



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

Second County Assembly – Third Session

Tuesday 2nd April 2019

The House met at 2.30 p.m.

[Hon. Deputy Speaker (Mr. John Nyumu) in the Chair]

PRAYER

QUORUM

Hon. Deputy Speaker: Sergeant-at-Arms ring the bell for ten minutes as we don't have quorum.
(Quorum bell was rang for 10 minutes)

We now have the quorum. Clerk, proceed.

PETITION

NON INVOLVEMENT OF DISABLED PERSONS IN KEY DECISION MAKING ORGANS IN THE NAIROBI CITY COUNTY

Hon. Deputy Speaker: Hon Members I have a public petition, pursuant to Standing Order 208, by residents of Nairobi City County regarding noninvolvement of disabled persons in key decision making organ in the Nairobi City County.

We the undersigned citizens of Kenya who are residents of Nairobi City County and umbrella of Nairobi County Disabled Persons organization for the non-involvement person with disabilities in key decision making organ in the county.

We draw your attention to Nairobi County Assembly to the following:

AWARE that Article 21 (3) of the constitution of Kenya 2010 states that all state organs and all public officers have the duty to address the need of vulnerable groups within the society including women, all members of society, persons with disabilities, children, youth, members of minorities or marginalize communities and members of particular ethnic, religious or cultural communities.

AWARE that Article 185 of the constitution rests legislative authority and oversight function at the county level to the county assembly.

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THAT whereas Article 54 of the constitution gives persons with disability right to be treated with dignity and respect and to be addressed and referred to in a manner that is not demeaning: to access the educational institutions and facilities for persons with disabilities that are integrated into the society to the extent compatible with the interests of the persons; to reasonable access to all places, public transport and information; to use Sign language, Braille or other appropriate means of communication; and to use access materials and devices to overcome constraints arising from the person's disability.

THAT whereas Article 56 gives persons with disabilities rights to participate as is represented in governance and other spheres of life; are provided special opportunities in educational and economic fields; are provided special opportunities for access to employment; develop their cultural values, languages and practices; and have reasonable access to water, health services and infrastructure.

THAT, as residents of Nairobi City County, we wish to express our concern regarding misrepresentation in decision making in the county, poor service delivery to PWDS; and laxity of meeting constitutional obligations concerning PWDS set out in employment and procurement acts.

THAT whereas as the residents of Nairobi City County confirm that efforts have been made to have the matter addressed by the relevant body, it failed to give a satisfactory answer.

THAT the issue in respect of which the petition is made is not pending before any court of law or constitution or legal body.

Therefore your umbel petitioners pray that the county assembly of Nairobi County intervenes and ensure that:

- a) The Nairobi City County Executive establishes persons with disability board as provided in the Nairobi City County Act, 2015 and enacts the regulations thereon;
- b) Ensures compliance with accessibility requirements of the buildings within Nairobi City County and have front office desk that serves persons with disabilities in the county and sub county managed by a person with disability and sign interpreter; and
- c) The Nairobi City County Executive sets aside special needs bursary fund for schools from lower to higher levels of education for learners with disabilities.

And your petitioner will forever pray.

This petition will be referred to the committee on Justice. That is the relevant committee that will handle this matter, thank you. Next order please!

NOTICES OF MOTION

CENSURE AGAINST MR. LEBOO OLE MORENTAT, ACTING COUNTY SECRETARY-AS IT WERE

Hon. Deputy Speaker: Chairperson of Powers and Privileges committee? Proceed clerk!

Hon. Pius Mbono: Thank you Hon Speaker.

Hon Speaker, I beg to give Notice of the following Motion:-

WHEREAS Article 195 of the Constitution expressly provides that a County Assembly or any of its committees has power to summon any person to appear before it for the purpose of giving evidence or providing information;

WHEREAS the Standing Orders of the Nairobi City County Assembly in realizing the foregoing further provides that Committees shall enjoy and exercise all the powers and privileges bestowed on County Assembly by the Constitution and statute County Assemblies Powers and Privileges Act, 2017, including the power to summon witnesses, receive evidence and to request for and receive papers and documents from the Government and the public;

WHEREAS the County Assembly Select Committee on Implementation wrote invitations to the acting Nairobi City acting County Secretary as it were, Mr. Leboo Ole Morintat, to attend the Committee's meetings for deliberations on the operationalization of the County Acts, first being the joint sitting between the Committee, the Office of the County Attorney, the County Public Service Board and the Officer of the County Secretary, held from 21st to 23rd March 2019 at Royal City Hotel, Kisumu, vide letters dated 13th March 2019, Ref. NCA/COI/COR/03/2019, and secondly, subsequent invitation via summons to the Committee's sitting held on 27th March 2019, invitations to meetings which the then acting Country Secretary never honored nor gave an apology for not attending;

WHEREAS the Committee in light of the provisions of Section 18 of the County Assemblies and Privilege Act, 2017, resolved to summon Mr. Leboo Ole Morintat to appear before the Committee on Wednesday, 27th March 2019;

WHEREAS the officer however failed to appear before the Committee as summoned and instead, sent a letter detailing reasons for his unavailability, key being a pending arrest warrant against him; WHEREAS in light of the foregoing, scrutiny of the warrant revealed that the same was obsolete and dispensed with, having been issued by the court on 5th December 2017 for his arrest and presentation before court on 15th December 2017;

WHEREAS Section 20(1) of the County Assemblies Powers and Privileges Act, 2017 provides 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 which protection would shield the witness from arrest per the pending warrant where it is live and subsisting; AND WHEREAS the Committee made a finding that the witness has continued to be in contempt of the Committee; NOW THEREFORE this ASSEMBLY RESOLVES as follows;-

- i. To strongly censure the acting County Secretary as it were, Mr. Leboo Ole Morintat for contempt of the County Assembly;
- ii. The Assembly affirms categorically that forthwith, it shall not conduct any business with one Mr. Leboo Ole Morintat; and,
- iii. The County Assembly shall consider any business transacted by the acting County Secretary as it were, Mr. Leboo Ole Morintat 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.

