these with guidelines because we cannot talk about a permit which as of now we do not have. I want to believe that this Bill will help us come up with a permit for the hawkers, advertisers and so on. I believe this is a good Bill. We will then tell the hawkers which corridors to stay at, work and have them cleaned and so on. We want order and as I said yesterday, we do not have any social order in Nairobi County anymore and through this Bill that will be actualized.

The Bill also looks at the powers of officers. Some of the Inspectorate Officers have in the past overused their power and I believe that this Bill will guide them on how to use their powers. On the use of records, we will be able to know those officers who are authorized so as to identify them when they come your way with reports such as you have rang bells, made noise, brought a mule in town etc. this is a very good Bill and therefore I wish to second.

Hon. Deputy Speaker: Thank you very much. Hon. Members...

(Question proposed)

Hon. Members...

Hon. Member for Waithaka Ward (Mr. Antony Kiragu): Thank you Mr. Speaker. I do not know whether my colleagues are idle or why they want to come up with such a Bill. We cannot even control what we can see. I find this Bill as an attempt to attack creativity, as an attempt to attack hard working Kenyans who are out to solicit their daily bread from the streets. Mr. Speaker we do not need to control some of the things that this Bill is proposing. Let us not forget that some of these matatus that hoot in our estates and wakes us up every time and we are so used to them that if we no longer have them then I think it is not going to be okay.

Let us also remember that we do not even have a very clear control of this. I do not know how we are going to handle this because it isn't outlined on how we should handle religious messages; let me not call them noise. Mr. Speaker some of these messages especially from the mosques and churches are very

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important spiritually for this City. This City needs prayers and interventions from heaven. When we talk about touting as a profession, it has actually employed a lot of young people who cannot otherwise get other jobs because this County has not facilitated the same.

Mr. Speaker I personally suggest that you withdraw this Motion so that we get to serious business that is out to help this City. Thank you.

Hon. Stephen Kambi: Thank you Mr. Speaker sir. I am amused by my colleague who seems to--- I am just amused by what you have just said; that is if you depend on matatus to wake you up in the morning then surely you are from the stone age era. Mr. Speaker I am not in support of the Bill. This is because we are approaching an electioneering year and it is not right that we are now finding Nairobi's to be a nuisance.

The so called noise nuisance from touts, churches, clubs and mosques are businesses that operate on the know-how of the County. They have licenses and permits as well. I believe they operate on that and considering that this is an election year, it is very dangerous politically if our Assembly adopts the bill which for sure its effects will be felt by the people.

Mr. Speaker sir, kindly protect me from my colleagues who are consulting widely yet we were very keen while they were contributing.

Hon. Deputy Speaker: You are protected. You may proceed!

Hon. Stephen Kambi: Thank you sir. Mr. Speaker sir let it be noted that majority of us are Nairobi's born and bred and we still live in this great City which we have great for. We are used to this so called public nuisance as being referred to here. When a matatus hoot at 4:00 a.m., I believe it is service to the Nairobi's who board them as means of transport to work. Also, when a church erects public address systems that are loud then that is being religious and the same case to the mosques. At least through that they are able to convey the message as well and identify themselves as places of worship. Also when a club plays loud music at ungodly hours as well and is mostly flocked by Nairobi's.

As a leader who hails from Dandora where majority of this so called public nuisance is like our daily activity, I am very much against it. I believe that the effects will be greatly felt especially from the Eastern side of Nairobi.

I strongly do not support.

Hon. Deputy Speaker: Hon. Akuk you had pressed the intervention button?

Hon. Member for Highrise Ward (Mr. Maurice Akuk): Thank you, Mr. Speaker sir. I was trying to get your attention. I am a little bit worried and was wondering if at all from the Speakers booklet it is allowed for a Member of this County Assembly to sit in the gallery when the session is ongoing? There is a Member

who is seated in the gallery and yet the session is on and that is not legal. Could you please find out why the Member is up in the gallery and not with us here? Thank you.

Hon. Deputy Speaker: Thank you, Hon. Akuk but it is allowed.

Hon. Maurice Gari: Thank you, Mr. Speaker, once again. I want to oppose this Bill in totality. First of all, the mover was expelled from the party; I don't know he is bringing the Bill on behalf of which party. Is it Jubilee coalition or CORD coalition? Secondly, ---

Hon. Deputy Speaker: Order, Hon. Gari! We don't work on speculations and we can't act on speculation because if you are privy to the information that the Member was removed from the party, the House is not aware; it has not been communicated.

