



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Fourth Session

Tuesday 22nd November, 2016

The House met at 2.30 p.m.

(Hon. Speaker (Mr Mr. Alex Ole Magelo) in the Chair)

PRAYERS

(Quorum bell rang for 10 minutes)

COMMUNICATION FROM THE CHAIR

SERVICE OF ORDERS FROM THE HIGH COURT ISSUED AT NAIROBI FOR THE COUNTY SECRETARY, NAIROBI CITY COUNTY

Hon. Members, the Chair is in receipt of Orders issued by the High Court to the Ag. County Secretary, Dr. Robert Ayisi, in Judicial Review Miscellaneous Application No. 575 of 2016, in the matter between the Republic and the Speaker of Nairobi City County Assembly as the 1st Respondent and the Nairobi City County Assembly as the 2nd Respondent.

Hon. Members, in his Application, the Ag. County Secretary sought certain orders, key amongst them being that the Court annul Gazette notice number 6614 of 11th September, 2015 made pursuant to Section 2 of the National Assembly (Powers and Privileges) Act, 2012, outlining the precincts of the Assembly for purposes of defining immunities enjoyed by Members and staff of the Assembly and delineating Assembly precincts from unnecessary access by strangers.



The effect of the orders is that the Assembly has been stopped from restricting access to its precincts by officers of the County Executive until the Substantive Motion once filled is heard and determined inter parties.

Hon. Members, the Court certified the application as urgent and issued the orders sought accordingly.

Hon. Members, I have reviewed the Application and reviewed the Orders granted. I now wish to guide as follows.

Hon. Members, this matter goes to the very existence of the County Assembly as an entity established pursuant to Article 176 of the Constitution.

Hon. Members, Section 136 of the County Governments Act, 2012, provides that the first sitting of the County Assembly after the first election under the new Constitution, shall take place at a time, place and date determined by the Independent Electoral and Boundaries Commission (IEBC), which date shall not be later than fourteen days after the results of the elections have been gazetted.

Hon. Members, pursuant to the foregoing the Chairperson of IEBC via gazette notice number 3159 dated 13th March, 2013 gazetted City Hall Council Chambers and offices as the seat of the County Assembly.

Hon. Members, consequently, in furtherance of the foregoing, the Speaker of the County Assembly through gazette notice number 6614 of 11th September, 2015 gazetted the precincts of the County Assembly to include the whole of the North Wing of City Hall, from basement to 5th Floor, which exercise was undertaken cognizant of Section 12 of the County Governments Act, 2012 which notes one of the functions of the County Assembly Service Board (CASB), for which the Speaker is Chair, as providing services and facilities to ensure the efficient and effective functioning of the County Assembly, but which gazettelement the County Secretary now seeks to quash.

Hon. Members, the Assembly has tried since 2013 when it commenced sittings to resolve this matter amicably through various engagements with the County Executive to avoid unnecessary confrontation and squabbles such as what the Ag. County Secretary has decided to engage in. The Assembly only took the North Wing of City Hall and left the rest of City Hall to the County Executive. This is despite the Transitional Authority initially recommending that the County Executive occupy the former Prime Minister's Office and its premises as its seat.

Hon. Members, as far as the law goes, and for purposes of the Powers and Privileges Act, the precincts of the Nairobi City County Assembly were determined to be here, at City Hall Buildings and therefore the Speaker's Gazette Notice still stands.

Hon. Members, it is unfortunate the County Secretary and the County Executive by extension has resorted to confrontation over this matter. The County Assembly cannot exist in a vacuum, and as such, we are here to stay. All strangers operating anywhere within the gazetted precincts will have themselves to blame if found at fault of the powers and privileges bestowed upon this House to determine admission to its precincts.

It is so directed. Thank you.

PAPERS

Hon. Majority Leader: Thank you Mr. Speaker, pursuant to section 117 of the Public Finance Management Act 2012 I beg to lay the following paper on the table of the Assembly today Tuesday 22nd November 2016, County Fiscal Strategy Paper 2017/2018, I beg to lay.

Hon. Speaker: Thank you Leader of Majority. Hon. Chief Whip

Hon. Chief Whip (Mr. Jaffer Kassam): Mr. Speaker pursuant to Standing Order 121 I beg to lay the following paper on table of the Assembly today 22nd November 2016, the report of Sectoral Committee on Justice and Legal Affairs on the consideration of the Nairobi City County Office of the County Attorney Bill 2016, Assembly Bill 4 of 2016.