Hon. Speaker attached are the evidence to support the motion, thank you.

Hon. Peter Imwatok: Mr. Speaker with all due respect to the committee on Implementation I feel, as senior most seated apart from our elder Kados and elder Azangu, reading the motion I am aware we are

all living in this county. I don't think one Leboo Ole Morintat is the acting county secretary. Unless it changed this morning.

As per yesterday I was at office of the acting county secretary one Pauline Kahiga. Unless it has changed. A censure motion in place by chair of Implementation...

Hon. Deputy Speaker: He was acting secretary when the acting secretary was out of the county. You are anticipating debate.

Hon. Peter Imwatok: There was no communication during this summons whether Morintat was appointed substantially to act when the then county secretary was out of the country. This is not adding value to this assembly. We cannot start motions which do not have value in this assembly.

Hon. Deputy Speaker: What I am saying is you are anticipating debate. You are right but you are anticipating debate. Let's follow the procedure. Let it go to the House Business committee for further deliberation.

PAPER

Hon. Peter Warutere: Hon Speaker pursuant to Standing Order 191 (6) I beg to lay the following paper on the table of the assembly today Tuesday 2nd April 2019: The Report of sectoral committee on Health Services on its consideration of Nairobi City County Tobacco Control Bill 2019.

(Paper Laid)

STATEMENTS

REQUEST OF STATEMENT REGARDING ILLEGAL PARKING OF VEHICLES IN EASTLEIGH AIRBASE WARD

Hon. Deputy Speaker: Hon Jagero?

Hon. Millicent Jagero: Thank you Mr. Speaker, pursuant to Standing Order 45 (2)(c) I wish to request for a statement from the chairperson of the setoral committee on Environment and Natural Resources regarding illegal parking of vehicles in Nairobi county especially in Eastleigh Airbase ward 3rd street.

Hon Speaker it is with great concern that illegally packed trucks Isiolo bound buses and garbage trucks at 3rd street, 8th street and Posta lane along Eastleigh Airbase ward block entrance of residential apartments making it difficult to intervene in emergency situations for instance fire outbreaks.

Hon Speaker besides this disposal of garbage has also beome a menace in the same area. This therefore subjects residents to danger given that children play on and under the trucks.

Hon Speaker residents have made efforts amongst them liaison and petitioning the county government on the same as attached beneath but this efforts have been futile.

Hon Speaker in the statement the chairperson should inquire and report on:

1. Who authorized the parking trucks, Isiolo bound buses and garbage trucks to use the said parking areas.
2. Measures put in place by the county government to regulate parking in residential estates.

Thank you.

Hon. Deputy Speaker: Chair, Transport?

Hon. Mark Mugambi: Thank you, Mr. Speaker, we request for two weeks.

Hon. Deputy Speaker: Hon. Jagero, are you comfortable with two weeks?

Hon. Millicent Jagero: I am not comfortable.

Hon. Deputy Speaker: Any other offer Chair?

Hon. Mark Mugambi: I understand the statement was addressed to the Chair of Environment---

Hon. Deputy Speaker: Give your offer.

Hon. Mark Mugambi: Ten days. Chair, you understand that as a committee, we already have summons that we are undertaking concerning matatu saccos. We will give her a detailed report on the same.

Hon. Millicent Jagero: I am not comfortable because the petition was written last year in November but no action has been taken since then.

Hon. Mark Mugambi: Hon. Speaker, but it is the first time the petition is being read in this House. This is the first day we are receiving the statement as a committee. I think Hon. Millicent, it will be in order since I have just explained to you that although the committee is committed but we have committed ourselves to respond to it. We don't want to give you just stories but a detailed report. Kindly bear with us and give us the ten days we are asking for. Thank you.

Hon. Deputy Speaker: Hon. Jagero, are you persuaded ten days?

Hon. Millicent Jagero: It is okay, Hon. Speaker.

Hon. Deputy Speaker: Thank you. Hon. Mbono.

REQUEST TO A STATEMENT REGARDING STALLED REPAIR OF PUBLIC LIGHTS IN ZIMMERMAN
WARD

Hon. Pius Mbono: Thank you, Hon. Speaker. Pursuant to Standing Order 45 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Transport and Public Works regarding stalled repair of public lights, commonly known as *Mulika Mwizi*, in the County specifically in Zimmerman Ward.

(Loud consultations)

Hon. Deputy Speaker: Hon. Okello, you are making a lot of noise, why don't you just consult in low tone so that we can at least hear what Hon. Mbono is saying.

Hon. Pius Mbono: Let me start again. Hon. Speaker. Pursuant to Standing Order 45 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Transport and Public Works regarding stalled repair of public lights, commonly known as *Mulika Mwizi*, in the County specifically in Zimmerman Ward.

Hon. Speaker, it should be noted that most of the public works in Zimmerman Ward have been out of operation for more than nine months. I have made an attempt to liaise with the County Executive officials from the department of Roads, Transport and Public Works requesting them to repair the lights but the constant reply is that they lack materials for repair which they indicate that they are being procured.

Hon. Speaker, it is important to note that lack of public lights in the Ward portends to the security of the people and impediment to contact business in the area.