Hon. Maurice Gari: Okay. Since you are the Chair, I have received your guidance but am not satisfied with that. Mr. Speaker, this Bill, I don't know how the originator came with it. In this society of Kenya where the President allows matatus to have loud music and tattoos on the matatus! Mr. Speaker, my fellow colleagues from the other side are saying we are going for campaign and we need noise to wake people up; to tell people Majority is vying for Kileleshwa, Gari is going for Nairobi West and Governor Kidero is vying for Nairobi Governor. We need loud speakers and we need to inform the public and again.

These things cannot work compared to situation in the City with our matatus. Sometimes it helps the passengers who come from upcountry when you don't know the vehicle for Dandora; only the tout will shout "Dandora, Dandora 1, 2"; if we gag this people many people will be lost in the City. The originator of the Bill should withdraw it and come up with it in another way but not about nuisance, thank you. But I beg to oppose and you tell us if the Member exists in ODM or Cord coalition.

Hon. Member for Kayole South Ward (Ms. Elizabeth Manyala): Thank you, Mr. Speaker. I rise to oppose this Bill, first and foremost, the Hon. Member is not even properly dressed, he is not wearing socks and he is seated next to me.

Hon. Deputy Speaker: What are you opposing?

Hon. Elizabeth Manyala: Am opposing the Bill

(Laughter)

Hon. Deputy Speaker: Thank you.

Hon. Elizabeth Manyala: He is attracting attention that I cannot even sit properly because he doesn't have socks...

Hon. Deputy Speaker: Order Granted.

Hon. Karen Wanjiku (Nominated Member): Mr. Speaker is the Member in order to look at the Member's socks and where in the Speaker's booklet that guides socks mentioned? Maybe the only thing mentioned is the tie and the coat.

Hon. Deputy Speaker: Hon. Karen, maybe you need to interpret the word official attire...

Hon. Karen Wanjiku: Exactly. Maybe he had athlete's foot, that is why he is not wearing socks. You cannot force somebody to wear socks and maybe the wife did not wash the socks. I think the Member is out of order. How is a Bill related to socks?

Hon. Elizabeth Manyala: Thank you Mr. Speaker, I think the Hon. Member is interrupting but she came late when we started the Assembly because the code of dressing---

Hon. Deputy Speaker: Hon. Member, are you opposing the Motion based on the fact that the Member is not putting on the socks?

Hon. Elizabeth Manyala: First and foremost, I have to take out the fallacies the Member has committed. Nairobi County has evolved over time due to rural urban migration. Even if we go back to the Constitution, we are entitled to entitlement which every person is entitled to. When you started heaping a lot of 'do not', "do not" surely, and we are representing our people of Nairobi...

Hon. Majority Leader (Mr. Elias Otieno): As much as Hon. Manyala is talking about socks, I don't know how she came to know the Member doesn't have socks...but Mr. Speaker this is the one which everybody can see and I don't think whether Mr. Speaker you are in this House to guide the House, because Hon. Obonyo doesn't have even a tie, he is just sitting there so Mr. Speaker look at him and tell him to approach you...

Hon. Deputy Speaker: Serjeant-At-Arms can you tell the Member to approach the Chair? Just tell him to come near. Hon---

Hon. Obonyo it is kind of disrespect for this Assembly, can you please march out; Hon. Obonyo you will be out of the House for 2 days.

Can Sergeant-At-Arms confirm whether the Member is properly dressed? Ok, thank you. He is properly dressed Majority Leader. Hon. Manyala can you proceed.

Hon. Elizabeth Manyala: Mr. Speaker we represent Nairobians and going by what the Constitution says about the Bill of Rights, the Nairobians equally have a right and a right is some entitlement which is enshrined that is God Given; a right to work, a right to picket, a right to sing and a right to worship and when we start gagging the Nairobians, coming up with Bills and even bring Bills just for the sake of it.

We know very well that denominations like Muslims they have their way of worshipping Allah and by doing that even 6 or 5 in morning the Imam would make a call for the worshippers to congregate. The

Catholics would even ring a bell and the bell will sound so that the worshippers would know that they are going for second or third sermon and we have other sects too that are using drums to praise God. According John Stewart that is why we have Nema who have put control in social order within the ...

Hon. Member for Dandora Area II (Mr. Stephen Kambi): I don't know who John Stewart is to Nairobi so that at least I can be at par with what she is saying. Who is he madam?