NOTICES OF MOTION

Hon. Minority Leader (Mr. Abdi Hassan):

MOTION ON ADJOURNMENT ON MATTERS OF DEFINITE COUNTY IMPORTANCE

Mr. Speaker sir, I wish to move the following Motion pursuant to Standing Order 30;

WHEREAS Article 176 of the Constitution establishes County Governments, consisting of a County Assembly and a County Executive;

WHEREAS Section 136 of the County Governments Act, 2012, provides that the first sitting of the County Assembly after the first election under the Constitution, shall take place at a time, place and date determined by the Independent Electoral and Boundaries Commission (IEBC), which date shall not be later than fourteen days after the results of the elections have been gazetted;

WHEREAS pursuant to the foregoing the Chairperson of IEBC via gazette notice number 3159 dated 13th March, 2013 gazetted City Hall Council Chambers and offices of the County Assembly in the North Wing of City Hall;

WHEREAS Section 2 of the National Assembly (Powers and Privileges) Act, 2012 defines “precincts of the Assembly” to include *the Chamber, every part of the building in which the Chamber is situated, the offices of the Assembly, the galleries and places provided for the use or accommodation of members, strangers, members of the public and representatives of the press, and any forecourt, yard, garden, enclosure or open space appurtenant thereto and used or provided for the purposes of the Assembly;*

WHEREAS in furtherance of the foregoing the Speaker of the County Assembly through gazette notice number 6614 of 11th September, 2015 gazetted the precincts of the County Assembly to include the whole of the North Wing of City Hall, from basement to 5th Floor, which exercise was undertaken cognizant of Section 12 of the County Governments Act, 2012 which notes one of the functions of the County Assembly Service Board (CASB), for which the Speaker is Chair, *as providing services and facilities to ensure the efficient and effective functioning of the County Assembly,* but which gazette the County Secretary now seeks to quash;

WHEREAS in light of the foregoing the Assembly Service Board has engaged the County Executive on numerous occasions for space, with the last consultative meeting held on 18th October, 2016 during which it was agreed that the County Executive vacate the basement within seven days to pave way for construction of Committee rooms; two months to vacate fourth floor and a month to vacate fifth floor of the North Wing for provision of offices for Members of the County Assembly and staff, with effect from the 18th of October, 2016;

WHEREAS despite the aforesaid mutual agreement and giving of sufficient notice for vacation of premises reserved for the Assembly the County Secretary went to Court behind the County Assembly to obtain orders to continue renovating 4th Floor of the North Wing, City Hall buildings, and whereas the CASB issued summons on 16th November, 2016 for the County Secretary to appear before it on 22nd November, 2016 for purposes of ironing out whatever issues there were despite the force of the letter in which the County Executive agreed to vacate premises reserved for the Assembly;

AND WHEREAS the County Secretary instead of responding to the summons rushed to Court to obtain orders to completely evict the County Assembly from its current precincts in the North Wing of City Hall, this Assembly adjourns pursuant to Standing Order 30 to discuss the impending supposed eviction of the Assembly from its precincts by the County Secretary as a matter of definite and urgent County importance, and resolves as follows: -

1. The Assembly will not vacate from its precincts that were gazette by the IEBC on 13th March, 2013 under gazette notice No.3159 and by the Hon. Speaker on 11th September, 2015 under gazette notice No.6614 as sought by the Ag. County Secretary;
2. All the strangers do vacate from the precincts of the Assembly as gazetted;
3. The Assembly censures strongly the Ag. County Secretary for utter contempt of the County Assembly, and recommends that the Governor do forthwith appoint another person in that office other than one Dr. Robert Ayisi;

4. The Assembly affirms categorically that forthwith it shall not conduct any business with one Dr. Robert Ayisi, the Ag. County Secretary;
5. The Assembly shall consider any business transacted by the Ag. County Secretary, Dr. Robert Ayisi, as null and void and will pay no recognition nor respect to any actions by the aforesaid in dispensing with the duty of the office of the County Secretary. Thank you Mr. Speaker sir.

Hon. Speaker: Hon. Members notice of adjournment of a matter of definite County importance, Standing Order 32 and 33 reads as follows: a Member wishing to seek leave to move the adjournment of County Assembly shall at least two hours before the commencement of the sitting hand to the Speaker a written notification of the matter but the Speaker shall refuse to allow the claimant unless the Speaker is satisfied that the matter is definite and of urgent national importance and may probably be raised as a Motion for adjournment of the County Assembly.

If the Speaker is satisfied in terms of paragraph two not less than 20 other Members rising in their places in support, the Speaker shall nominate a time on the same day on which the Motion may be moved. Hon. Members I need 20 Members to rise so that the Motion can be allocated time. Hon. Members I will allocate time and thank you very much you are good citizens. Members after Order No. 9, the Motion may be discussed.