Hon. Speaker, in statement the Chairperson should enquire into the report on:

1. Whether the County has sufficient relevant equipment to carry out repairs of the public lights which are up to 30 meters high;

2. Why the process of procuring the requisite materials for repair of public lights is taking longer than expected to be concluded;
3. When the residents of Zimmerman can expect the public lights to be repaired.

Thank you, Hon. Speaker.

Hon. Deputy Speaker: Chair of Transport.

Hon. James Mwangi: Thank you, Mr. Speaker. I think two weeks will be enough.

Hon. Deputy Speaker: Hon. Mbono, are you comfortable with two weeks?

Hon. Pius Mbono: I am not comfortable because in two weeks' time, we will be on recess. I think one week is enough.

Hon. Deputy Speaker: Chair of Transport.

Hon. James Mwangi: Mr. Speaker, these are the challenges as a committee. There were some issues with the procurement. Ten days will be okay.

Hon. Pius Mbono: It is okay because the ten days includes the weekend.

Hon. Deputy Speaker: Thank you. Hon. Mbugua.

REQUEST TO A STATEMENT REGARDING RISK POSED TO RESIDENTS BY POORLY HOISTED BILLBOARDS ACROSS THE CITY

Hon. Mbugua Kabiro: Thank you. Pursuant to Standing Order 45 (2) (c), I wish to request for a statement from the Chairperson of the Sectoral Committee on Planning and Housing regarding risk posed to residents by poorly hoisted billboards and other outdoor advertisement paraphernalia across the City.

Hon. Speaker, several cases have been witnessed in the County where billboards have caused damage to people's property and thereafter the affected parties are not compensated. If not checked, poorly hoisted billboards pose great danger to the public.

Hon. Speaker, in statement the Chairperson should enquire into the report on:

1. The status of the occupational safety of billboards in business premises and market places;
2. Whether the owners of the billboards have insurance policies for third parties for ease of compensation;
3. Why there is encroachment of billboards in public places and County lands;
4. Who bears the liability of damages caused by billboard parts falling from the billboards?

Thank you.

Hon. Deputy Speaker: Chair of Planning.

Hon. Ruth Maingi: Thank you, Mr. Speaker. As you know we are going for recess and the statement needs more work to go out and check, we will give the response after recess.

Hon. Deputy Speaker: Hon. Mbugua, are you comfortable after recess?

Hon. Mbugua Kabiro: Hon. Speaker, any indication of timeline?

Hon. Deputy Speaker: Hon. Ndumi, give specific date.

Hon. Ruth Maingi: Thank you, Mr. Speaker. As soon as we come back from recess, we will call him to our committee.

Hon. Deputy Speaker: Hon. Mbugua, are you convinced?

Hon. Mbugua Kabiro: I do not want to put all my eggs in their basket. I wish that I am given the correct timeframe with regards to when it will be responded.

Hon. Ruth Maingi: Mr. Speaker, I have no calendar here. I am a staunch Christian, I don't want to cheat but immediately when we come from recess, I will do that.

Hon. Deputy Speaker: Hon. Anyule.

Hon. Peter Imwatok: Hon. Speaker, I am so much surprised Hon. Ndumi is very clear that she is a Christian. I remember I asked a question about Avic. You stood and said you can't cheat because you are a profound Christian. To date, more than eight months, I have never been called to the Committee of Planning. This committee is becoming haphazard.

Mr. Speaker, I would wish that you direct Hon. Ndumi and the entire Planning Committee to be serious. We don't ask questions to the committee in a selective manner. The Hon. Member is asking a very pertinent question about billboards. There are billboard vendors in this City who have taken the County for a ride. One of them controls almost 70% of the billboards, including those erected in our County lands. They erect billboards on monthly basis yet they don't pay and don't get approvals.

Mr. Speaker, I think madam Ndumi is very pathological liar. She should desist from lying---

Hon. Deputy Speaker: That is not parliamentary language.

Hon. Peter Imwatok: Pathological liar is a genuine language.

Hon. Deputy Speaker: Withdraw please!

Hon. Peter Imwatok: I withdraw that.

Hon. Deputy Speaker: Thank you, proceed.

Hon. Peter Imwatok: Madam Ndumi, I expect you to give us a tentative date. Before you ask the member to appear before the committee, when am I appearing on the issue of Avic. We want to know who is building Avic.

Hon. Deputy Speaker: Hon. Charles Thuo.

Hon. Charles Thuo: Hon. Speaker, I wish to request the Hon. Chair to give us some guidelines because I don't think it is right for the Hon. Member for Makongeni to hijack a session for a request of a statement from another member to a specific committee and then turn all the attention to him like he is used to, like a slay queen. He turns it around and discusses Avic near the presidency. It is not right. This is not a fashion show.

(Hon. Imwatok spoke off the record)

Hon. Deputy Speaker: Hon. Thuo, can you withdraw.

Hon. Charles Thuo: Thank you, Hon. Speaker. I withdraw.

(Laughter)

Hon. Deputy Speaker: Hon. Ndumi, everyone has a calendar. You can just use you phone, there is a calendar. Give a specific date.

Hon. Ruth Maingi: Mr. Speaker, I request for two weeks.

Hon. Deputy Speaker: Hon. Mbugua, are you comfortable with two weeks?

Hon. Mbugua Kabiro: Hon. Speaker, two weeks is okay but kindly---

Hon. Deputy Speaker: Thank you, Hon. Mbugua, two weeks.

(Point of Order)

Hon. Jeremiah Themendu, what is the point of order?