Hon. Elizabeth Manyala: Thank you Mr. Speaker I cannot speak about social contract without mentioning the fathers of Philosophy who spoke about surrendering total right and this is what Thomas Wobbs actually even echoed by saying if you do this, then we are going to the state of nature where life is solitary, nasty, brutish; everyone for himself and God for us all. When we pass such Bills this is what we are trying to give the Nairobians for what they gave us? No. that is why am saying that this Bill, as much as it is talking about public nuisance, there are places.....

Hon. Member for Dandora Area 2 (Mr. Stephen Kambi): Point of Order. Are we in a literature class or the Member is contributing to the Motion

Hon. Deputy Speaker: Order member, the Member is in order and is contributing. Please if you don't get the wordings kindly sit and watch, thank you.

Hon. Elizabeth Manyala: Thank you for protecting me because when issues that are touching people are debated it is good to give references and that is why am giving references to the fathers of philosophies; those who are divinely able to see how people' needs, congregate or to live together in harmony in social.....

Hon. Deputy Speaker: Can you conclude Member

Hon. Elizabeth Manyala: *(inaudible)*

Hon. Deputy Speaker: Hon. Nyangala, press. Can you press? Press and release, it is off.

Hon. Jackline Nyangala (Nominated Member): Thank you, Mr. Speaker. I would like to stand up and support this Motion. It has nothing to do with even the Constitution or anything. Yesterday I was telling Hon. Karen it is not about the Constitution it is about order in this City. How is it that if you go to church talking about spirituality, you go to church naked, what will happen? There is no way anybody in church will let you in naked Mr. Speaker. It is about order, there is going to be a policy for hawkers, we are talking about hard working Kenyans who are hawking in the streets. So if we get hawkers our here, it is okay because we are going to electioneering year. I am sorry Mr. Speaker, it is about order and I support. Thank you.

Hon. Member for Lucky Summer Ward (Mr. Kennedy Oduru): Thank you, Mr. Speaker. I stand to support the Motion. Why is it that I am supporting the Motion? Mr. Speaker this is as per my sister has just stated about law and order. We are the devolved government. There is a role that we need to play. That is

being subjected to what was there as by-laws. This thing was there, so it is for us to make it in form of a Bill so that we can control. If we are just talking either of the noise, Hon. Speaker sir it is quite unfair if these matatus that are waking up people at around 3 am. in the morning which is causing interference to our nursery school or young children and even to us adults because maybe you spent time late doing unnecessary things. Then--- Mr. Speaker can you protect me from Hon. Manyala please she is disturbing me? Kindly protect me from Hon. Manyala.

Hon. Deputy Speaker: Order Hon. Manyala please! Can you sit down?

Hon. Kennedy Oduru: So Hon. Speaker sir, this one is causing a lot of alarm even to the nursery school pupils who need not to wake up at 3 a.m. Instead these people should be controlled so as not to wake up people, even songs that are being played by the matatus. Mr. Speaker protect me from Hon. Manyala.

Hon. Deputy Speaker: Order Hon. Manyala I will throw you out. The last warning please.

Hon. Kennedy Oduru: So Hon. Speaker sir, instead those people who are using these matatus should be using alarm clocks to wake them up and--- (laughs) and also when we bought the matatus they used to play loud music and this Bill is going to guide on this. You see at times it is not important that if you get into a matatu then you will get such disturbance of loud music that they are producing. Mr. Speaker I support the Motion, thank you very much.

Hon. Member for Komarock Ward (Mr. Samuel Irungu): Mr. Speaker I rise to oppose this Motion. I have read Section 12, and what it says is that; "In carrying out the inspection of a place, unauthorized officer may, what is very offensive is (b)....reproduce a data in form of print out or other indelible output to take it for examination or copying". Mr. Speaker we fought for the Constitution of this land and if you look at the Bill of Rights Chapter 4, there is what we call the freedom to receive information, the freedom to impart information and what is important is the freedom to privacy.

Mr. Speaker whereas the letters of this Bill is good, but if you look at the spirit, we will go back to the dark days and Mr. Speaker reflecting that we have just heard about of the "Kanjo Kingdom", the way that our City Inspectorate is constituted at the moment, the residents of Nairobi are going to experience nightmares and that is why as an elected member of Komarock Ward I cannot support.

Mr. Speaker if you look at Section 17, this is what it is saying; during the inspection under the Act unauthorized officer may in addition to the avenues provided in this Act may seize anything by means necessary "kubeba" reasonable grounds that the Act has been contravened in full inventory and thereof make the time of seizure by the officer. That means that for you to recover what has been chased, you will have to go to court Mr. Speaker. Is this what we are subjecting the people of Nairobi to?