Hon. Leader of Majority (Mr. Elias Otieno): Mr. Speaker I beg or request that we just go direct to that Motion of adjournment.

Hon. Speaker: Hon. Members why I said that is because the two Motions No. 8 and 9 are being withdrawn. Proceed Mr. Clerk.

STATEMENTS

Hon. Speaker: Hon. Members we can now move into----

THE NAIROBI CITY COUNTY REVENUE AMENDMENT BILL 2016, ASSEMBLY BILL NO. 8 OF 2016, 2ND READING

Hon. Member for Komarock Ward (Mr. Samuel Irungu): Hon. Speaker I wish to request that the Motion be brought on the floor of the House tomorrow at 2.30 p.m. considering that the mover is not in the House and this being a very important Bill we also want to give Members more time to interrogate it.

Hon. Speaker: Very well, next item.

COMMITTEE OF THE WHOLE HOUSE

**THE NAIROBI CITY COUNTY REVENUE AMENDMENT BILL 2016, ASSEMBLY BILL NO. 8 OF
2016**

Hon. Samuel Irungu: Mr. Speaker I equally wish to request to withdraw Motion No. 9 and request that it be brought on the floor of the House tomorrow at 2.30 p.m.

Hon. Speaker: Hon. Leader of Minority please, you can proceed with the Motion.

Hon. Leader of Minority (Mr. Abdi Hassan): Thank you Mr. Speaker sir. Whereas Article 176 of the Constitution establishes the County Government consisting of the County Assembly and the County Executive, whereas Section 136 of the County Government Act provides that the first sitting of the County Assembly and the first election under the Constitution shall take place at a time, place and a date determined by the Independence Electoral and Boundaries Commission (IEBC) which shall not be later than 14 days after the results of the elections have been gazetted; whereas pursuant to the foregoing the Chairperson of IEBC via Gazettee Notice No. 3159 which I shall table here Mr. Speaker sir dated 13th March 2013 gazetted City Hall Council Chambers which we in; and offices of the County Assembly in the North Wing of City Hall; here is the Gazette Notice Mr. Speaker sir.

Whereas Section 2 of the National Assembly Powers and Privilege Act, 2012 defines "precincts of the Assembly" to include the Chamber, every part of the building in which the Chamber is situated, the offices of the Assembly, the galleries and places provided for the use or accommodation of members, strangers, members of the public and representatives of the press, and any forecourt, yard, garden, enclosure or open space appurtenance thereto and used or provided for the purposes of the Assembly.

Whereas in furtherance of the foregoing, the Speaker of the County Assembly through Gazette Notice No. 6614 of 11th September 2015, which I shall table, gazetted the precincts of the County Assembly to include the whole of the North Wing of City Hall, from the basement to 5th Floor, which exercise was undertaken cognizant of the County Government Act 2012, which notes one of the functions of the County Assembly service Board (CASB), for which the Speaker is the Chair, as providing services and facilities to ensure the efficient and effective functioning of the County Assembly, but which gazettelement the County Secretary now seeks to quash;

Whereas in the light of the foregoing the Assembly Service Board has engaged the County Executive on numerous occasions for space, with the last consultative meeting held on 18th October 2016 during which it was agreed that the County Executive vacate the basement within 7 days to pave way for construction of Committee rooms; two months to vacate 4th floor and a month to vacate 5th floor of the North Wing for provision of offices for Member of the County Assembly and staff, with effect from 18th October 2016;

Whereas despite the aforesaid mutual agreement and giving of sufficient notice for vacation of premises reserved for the Assembly, the County Secretary went to court behind the County Assembly (Mr. Speaker sir I have the court documents with me and I also table it) to obtain orders to continue renovating

4th floor of the North Wing, City Hall Building, and whereas the CASB issued summons on 22nd November 2016 for purposes of ironing out whatever issues there were despite the force of the letter in which the County Executive agreed to vacate the premises reserved for the Assembly;

And whereas the County Secretary instead of responding to the summons rushed to court to obtain orders to completely evict the County Assembly from its current precincts in the North Wing of City Hall, this Assembly adjourns pursuant to Standing order No. 30 to discuss the impending eviction of the Assembly from its precincts by the County Secretary as a matter of definite and urgent County importance, and the Assembly do resolve as follows:

1. The Assembly will not, I repeat the word "will not" vacate from its precincts that were gazetted by the IEBC on 13th March 2013, under Gazette Notice No. 3159 which I have tabled, and by the Hon. Speaker on 11th September 2015 under Gazette Notice No. 6614 as sought by the Acting County Secretary;
2. All the strangers do vacate from the precincts of the Assembly as gazetted;
3. The Assembly censures strongly the Acting County Secretary for utter contempt of the County Assembly (the way the County Secretary is as if the County Executive is superior than the County Assembly Mr. Speaker sir contrary to what Article 176 of the Constitution says) and recommends that the Governor do forthwith appoint another person in that office other than one Dr. Robert Ayisi;
4. The Assembly resolves and affirms categorically that forthwith it shall not conduct any business with one Dr. Ayisi, the Ag. County Secretary;
5. The Assembly shall consider any business transacted by the Ag. County Secretary, Dr. Robert Ayisi as null and void and will pay no recognition nor respect to any actions by the aforesaid in dispensing with the duty of the office of the County Secretary.

Mr. Speaker sir, as we are talking now any time the County Assembly is facing eviction from one part of the government. If you read the Constitution Article 176, it says;" there shall be established a County Government consisting of the County Assembly which comes before the County Executive. The County Assembly is the representative of the Nairobi people. We represent 1.7 million people Mr. Speaker sir. If we are evicted from this building by one wing which has allocated itself superior powers which the Constitution did not envisage. Mr. Speaker sir it is a clear violation of the Constitution and this House should not tolerate such behavior from the County Executive.

Mr. Speaker sir if we continue like this even the committees will not have powers to summon any Executive officer. This situation is deteriorating further with the Executive to the extent that they did not respect the powers which have been bestowed to this House by the Constitution. When the House Committee calls you it does so under the powers of the High Court which have been given to them by the Constitution of the republic of Kenya Mr. Speaker sir.

Mr. Speaker sir, with those few remarks I would like my counterpart the Leader of Majority, to second this Motion. Thank you Mr. Speaker sir.

Hon. Leader of Majority (Mr. Elias Otieno): Thank you Mr. Speaker sir. As I second the Motion, it is very important for this House to be serious when we are discussing it. Let us not have people who will run to the Executive side that we are being witch hunted because we know that is what they are going to do right now. This is not business as usual. Mr. Speaker I know very well on 18th of October this year, we had a meeting with the Acting County Secretary plus the Chief Valuer and the Internal Auditor and we agreed by 1st of December they are going to vacate 4th and 5th floor and within 14 days from that day of 18th of October they were supposed to vacate basement for us to construct committee rooms. Right now you can see that our Members are crossing from City Hall to Six Eighty Hotel which I think it is not good practice.

Mr. Speaker we know very well our Chairmen do not have offices where they can even interrogate the statements which Members are asking on the floor of this House. That is the reason why we were asking for 4th and 5th floors for the Chairmen to have offices there. We agreed very well with the County Secretary and the Chief Valuer that they are going to move from the 1st of December. Instead they decided to start renovating 4th floor for their own use. These people are taking us for granted. I saw the letter that they wrote to the Speaker today which is purporting that we are here illegally. Do they want us to go to Tom Mboya Street or Jevanjee garden to do our business in the open space? Then if they don't recognize this Assembly to be in this building because I saw the letter that their lawyer had written which states very clearly that we are in this building illegally and they said very clearly that the Speaker does not have power to summon any officer from the Executive side. I saw the letter.

So if the Speaker has no power, you as a Committee Chairman or you as a Committee member will you have power to summon them?

Hon. Majority Leader: Mr. Speaker, let us--- even if you want to go to that side to eat, let us be serious only for this Motion today to compel the Executive to respect this House. From 2014, they have been using those offices up to date. We want Committee rooms in the basement. Their Chief Engineer, Eng. Ngare, suggested how we can redesign that basement to accommodate all the Committee rooms. Why did they accept? We were gazetted by the I.E.B.C. The Constitution of 2010 created the County Governments which has the Assembly and the Executive side. Why are they belittling Assembly all the time? Because we left everything for them, they think they are our seniors. We should claim what is rightfully ours now. Any Member who is going to oppose this Motion, let me tell you one thing, there is no way your father is fighting with the neighbor because of boundary and you support the neighbor because the previous day you ate at your neighbor's home. Even if you took a cup of tea at your neighbor's home, what belongs to your father belongs to your father. When they said the Speaker doesn't have powers to summon them, who are you to summon them next?

Yesterday I sat at the Committee of Justice and Legal Affairs, we waited for the County Attorney and the Acting County Secretary but they did not turn up just because we are toothless. So, let us be serious for once. I request these Members --- You can see them now, one has already walked out because I know this Motion will provide a lot of food for them.