Hon. Jeremiah Themendu: Thank you, Mr. Speaker---

Hon. Deputy Speaker: You are standing on which Standing Order?

Hon. Jeremiah Themendu: Standing Order No.45.

(Laughter)

Hon. Deputy Speaker: What does it say?

Hon. Jeremiah Themendu: Mr. Speaker, there was an issue here last time. There was Hon. Member who was asked about bursary. Today, we were called somewhere and instead of being given vouchers---

Hon. Deputy Speaker: Can I have the Chairperson of Education? Hon. Mbithi.

RESPONSE TO A STATEMENT REGARDING ISSUANCE OF BURSARIES

Hon. David Mbithi: Hon. Speaker, I have a response to a statement requested by Hon. Peter Imwatok, MCA Makongeni Ward.

On Thursday 12th July 2018, Hon. Hon. Peter Imwatok, MCA, rose on the floor of the Assembly pursuant to Standing Order 45 (2) (c) and requested for a statement from the Chairperson of Sectoral Committee on Children, Early Childhood Education and Vocational Training regarding recent issuance of bursaries. The member sought to know:

1. Report of the current disbursement detailing how monies allocated for sum were disbursed;
2. Total number of cheques issued per ward for 85 wards;
3. Amount currently held as balance from the amounts allocated from the bursary kitty.

Mr. Speaker, the Committee wrote to the---

Hon. Deputy Speaker: Before you proceed, Hon. Imwatok, were you called before we go further?

Hon. Peter Imwatok: Hon. Speaker, indeed I was called before this committee and we raised issues-

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Hon. Deputy Speaker: Okay. Proceed, Hon. Mbithi.

Hon. David Mbithi: Thank you, Hon. Speaker for your protection. The Committee wrote to the County Executive Committee Member for Education, Children, Youth Affairs, Gender Affairs, culture and Social Services on 12th July, 2018 requesting to be furnished with a written response to the statement sought by the Honorable Member.

In this regard, Hon. Speaker, I wish to report to the Assembly that the County Executive Committee Member for Education, Children, Youth Affairs, Gender Affairs, culture and Social Services responded vide a letter REF: GL/NC/147C VOL I11/39 on 20th July, 2018, a memo REF: GL/NC/71 VOL IV/145 dated 26th July, 2018 and vide a letter REF: REF: GL/NC/71/ VOL IV/154 on 28th August, 2018 on the clarification of the said statement.

Both the County Executive Committee Member responsible for Education, Children, Gender Affairs, and Social Services and Hon. Peter Imwatok appeared before the Committee on Wednesday 1st August, 2018 in order to consider the said response. The said County Executive Committee Member responsible for Education, Children, Gender Affairs, and Social Services who provided a summary of bursary disbursement, total number of

cheques disbursed to respective wards and the outstanding balances per Ward after funds were committed in the sector.

The Committee considered the response provided and noted that the information was not accurate in the said response. The Committee resolved that the County Executive Committee Member responsible for Education, Youth Affairs, Sports, Culture, Children and Social Services provide a detailed brief on;

- i. Accurate report of the current disbursements detailing how the monies allocated for the same were disbursed;
- ii. Accurate amounts pending issuance and the names of beneficiaries who are yet to benefit;
- iii. Accurate number of cheques issued per Ward for the 85 Wards of the County; and
- iv. Accurate amounts currently held as balance from the amounts allocated in the Bursary kitty.

Both the County Executive Committee Member responsible for Education, Children, Gender Affairs, and Social Services and Hon Peter Imwatok re-appeared before the Committee on Wednesday 26th September, 2018 in order to consider the said response.

In this regard, Hon. Speaker, I wish to report to the Assembly as follows;

- i. *On the Accurate report of the current disbursements detailing how the monies allocated for the same were disbursed;*

The CEC responded that the sector had provided a report of the bursary commitments for all the 85 wards amounting to Ksh. 286,670,925.00.

- ii. *On the Accurate amounts pending issuance and the names of beneficiaries who are yet to benefit;*
The CEC responded that the Finance Sector was to avail the report.

- iii. *On the Accurate number of cheques issued per Ward for the 85 Wards of the County;*
The CEC responded that the Finance Sector was to avail the report.

- iv. *On the Accurate amounts currently held as balance from the amounts allocated in the Bursary kitty;*
The CEC responded that a total of Ksh. 10, 829,075.00 was yet to be committed from the Bursary kitty. However, they intended to commit the remaining balance upon the reconciliation report from the Finance Sector.

COMMITTEE OBSERVATIONS

The Member was not satisfied with the responses given to all the questions and directed that details of the said bursary cheques be availed and a detailed report of the accurate amounts pending issuance be provided to the Committee.

Hon. Speaker, herewith find attached submissions from the Executive. Hon. Speaker, I beg to lay this response.

Hon. Deputy Speaker: Hon. Imwatok, are you comfortable?

Hon. Peter Imwatok: Mr. Speaker, I think all of us are blessed with two years in this Assembly. As the Chair was just reading the response, most of the time, he was saying that this or that was not provided. It reminds you that Nairobian won't forget what I said in July, 2018. We are asking pertinent question on the subject of the first issuance of the bursary and the current dispensation order.

Number one, cheques not cleared so far. Today, I am happy that the Governor, His Excellency Mike Mbuvi Sonko launched another bunch of bursaries in this county. What a coincidence? Even the gods in heaven won't forget when I say something. Mr. Speaker, I said it here that the cheques had errors and were not cleared. But to date, there is no report to affect how many cheques were issued to Hon. Members and yet were not cleared to reconcile the bank account.