Mr. Speaker allow me to borrow wisdom from the book of Exodus; sometimes it is always good to actually respect holy noise. Some of us here are products of crusades, some of us here are products of

noises especially people from Dandora and Kayole where we come from. That is where we get our daily bread, so when you pass such an offensive Bill Mr. Speaker and in the next four months we are expected to go and ask the same people for votes, is that retrogressive or progressive. Mr. Speaker as I wide up I want to say this, laws are not supposed to take us back to where we have come from and in this regard Mr. Speaker, I oppose.

Hon. Deputy Speaker: Thank you.

Hon. Margaret Sewe (Nominated Member): Thank you Mr. Speaker sir I stand to support the Motion. When somebody says that we want to gag Nairobians, gagging and controlling is different. Mr. Speaker sir we know ourselves as Kenyans and as Nairobians, if left to do anything the way we want, we can go out of hand. Mr. Speaker you have seen this with the hawkers. If allowed to just place their wares anywhere, they can put on your doorstep and you cannot cough. We are saying that we must have law and order. We already have by-laws that guide us, but they are abused with impunity. Today I want to stand here and say that because of political expediency I don't think it is right to just allow disorderliness just because we want votes. We must have an orderly Nairobi so that even when you are going to look for those votes, you are even safe.

Mr. Speaker for the noises that come from the matatus churches and mosques, tell me if we had five mosques in a one kilometer area, and each mosque will be alerting its members at six in the morning, what kind of environment will we be having in terms of peace and noises? Mr. Speaker sir I support my Muslim brothers and sisters but I must say that we must control even the churches even those who go for *keshas*, if we say that all the *keshas* on Friday will be allowed to play the music just because we want votes, we will have a very disorderly City.

Mr. Speaker sir for political expediency we cannot afford to live in a mess just because we want to impress those voters. Those voters do not care, you pass this Bill and they will just put you down if they want. Thank you, Mr. Speaker. I oppose. I support sorry.

Hon. Leader of Majority: ... she wanted to oppose the Motion because---

Hon. Karen Wanjiku: Thank you Mr. Speaker. The Member is out of order. If he wants to oppose the Bill let him give reasons. I know he has not even read the Bill. Let him talk from the content please. Don't talk about the mover or the seconder.

Hon. Deputy Speaker: Order Hon. Karen! How sure are you that the Member has not gone through the Bill?

Hon. Karen Wanjiku: The way he is talking he doesn't have any content that is in this Bill. Why is he mentioning my name? The Standing Order is very clear. Let him say Hon. Member. Don't mention my name.

Hon. Deputy Speaker: Thank you Hon. Karen.

Hon. Leader of Majority: Karen Wanjiku, you as---

Hon. Karen Wanjiku: Mr. Speaker---

Hon. Deputy Speaker: Order Karen!

Hon. Karen Wanjiku: He is out of order you cannot allow this Mr. Speaker.

Hon. Deputy Speaker: Can you just sit because he has not even spoken.

Hon. Karen Wanjiku: He has said Karen Wanjiku, that's my name.

Hon. Leader of Majority: Hon. Karen Wanjiku, as a part of the Speaker's panel I respect you and I respect that you know the Standing Order. For today let me just oppose it whether I read it or not. I am opposing it in totality. There is no way I am going to allow you people to gag me. I like to talk everywhere I go even in funerals. This Bill is going to gather a lot of smoke.

Hon. Deputy Speaker: Order Hon. Majority Leader! You are out of order. Hon. K'Otieno.

Hon. Pius Otieno: Thank you Mr. Speaker. There are quite a number of things that need to be addressed. Even as we proceed with either opposing or proposing for me, I am supporting this Bill. This is because Nyang'wara is not my friend but the Bill is important. An Act of the Nairobi City County to give effect to the 4th schedule of the Constitution to control, the word there is to control, public nuisance and for connected purposes.

Mr. Speaker, if you look at the title it says 4th schedule. The 4th Schedule is a function that have been designated for County Governments. By saying that we do not spare time and go through this Bill is not different from abdicating our legislative role. We've been brought here to legislate. I hear this word people are misusing, gag or Constitution. There is nowhere in this Bill that seeks to violate or infringe on the rights of the people in so far as those rights in the Constitution are concerned. You've travelled, you are a traveling man. You've gone to Denver, to Spain, across Europe and even America. You know that in those developed cities there is some level of noise that has been prescribed. In our Country Kenya here NEMA has prescribed in these *matatus* that they should not play music more than 30 decibels. That is the law. Even within Nairobi City County, this County should be run on some orderliness.