Mr. Speaker, I beg to second the Motion and request Members to pass it. It is a very serious Motion. Let us debate it seriously. Thank you, Mr. Speaker.

Hon. Speaker: Thank you, Hon. Leader of Majority.

(Question proposed)

Hon. Speaker: Hon. Warutere.

Hon. Member for Roysambu Ward (Mr. Peter Warutere): Thank, Mr. Speaker for catching my eye. There is a saying from where I come from that says and allow me to quote; *“There is no royal road to anything, one thing at a time, all things in succession. That which grows fast, withers rapidly. That which grows slowly, endures”*. This is our day, we chose to grow slowly. This Executive has chosen to grow fast. It beats sense to ignore the Constitution. Wanjiku and Company, while they were enacting the 2010 Constitution, just like there is a day and night, they had their vision. They envisaged a situation whereby we would have two levels of Government; one that that is in charge of Executive and the other that carries separation of all other millions of Kenyans living in the City. Executive would do its own things and play a complementary role to what is done by this Assembly. Transition Authority, as it has been given by Minority Leader in Gazette notice 51, envisage a situation whereby the County Assembly in its mandate would occupy the whole of northern wing. This was not by default but by the situation as it were.

The County Assembly on the other hand would have chosen to go to court but it sought diplomacy not because we were lesser beings. Therefore, it pains us as the people who are elected to represent Wanjiku and Company to see one side of the wing taking it all at the expense of the other wing. History will judge us harshly if we just sit down, be complacent because we can chose to do nothing. People out there will have an issue with us. We are approaching the electioneering year and therefore, we must do something. This is not about the same side of the coalition, this is about us. When I talk about us, I mean the whole of this Assembly. The powers of this Assembly have been usurped by one person, the aging County Secretary who attained mandatory retirement age last month.

(Laughter)

He is in office illegally. Even though he was in acting capacity, he was to act up to the age that is within the Constitution. That age elapsed three months ago. As we speak, we are getting authority from an illegal person who to me would be probably--- I will not use the word senile because it would be basically grading him the way he is supposed to be....

Hon. Peter Warutere... I would probably use a medical term but I choose not to use it today. In my wisdom, therefore, I choose to use my wisdom and ask this aging County Secretary to choose his enemies wisely. His choice of taking the Assembly would mean us cutting the link between them and us. Suppose that was to happen, what is the implication? That would mean, in their delivery of service, the Executive cannot act. In their delivery of service, they would have a big gap that they would need to fill. That, to me, is

what happened in Kilifi. That is what has put Kilifi in the world map. We have an obligation, just as Kilifi did. Not to wallow, not to cry like babies but to tell the world the truth, to tell the country the truth. That courts have no authority against other independent authorities or independent bodies that have similar authority. We have seen a situation whereby the Executive at any time they are grieved, they do not choose diplomacy. They do not choose the right path of engagement. But they rush to court all time. You saw it the other time. When they get aggrieved, they run to court. That is not the way to go about it. Therefore today, I ask you all Hon. Members to take your place in history to do your oversight role, to take your common place to ensure that we don't vacate the Northern wing that we were given by Transitional Authority.

We even went a step further and gave bit of what was rightfully ours to the Executive. Is this the way probably to say thank you? We shall return fire with fire. We are prepared. I want to be part of this history that one day stood up against an authority that was not willing to stay in this very important marriage. And it is therefore through this that I ask that we get the truth about the proper age of one Dr. Ayisi. We look into facts, we verify if he has come of age in terms of retirement and send him to where he belongs; to the old people. He has been in this acting capacity for far too long. His office is corrupt. He is incompetent. I said that from day one. The guy is simply not the best. Yesterday, we were in a forum and Nairobian were asking which is the Nairobi we would want to live in. the Nairobi that we would want to live in does not have a place for Dr. Ayisi. Let us send him to where he belongs. With those very few and many other words, allow me to support the same Motion and ask that we send Dr. Ayisi to where he belongs. That is home. Home for the aged.

Hon. William Abuka: Thank you very much Hon. Speaker for taking notice of me. I wouldn't really want to say much on this. But allow me for lack of better words to say this is a very unfortunate happening. It is very unfortunate. It is very immature. This is very unfortunate. In Luo, where I was born, we say that the boat sinks when it is just about to reach the shore. Surely, if one Ayisi who is my friend, has been alive to what has been happening in this County for the last 3, 4, and 5 months, then surely even if one was only 20% normal, this would not have been the right course.