Hon. Speaker, even the Chair is saying that they have not received the information. Hon. Speaker, when we talk about Imwatok reappearing twice, it is not possible. The first time we had a meeting with the education committee was down there before the CEC.

Even the gods won't forget. She is no longer the CEC member for education. Why? Because when I say something, they take it as a joke. But Nairobian won't forget about this, that I said the CEC for education then was lying to the committee and the Hon. Members. She was in cohort to make sure that the Hon. Members of this House look like devils before Nairobian and before the administration.

But thank God, she is the first one to cry on TV. God and Nairobian won't forget. Speaker, this report cannot be tabled before the committee to exonerate the Hon. Members from the dirt. This report is shallow. It is baseless. It has no ground to stand in this Assembly. We are called names. In particular, I was named upon a company called *Kobutho*. I went to investigate what *Kobutho* means. In Luo it means somebody who has gone to restaurant or a bar and is waiting for his friend to appear and the friend tells him "can you *butho* there as I come?"

But to date, I do not know who *Kobutho* is. That was why I asked this statement. Because I was called names on TV. *Kobutho* is another name for Imwatok. When I asked Ms. Oduor, she told me *Kabutho* means somebody waiting for a friend in a club and then he tells you to wait. Today, no one has explained the CR12 from Sheria House. It says *Kobutho* is a company owned by one Peter Imwatok. No one can say that. Maybe the current education minister can go in depth, but I am happy. Some of the Members seated here today could not shake my hand at that time.

The gods and Nairobian won't forget that I was right. Some of them are saying that they have been given bursaries today. Thank you. Kenyans and Nairobian won't forget. Today we had bursaries. Tomorrow we are all having functions in our respective wards to issue bursaries officially to our residents. Nairobian won't forget that Jateso said it. It is a painful experience that bursary is the only thing that an Hon. Member of County Assembly can reach his voters.

For those who do not know, we used to have 34 councilors. Then it went to 47 councilors. Then it went to 64 councilors. Now we have 85 MCAs. The reason why some of us came back to this House. Including me, Warutere, Thuo, Kados, Mbugua. For those who came back twice know that giving a peasant mother in the ward that cheque of KSh.5000 to subsidize her life and paying for her kids school fees, gives you a chance to go for the next election.

This report is not supposed to be tabled in this House because bursaries is about us. It is about those people who woke up at 4 am to queue for more than 6 hours to vote for this Teso boy who was a watchman, who was a toilet cleaner, who was a pedestrian walker to NSSF to get 200 shillings from a cousin to have lunch.

They say Jateso has brought bursary to my footstep. But the minister took it so casually. We asked a question; “when did a child of less than 18 years become a politician?” The issue of bursary is touching a generation to come. Not me. Not the current Governor. So, what we are saying is that this report is not valid and not worth reading. It is a fallacy. Thank you Hon. Speaker.

Hon. Deputy Speaker: Hon. Thuo, what is the point of order?

Hon. Charles Thuo: Hon. Speaker, what is written in this statement is the work of the clerks. Not me. Hon. Speaker, I am elected and I don't do technical work.

Hon. Deputy Speaker: Hon. Thuo, sit down.

[Hon. Imwatok speaks off the mic]

Hon. Mberia, what is the point of order for?

Hon. David Mberia: Hon. Speaker, Thank you for the opportunity.

(Loud consultations)

Hon. Deputy Speaker: Hon. Majiwa, what is your point of order? Was it a point of order? I can see you have requested for a point of order.

Hon. Geoffrey Majiwa: I have requested to speak, not a point of order.

Hon. Deputy Speaker: Not yet. Hon. Mbithi, you have heard the sentiments from the owner of the statement. What answer can you give?

Hon. David Mbithi: Hon. Speaker, from the education committee, it is very clear that we understand that our Whip is very lazy and he doesn't want to read because we have given a summary as a committee and everything is detailed there. He has time to go and have a look at it because when we called him in the committee, he was not even willing to sit down. He was very uneasy. I don't know what the problem was. And when he comes to this House, he is very energetic.

Hon. Peter Imwatok: Hon. Speaker, I want the Member to withdraw the word “lazy” because as you can see me, my head is white. It shows how I work hard.

Hon. Deputy Speaker: Can you withdraw and proceed?

Hon. David Mbithi: Hon. Speaker, I withdraw.

(Loud consultations)

Hon. David Mberia: Mr. Speaker, thank you for giving me this opportunity. I am standing on standing order no. 45 on statements. I want to join my leader here in condemning the response which has just been laid by the Chairman of education committee. Hon. Speaker, this statement was sought in July 2018. That is 8 months ago. Mr. Speaker, the Chairman has alluded to the House that two statements they sought from the CEC Finance on how the bursary money was spent, the report was never availed to the committee and the Chairman has the audacity to lay a baseless response on the floor of this House. Mr. Speaker, I support the Minority Whip that this report is baseless and is not supposed to be tabled.

Hon. Deputy Speaker: Thank you. Hon. Thuo. Order no. 45 as usual?

Hon. Charles Thuo: Yes. Order no. 45 read with order no. 16 and 61.

Hon. Deputy Speaker: Proceed.

Hon. Charles Thuo Thank you. Hon. Speaker, I wish to remind this Assembly one thing. The law of this land does not allow Hon. Members of this Assembly to handle cash or any money even in form of cheques. What has been happening before is wrong and what the Governor is doing now is the right thing. It is illegal to handle cheques. Hon. Speaker, Members should also know this.

As it is the practice in other counties, MCAs don't give bursaries. The bursaries is the work of the Executive. The issue of issuance of bursaries belongs to the Executive. The constitution is very clear on the work that an MCA should do in the Assembly.