There should be some difference between Kibera where I come from and the CBD. Just to add on that, the law in section 5 clearly says that notwithstanding the provisions of any other written law for the time being in force, the Member of the County Executive Committee may prescribe measures for control of public nuisance including waste, pests and insects. What that section clearly says, section 5, is that the CEC shall table regulations before this House. It is upon the Committee on County Delegated Legislation to see if those legislations would be unconstitutional or Constitutional.

Whether we pass this Bill or not as long as we still have by-laws within Nairobi City County those by-laws will still be in force. Basically what the proposer seeks to do is to depart from the old paradigm of by-laws and provide a legislative framework wholesomely on how these nuisances are going to be controlled. We are not doing away with noise. We cannot do away with noise that's why the Bill is saying control.

Hon. Members, there comes a time, I now want to speak frankly, whereby we have to reason with our conscience. Sometimes even I get into this trap. I noted so many things that I cannot now bring the practical aspect of what I am saying before things that need to be practical. We are not gagging anybody. We are not taking away that social contract that is famous Thomas, Rousseau, Hobbes and so many people are saying that we are taking from the people. That contract is still with the people. That is why it comes after every 5 years. Even within those 5 years the contract clearly says that we give good laws and we can probably never have better laws. For those laws it is give and take.

Today we'll impose measures against the rich and tomorrow we impose measures against the poor. That does not mean that we are going against the social contract. The social contract does not mean we become oblivious to reality. Reality is that Nairobi has been mismanaged because of either haphazard nature on how hawkers are doing business in the streets, the way *matatus* are hooting. These people will even hoot across primary schools, even hospitals. We must have clear signage that now you are approaching a hospital or a school or another particular place like State House so you don't hoot because the Presidency or the Government their brains are working. If we now say they are gagging, we are gagging what? There is no right that has been taken from the people. Even if you go to court, the court will challenge you on if you can demonstrate how your constitutional right was infringed or gagged. Let us not reason out of fear.

There is nothing wrong with this law Hon. Members. When we go to the third reading we shall even propose amendments if somebody feels that this place is now stepping on my foot. Please bring amendments so that we rectify. There is nothing cast on stone. Let us not move the Motion because of fear of 2017. Who tells you that you will be there in 2017? Kajwang' was a vocal member of ODM and he was saying those moles who are in ODM will not be given certs. Today my friend is not there. Even I cannot talk about 2017 because I don't know if I'll get over the bridge. If I come back so be it, if I'm not there so be it. Let us not fail to pass our duty because we are afraid of those voters.

Hon. Deputy Speaker: Thank you Hon. K'Otieno. The last one. The Member is not actually active you have pressed and--- may the mover of the Motion reply. Let me give two Members an opportunity to talk.

Hon. William Abuka: Thank you so much Mr. Speaker. I stand to oppose this Bill. Even though there would be unbeatable need to control the noise within the City we are not lost to history. Just recently the Inspectorate whom we have been talking about so many times that need training---

Hon. Deputy Speaker: What is it Jacky?

Hon. Jacqueline Nyangala: On point of order number 32 it doesn't seem like we have a quorum. I think most people have not read this Bill maybe we need to give people time to read it. We have no quorum to debate this Mr. Speaker, thank you. We have no quorum the Serjeant-At-Arm can count.

Hon. William Abuka: That is not for you to decide.

Hon. Jacqueline Nyangala: Mr. Speaker I am standing on a Point of Order.

Hon. Deputy Speaker: Hon. Abuka please don't engage the Member when she is up on a Point of Order. We may proceed.

Hon. Jacqueline Nyangala: Mr. Speaker I am standing on Point of Order Number 32. There is no quorum in the House, thank you.

Hon. Deputy Speaker: Can the Clerk confirm that? Members it is confirmed that there is lack of quorum in the House I direct the Serjeant-At-Arms under Standing Order Number 32(2) to ring the bell for 10 minutes.

(Quorum bell is rung)

Hon. Deputy Speaker: Order Hon. Members! Clerk can you confirm whether we have the quorum in the House? Hon. Members after the bell has been rung for 10 minutes it seems there is still lack of quorum in the House. Unfortunately we don't have the Whips, we have the Majority Whip in the House who ought to be whipping Members outside but he is pretty comfortable supporting the Motion in the House. I'm left with no option but to adjourn the Assembly but before then Members I think you have an opportunity to forward amendments in regard to this Bill if you so wish to the Office of the Clerk. The Bill is still in the 2nd reading it will appear in the Order Paper tomorrow for continuation. Thank you, the House stands adjourned to 2:30 p.m. tomorrow.

(The House rose at 4:02 p.m.)