(Applause)

I say this with the authority of an elder, with the benefit of a clergy and say were options not available, probably to sit down as brothers and say yes we discussed this. But we are finding ourselves cornered because of one, two, and three. Why would we want to kill ourselves when we only have 3, 4, 5, 6 months to prove to Nairobian that they did not elect the wrong people? Why wouldn't we use this last minute to prove to the world that we are the right people to be put in positions of leadership? I am hurt by what I have heard. When as Nominated Members of the County Assembly, we got so delayed to be sworn in. Rose Kula and I and five of us took the matter to court. I was number 3. The Judge, then Lenaola, and a lady Hon. Judge, in her conclusion when we insisted that we cannot wait for Nanyuki and the rest of the teams because of 5 people who were still complaining, the judge said we are not going to run government through courts. The last thing anybody should think in their minds is to have a situation where siblings' rivalry stalls the operations of a whole government. How, as normal people, who are set up to achieve

certain goals, who have a mission to convince the world that we are not irrelevant, do we set out to run government through court?

Mr. Speaker, for lack of a better, I have been hurt and terribly so I stand to support.

Hon. Speaker: The Chief Whip.

Hon. Chief Whip, Majority: Thank you Mr. Speaker sir. Here we are observing people with impunity who want to kill the devolution which was brought about with lots of pain and anguish. And there were several sittings and several people had to die because they were trying to bring in this new dispensation.

Mr. Speaker sir, there are pure enemies of devolution. They are fully aware that they cannot operate in a single way. These are two arms of a government. There are 48 governments. Each has two arms. The National Government has three arms, judiciary forming one arm and I don't want to repeat the rest. But our Executive here has been performing as if the Assembly never existed. And all along we have been watching and we did very little. Today, time has come. They stopped the Ward Fund, they stopped this and they did that. Now they want to put the final nail in our coffin. That is if we will allow. But we will have to stand very firm. As you know, they don't respect and do not honor our summons, they don't want to be oversighted. They want to buy substandard vehicles. They don't want to be questioned. They want to bring in people whom they wish to employ. They don't want to be questioned. They delay the salaries of the staff members. They don't want to be questioned. If you summon them, it becomes a long process that will never end up.

Mr. Speaker sir, I support and we have to stand very firm whether they honor our summons or not. We have summoned this acting person. In fact, he is not even ashamed. He has been appointed acting and here there are Members some of who have been elected with over 16000 votes and he is standing there trying to become the king of Nairobi. This should not be allowed and we condemn him in the strongest terms. He and his proxies and whoever backs him should know that we are here to stay. In fact, we may go ahead and claim our old County Chamber because that also belongs to the County. We gave up our committee rooms. We sacrificed a lot just because we wanted devolution to take place. And I think we are paying the price. We should now come. If some of us were going to bed with these partners, they should realize this is a dangerous thing. They come back and take the place of oversighting.

Mr. Speaker, I support. And we should not stop summoning them because this is a constitutional power. We represent the people of Nairobi. We will be questioned and we will do the legislation. We don't care if it hurts them or not. Thank you Mr. Speaker. I support the Motion. Thank you.

Hon. Maurice Gari: I arise to support this Motion simply because in politics even one day can change the whole world. It changed for Donald Trump when we thought Clinton was going to win. Today, I have seen Minority Leader coming up with a Motion which he should have drafted some years back. I can see now the opposition has realized that there is something bad happening in the Government and that is

the way to go. If we could have Minority Leader thinking of these things earlier before, this County Government could have worked for Nairobianians. But we went to bed with the Executive and a lot of things happened.

Mr. Speaker, I don't know why he didn't include the name of somebody called County Attorney. There is an office which is misleading this Nairobi County. It is called the County Attorney's office. These are the people who rush to court. He should have included the County Attorney and told both of them to go home. These people are misleading the County. They are squandering money from the County. They are buying substandard goods for the County.

Hon. Maurice Gari: Mr. Speaker if I had the powers bestowed upon me and now that the opposition has realized that the Government is taking them nowhere. We should have the same spirit. If we are sending these people home then we send them one by one. We can start by sending the Attorney. That office is not constitutional Mr. Speaker sir yet he is the one misleading this County and the Governor. Let me go so that we find another officer. This time round we will not joke with them. We have tried to be of help to them but we are not seeing any difference.

Whether you are in Government or opposition Mr. Speaker I do not see the difference. My things at Ward level are stuck. Things are not working and the roads are in pathetic state and yet they continue squandering money and paying suppliers who are supplying air. What is Dr. Ayisi doing in that office? The members of the public will say that MCAs failed them because they do not know Mr. Ayisi and the Governor. Yesterday I was with Hon. Akuk in his Ward and his people were saying that it is him who has failed them and not the Governor. We are the implementer's and we make laws. I therefore stand here to support this Motion and next time Hon. Minority Leader kindly do not sleep in class by being a friend of the Majority too much to support the Government. Reorganize your troops and come up with such Motions so that we send at least two or three home.