The work of MCAs is to legislate. Most of the people making noise here have never have heard a single law on this floor. Some of them are serving 15 years. They have never contributed on anything. If there are people who don't wish to work in this Assembly, why should they blame a governor who is doing his work? What the Governor is doing is right and it is the best practice in this land. There is no county that MCAs give bursaries. That is the truth whether you like it or not. Thank you.

Hon. Deputy Speaker: Hon. Odhiambo.

Hon. Geophrey Majiwa: I first of all want to welcome Hon. Thuo back into Kenya. On the issue of this bursary, he is not competent enough to tell us whether the Governor is doing the right or wrong thing. Remember we have a committee on Education which should competently advise us whether the Governor is doing the right or wrong thing.

The Committee has just tabled a report here Mt. Speaker which does not seem to have any facts. Even as we sit here Mr. Speaker, you know very well that we have asked questions here about the balances of our bursary allocations that we returned checks for correction ad each Ward here lost close to half a million and nobody is talking about that money and the reason why this is not being discussed is that any time we talk you are attending to other issues, you do not follow us closely. Therefore it means that when we talk nobody listens to us.

Mr. Speaker, today we were called there to be given vouchers if not cheques which a member has now contributed saying it is the right thing. I don't know whether it is the right thing, in City Hall we used to hear of supply of air, we have just been given air today. Mr. Speaker, we were called there and paraded in front of the cameras, we were told that we have each been given KShs. 3.5million.

The Chairlady of Education Mr. Speaker, had a voucher in her bags which we as members did not have but when we walked out asking about this paper bags that we were given, they had nothing inside and we were told to follow one person called Ojwang. When we met Ojwang along the corridor Ojwang said, "mimi sitaki hiyo gori yenu, nimechoka na hiyo maneno ya vita ya assembly na mambo ya bursary, nimeandika statement na nimechoka" and those are the words said and this means that even Ojwang who we were being sent to go and get these things from, Ojwang does not have any information with regards to bursaries. So Mr. Speaker, I do not know whether the right thing is handling members the way we have been handled today. If they knew very well that the papers they paraded there had nothing inside they needed to have even told the media that we were not given any cheques today. We are going back to the estates and people are waiting for us with the checks which we do not have and where we were sent to go and collect

them, the person who is supposed to give them to us has said he does not want to associate himself with bursary issues. Mr. Speaker, that office as you know, is half occupied.

The personnel in that office, most of them are not in the office because the issues of bursary have become so hot some of them decided to take leave. So, I ask myself, Mr. Speaker, is doing the right thing dealing with members the way we were dealt with today – and one of us has the audacity to stand here and tell us that what was done today is the right thing. We know that all of us passed a budget of Kshs.4 million for each member, we only got Kshs.3.5 million and nobody has explained to us where the Kshs.500 thousand went and we were told that today we will get another Kshs. 5 million next year. It is not rocket science for us to understand that we are being played around with. Mr. Speaker, I do not agree with that member and I think if he is holding brief for the Executive it is high time he comes back to us. Mr. Speaker, thank you.

Hon. Deputy Speaker: Before I make a ruling, Hon. Mbithi please go to B. Hon. Geoffrey Odjiambo, you have another response?

Hon. Geophrey Majiwa: *(Inaudible)*

Hon. Deputy Speaker: No we have the same one. We have another one from Hon. Imwatok and I want to make a ruling on both.

Hon. Geophrey Majiwa: *(Inaudible)*

Hon. Deputy Speaker: You cannot forget, you are very young. At least let him read the one so that at least we can consolidate the two. Hon. Mbithi, proceed? You are not prepared? They are two from the same... Hon. Member of Kaloleni.

Hon. David Mbithi: Thank you Hon. Speaker. What I have is the clarification of the response of the statement in regards to the statement which was requested by Hon. Imwatok and everything is attached for that statement so I do not have to read everything Hon. Speaker.

Hon. Deputy Speaker: Both? They are together?

Hon. Deputy Speaker: Okay. Hon. Imwatok, proceed.

Hon. Peter Imwatok: Indeed the Chair is being truthful there and he has attached a further clarification which is just giving a backup on what the first statement said. Mr. Speaker, we must note that in the history of humanity there are demigods and to define a demigod, it is somebody who might never understand the front from the rear and is just there.

Most of the time Mr. Speaker, even within the Assembly we have demigods here, those who fear to reason and if you want to understand the nature of life you must reason. So, Mr. Speaker, what we are saying in this statement... Chair thank you so much for doing all that effort and you can see that all the members of education have ran away from this assembly, they are not ready to take the heat because they know. Hon. Thuo has just told me that it is too cold out there and he wants to go back next to the Governors armpits so he must talk the way he is talking. *(Laughter)* So Mr. Speaker, let me be categorical that we must be practical and avoid to listen to demigods who fear...

Hon. Charles Thuo: Point of Order.

Hon. Deputy Speaker: Proceed Hon. Thuo, today you are very active!

Hon. Charles Thuo: I have been challenged unfairly.

Hon. Deputy Speaker: Proceed.

Hon. Charles Thuo: Thank you Mr. Speaker. It is very clear to everyone that one of the best brains in this Assembly rests in this head and it is not in doubt. Hon. Speaker, it is also very clear that one of the loudest mouths in this assembly belongs to a friend of mine and a colleague who I will not mention. Hon. Speaker, if there is someone who has criticized the governor it is the chief whip of minority. Is he mentioning my name to seek attention? I have never sought attention. Is it right for him to stand and start accusing me because I refused to give out shillings. He must withdraw that. I worked for my money. He should learn to work for his money. He should learn to live within his standards....

Hon. Peter Imwatok: Kshs 500 is not even enough for my breakfast. I want to assure you that it is a pathological lie.

Hon. Oyugi: Mr. Speaker it is high time we get back to serious business of the house and do away with sideshows. Based on response of the chair of Education I want to agree with majority of Speaker that the report is not worth tabling. One of the reasons being as we are talking, even if you ask the chairman-the one who has given the response- the total number of cheques that were not honored- am sure he cannot answer us. They don't have the numbers. The fate of cheques that were not honored- they don't have the answers. I need the balances of cheques that were not given to the people of High-rise. I don't want reports, I need cheques to take to parents of Highrise.

Mr. Speaker back to the topic of the day. Today the Governor put members to shame in front of Nairobians. The Governro paraded all the MCAs and alluded to a very serious allegation that some of the members here gave cheques to their girlfriends and to whomever. But ideally and honestly speaking the Governor himself knows members who sold cheques. He is well aware. Instead of subjecting all the members to shame in front of Nairobians why can't he take the bold step and order the arrest of so called members who stole the cheques instead of subjecting all of us to shame. I am not happy. I never sold even a single cent of bursary meant for people of High rise. I never.

(Point of order)

The Chair of Planning want to stand on a point of order yet he is not aware of what we are debating over. Hold your horse. Mr. Speaker to the issue of oversight, I want to agree with the Hon Thuo. Before we oversight the executive we also have our department as the assembly, as members. What are we doing? For example we had a budgetary allocation for all our 85 offices in terms of impress. How many times have we got the imprests in our various wards yet one and half years has gone? I have received it only twice. Before we start to do oversight of the executive why can't we question ourselves what the assembly is doing? Where did you take the balances? Let us start by ourselves.

The reason why the drafters of the county government act did deem it fit to have ordinary members not sit in the assembly service board as opposed to the minority and majority is because the majority and minority are busy. Their plates are full. They cannot adequately represent interest and welfare of the members in the assembly service board. This is the reason why we are supposed to be getting Kshs 30,000 every quarter but we have only received it twice. Where is the balance? We are at end of the financial year. Have we received it? Nobody is there to talk on our behalf because our representatives in the board are busy. I agree with the whip that the report need to be looked into. We need the balances, not papers. Thank you.

Hon. Patrick Karani: Thank you Mr. Speaker. Pursuant to Standing Order 45(2) (c) I wish to request for a statement from the sectoral committee on Labour...

Hon. Deputy Speaker: Hon. Karani you are late for that, sorry. We have tomorrow. Next order. The response from chair of Legal?

Hon. Jayendra Malde: Mr. Speaker, the response from the Hon. Osman Adow. Mr. Speaker on 14th March 2019 Hon. Osman Adow...

Hon. Deputy Speaker: Is Hon. Adow in? The chair, Legal, did you call Hon. Adow?

Hon. Jayendra Malde: yes

Hon. Deputy Speaker: Can we reschedule that one for tomorrow when Hon. Adow is around. If he is not around I will give you chance tomorrow to proceed.

THE NAIROBI CITY COUNTY TOBACCO CONTROL BILL 2018, ASSEMBLY BILL NO. 9 OF
2018

(Second Reading)

Hon. Charles Thuo: Thank you Hon. Speaker. As you have asked and confirmed that I have sorted the small issue of fuel for Hon. Imwatok. Hon. Speaker I beg to move the motion that the Nairobi City County Tobacco Control Bill 2018, Assembly Bill No. 9 of 2018 be read a second time.

Hon. Speaker the tobacco bill is a bill I have worked for the last three years. I started the work during the last assembly and unfortunately I was overtaken by time and I had to go and campaign so that I can come back and continue serving Nairobian and they are lucky to have me. Now I start my work through this Bill.

The issue of tobacco smoking is very serious. Unfortunately it is becoming to sound fashionable once more, with people even holding shisha parties. It is on that basis that I decided we need to regulate the sector and if you go through the bill I have done a lot on issues of access- limiting access, the issue of advertisement and display.

It is an issue that is very serious. You realize the national government banned the smoking and sell of shisha which is just a small part of this bill. Generally it is a bill that promotes health and save millions of money of the pockets of peasants in this county. It is on this basis that I urge members to go through the bill so that they are well informed and participate in the debate. They interrogate and internalize it so that they make informed choices. I beg to ask my colleague from the Committee of Health to second me in this Motion. Thank you.

Hon. Peter Warutere: Thank you, Hon. Speaker, our entry into matters of this Bill is on Health. Allow me to raise and second this bill because when it came into the Committee we examined the Bill and among many issues that we raised are hard to look through were matters regarding Health.

The principal objective of this bill is to protect the all the individuals from the harmful effect of tobacco products and especially the use to persons under the age of 18 years and also promotion in dedication, demand and control of the supply of tobacco and its products.

Hon. Speaker, while we were internalizing this bill we realized the aim of the Bill is to protect the right of non- smokers to live in a non-smoky environment by protecting them from second-hand smoking and mitigation of all social and economic impact associated with tobacco use.

Therefore, we should ensure that we balance between the user and non-user. I think this Bill is well intended we have looked into many clauses that need to be amended. In the principal interest of time, we will be able to lay our intended objection and additions into the matter on this Bill.

Otherwise, it is a balanced Bill, we allow the Members to debate on the same and at the end of the day, and we will come up with something out of this critical Bill. Thank you, Hon. Speaker, I beg to second.