In the event that they come here with a court order then we will tell the court that they cannot gag us from conducting our businesses. This House is like the High court. Decisions made here are final and so anything to do with the courts is considered null and void in the County Assembly. Thank you.!

Hon. Member for Dandora Area II Ward (Mr. Stephen Kambi): Thank you Mr. Speaker sir. I beg for the attention of the House. I want to congratulate KCA for refining some of our Members who are now good debators. They are playing on our level now. We thought that the degrees and diplomas were for hire but I am entitled to my own opinion. I would like to support the Motion Mr. Speaker. The move by the said County Attorney and the County Secretary's office is not in good faith at all. This is because we all know that within the precincts of City Hall we do have City Hall Annex which in terms of architectural and engineering design is much more humongous than what they are trying to fight for. We know that City Hall Annex is rented to private contractors and people from outside yet they are public offices Mr. Speaker sir. If at all their intent was in good faith then they should first of all start by trying to win City Hall Annex for public

purposes. In the event that they find out that they do not have enough room for their officers to serve the public of Nairobi---

I believe that the intent of the County Government i.e. the Executive and the Assembly is to serve the citizens of Nairobi. If we can be able to share the space that is rented to the public so as to better serve them should be in good faith. In this case then Mr. Speaker sir, there is no good faith. We know that there is a lot of space because those are public offices which have been turned into rentals. I urge and would like to encourage the County Assembly to stand by what is rightfully ours. It does not matter whether we will find purpose for the two floors but its high time we squeeze for what is rightfully ours. I am in total support of the Motion because the intent of the Executive is not of good. Thank you.

Hon. Member for Viwandani Ward (Mr. Samuel Nyangwara): Thank you Mr. Speaker. I think much has been said. I do not think that one Dr. Ayisi knows what is going on in this Assembly Mr. Speaker. I think he does not care. Such kinds of people are careless and cannot lead and sustain any office. We all know what is happening in the Executive. Millions and millions of shillings are getting lost through paying hired lawyers. For example, the lawyer who took us to court has already been paid upfront an amount of Ksh. 3 million to file the case. The other day a question was raised on the floor of this House asking them to respond on how much money they have been paying lawyers monthly. That question never found time on the floor of this House simply because the Executive failed to answer that particular question. |

It is time Mr. Speaker that we make sure that we root out corruption in that particular office. As my good friend here put it, Dr. Ayisi is in acting capacity and past the age of serving in the public service. Mr. Speaker I am in support of this Motion not because of any other negative issue but because they are trying to interfere with the independence of this Assembly. They might be thinking that it is either the Majority Leader, Mr. Nyangwara or Mr. Warutere here against them. This is Wanjiku of Nairobi. The powers that we have Mr. Speaker have been donated by the people of Nairobi whom we are representing. It is therefore high time we start weeding out corrupt officers.

I do not think that Dr. Ayisi is supposed to have acted in the manner with which he did. I also do not know whether he is using public money to take this Assembly to court. There are better ways he could have used to solve this particular issue. Previously we have had your office approach the Executive in good faith to resolve issues and that has been going on fairly well. I rest my case so that we can send this kind of impunity home.

I support.

Hon. Member for Umoja Ward (Mr. George Maina): Thank you very much Mr. Speaker sir for catching my eye. I want to support this Motion in the strongest terms possible. This is because I believe all of us as Members have agreed on what the Majority Leader told us that when your father is fighting a neighbor then you do not support the neighbour. This is a matter of the Executive verses the Assembly and

judging by the mood of the House Mr. Speaker sir, it is my prayer that you call the mover of this Motion to make a reply without any further ado. Thank you Mr. Speaker.

Hon. Speaker: Hon. Members I will go with the majority. I therefore call the mover of the Motion to reply.

Hon. Minority Leader: Thank you Mr. Speaker sir. I want to take this opportunity to thank all the Members for their contribution to this Motion

Hon. Speaker: Order Hon. Members!

Hon. Leader of Minority: I also want to remind my good friend Hon. Gari that the Constitution of Kenya 2010 was very clear. It stated that the work of the Member of the County Assembly is to oversight. It is not otherwise a member of such a political party but the work of a Member of the County Assembly. I want to give my good friend Gari a good example from the County of Muranga. All the Members of that County Assembly plus its Governor come from the same party and yet those Members oversight the Governor and as we are speaking now, development that is being done in that County is due to the pressure that was exerted by the County Assembly to the Executive.