(Question proposed)

Hon. Antony Kirangu: Hon. Speaker, when I wanted to speak I was denied an opportunity and I believe I will not speak when requested thank you.

(Laughter)

Hon. Emily Oduor: Thank you, Hon. Speaker, first I would like to thank the Committee especially the Chair for the effort that they have put to improve this Bill. I would also like to thank Hon. Thuo for the good Bill you have brought to Nairobi.

As we move toward the end of this Bill, finally pass it from Bill to a law I would like to inform the House that the work that has gone here to change this Bill would not only help the traders, but also help the non-smokers.

If you read this Bill, a lot has gone into it and I do not think anybody will feel that at the end of it when it is passed into an Act it actually surprised some people. It is actually a Bill that deserves to be passed so thank you, Hon. Speaker and I actually support the Bill.

Hon. Juliet Ndegwa: Thank you, Mr. Speaker Sir, I have looked into this Bill extensively and I am grateful that such a bill has come into this House for deliberation before it becomes an Act. I want to thank Hon. Thuo for this Bill although going forward I would like a few clauses to be checked so that we do not oppress the common *mwanainchi*.

Like in Clause 22 it says with accorded with the tobacco control Act no person shall sell cigarettes except in a package containing 10 cigarettes. Even items as essential as diapers, people are allowed to sell in pieces. Considering that cigarette, smoking is a luxury item I think for those people who are selling cigarettes the common *mwanainchi* down in the *vijiji* can be allowed to sell in pieces as long as they are making a profit. Thank Hon. Speaker.

Hon. Peter Imwatok: Thank you, Hon. Speaker, for distracting me from the Government side, which is also more or less. Allow me to add my voice on this particular Bill with a lot of cushion and respect from the author of the Bill whom I respect so much because of his thinking capacity and his ideological events and issues.

Hon. Speaker, this Bill was emancipated in the first Assembly and it was the best Bill ever drafted by the Member of the County Assembly because it was touching on lives. If you look today the President of the Republic of Kenya launching major hospitals in every County purposely to treat cancer and to provide awareness on cancer. Looking at this Bill and I read it three years ago, in fact, it is surprising to me to look to it today because I know the content.

One of the most reasons why I support this Bill is because we will not allow the cigarette vendors to sell cigarette anyhow. Even the wholesaler shop must be in a particular distance upon which the County

Government will license you another shop to sell cigarettes. I know that for the consumers including some of us and me excluded in particular we might feel touched.

Hon. Speaker, I believe this Bill is the best ever if it will see the light of the day and become a Bill for this County. On the opposition, side we want to assure you that we will do all the best to make sure that the NASA, ODM side will be present in the House to write history in their golden pen that this Bill comes to reality.

(Applause)

Hon. Speaker, I support with a lot of respect and caution that this bill and you as the Chair may hold this dearly and make sure you move with this bill until it comes to the last stage of it. As we sit here and as we go clause by clause and save lives of our people and also cleanse the author of the Bill and make him come clean now as my competitor of 2027 for a higher position in this Country because I believe he will be my running mate for the Presidency.

Hon. Speaker, I beg to support the Bill but I will ask the mover of the Bill to make sure that this Bill to become a reality. Thank you.

Hon. Deputy Speaker: Mover to reply!

Hon. Charles Thuo: Thank you, Hon. Speaker, the Chief Whip on the minority side has given words of wisdom and it is an honour to have him in this Assembly and he is one of the Member who makes us proud as a colleague. He is also one of the flowers in the mid front and we value his wisdom and words and it is appreciated.

Hon. Speaker this Bill means well for this Country and one of the objectives of this Bill Hon. Speaker is to minimize the access of tobacco. That is why we have said that we cannot allow people to buy cigarettes in sticks, because we want to make it hard for those who smoke out of an opportunity to stop smoking, when someone is not addicted they will not go for a kilometer or two to look for cigarettes. If they cannot get where they leave they will stop and if they can get them then they will buy. That is why we have brought the issue of having those people not to sell cigarette sticks.

Hon. Speaker, the other aim of the Bill is to delay the first experience because the people who smoke for the first time usually smoke for a lifetime. That is why we are seeking to make it a little bit hard for people to be able to trade in cigarette and tobacco product. This is by ensuring that this County Government has given you a license to trade and do any other business of selling commodities then you must sell every other commodity expect tobacco.

If one wants to sell tobacco, you must acquire a special license particularly for that tobacco you are selling. This is going to deter many traders from selling tobacco because by selling a cigarette you are going to double the license that you pay then most traders are going to walk out. When this few traders walkout that means we will have achieved our original goal of minimizing access.

Hon. Speaker, this is a good Bill and we have done Bills before and they have been excellent but this one is actually the best because it is touching our lives. We are aware of the amount of money Kenyans are spending every day trying to treat cancer. One of the travel advisors was selling an idea called medical tourism, this is a sick idea that Kenyans travel to other Countries like India, South Africa, Dubai or France to seek for medical services and most of those medical services are more often not cancer.

Therefore, Hon. Speaker, we all know that smoking causes cancer and it kills. This is why I sought to bring this Bill and I believe that I am going to get the support of this House and Chair in having the Bill see the light of the day. Thank you, Hon. Speaker.

(Question put and agreed to)

(The Bill was read a Second Time and committed to a Committee of the Whole House)

ADJOURNMENT

Hon. Deputy Speaker: Hon. Members, there being no other business, the Assembly adjourns until next week Wednesday, 3rd April 2019, at 2:30 p.m. The House Business Committee will meet at the rise of the house. Thank you.

(The House rose at 4:13 p.m.)