I will do my part as an MCA for Matopeni to oversight the County Executive and I urge him to assist me in doing that. If he does so then this County will be more developed as never been done before. Mr. Speaker sir, as we are speaking, the County Secretary is way beyond the 60 year age bracket which the law states that a public servant should serve. I do not know whether he has been issued with a contract yet he has pending leaves of hundreds of days. I do not know who will pay for that. We want the Governor to send him home for compulsory leave so that he can complete the days which he owes this County as leave.

It was a sad day when the Governor appointed one Dr. Ayisi as the acting County Secretary because he transferred a problem from the Health Sector to the whole County. This is saddening. We have very productive youth in this City who can perform the work of the County Secretary with zeal and energy that is deserving. He was two to three years into his retirement yet the Governor appointed him to the largest County in Kenya. The county is coming to a halt. Nothing is moving. The other day employees were paid just about two to three days ago and yet the National Treasury had released money on the 25th. Assembly staff and Members were paid on the 31st. These are people who are dependent on that salary to take their kids to school and eat. Do you know who is creating all these problems Mr. Speaker? All these problems are created by the acting County Secretary...

Hon. Leader of Minority: ...You can send a letter to that office, for it to be replied to it will take decades to get a response. That man is unproductive, he is letting down this County. I do urge the Governor of this City to take this censure Motion with the seriousness it deserves. I can assure you if this Motion is not taken seriously we are not going to engage the County Executive on anything. Even the supplementary budget which is in this House we are going to take back to him. As an Assembly we have

resolved we are not going to engage the office of the County Secretary. I want to ask my good friend who is my able Chief Whip of the Majority and also the Chair of the Justice and Legal Affairs Committee to call the County Attorney which is an illegal office in this County to come and answer who gave authority, instruction to that lawyer who took the County Assembly to the court. If it is the acting County Attorney he should be surcharged. He should pay that lawyer from his pocket. It is in bad faith to take one arm of the Government through a court process where millions of taxpayers' money will be lost.

As an Assembly, we are not going to allow or tolerate that. When you see today's newspaper Mr. Speaker, the Audit Report of 2014/2015 shows more than 2 billion loss. I want to ask the former right Hon. Prime Minister, a respectable leader in this County who we love a lot to speak about corruption in the County Government as he does to the National Government. Corruption does not have friends or a brother. It does not know boundaries. Regardless of you coming from the Jubilee party or CORD, corruption must be condemned with the strongest terms possible. *(Applause)* I will be a very happy man if tomorrow I hear my good right Hon. Prime Minister talking about corruption in Nairobi.

Mr. Speaker sir, the report of the Auditor General is not a report of Hon. Abdi Guyo. It is a document which has been prepared by a Constitutional office.

(Loud consultations)

Hon. Member: Point of Order.

Hon. Speaker: Hon. Leader of Minority please---

Hon. Leader of Minority: Mr. Speaker sir let me withdraw the name of the Hon. Prime Minister.

(Loud consultations)

Hon. Speaker: I am asking him to withdraw.

(Loud consultations)

Hon. Speaker: Withdraw that one.

(Loud consultations)

Hon. Speaker: Hold on, let him withdraw. He has withdrawn. Hon. Members he has withdrawn.

(Loud consultations)

Hon. Speaker: Order Hon. Members! Order! Order!

(Loud consultations)

Hon. Member: Can he withdraw and apologize?

(Loud consultations)

Hon. Speaker: He has done that.

(Loud consultations)

Hon. Leader of Majority: Mr. Speaker, I think these people just want to question everything. What my colleague has said clearly is a very respectable person in this City. He has not mentioned the Prime Minister in a bad way. He said corruption is corruption whether it is in Jubilee Government or in ODM Government. He has not said anything bad. I don't see the reason why we should not water down because we want to support or not support someone. Let us pass this Motion and leave the side shows.

(Loud consultations)

Hon. Speaker: Order Members! Order Hon. Members! He withdrew. Hon. Akuk he withdrew.

(Loud consultations)

Hon. Speaker: Order Hon. Members!

(Question put and agreed to)

Hon. Speaker: Order Members! Order! Order number 10 Hon. Mberia. Because of the numerous times he has not appeared we drop that Motion from the Order Paper. Hon. Member the Assembly is adjourned until tomorrow Wednesday, 2:30 p.m.

Hon. Speaker: You are good citizens.

(The house rose at 16.20 p.m.)