



REPUBLIC OF KENYA  
NYANDARUA COUNTY ASSEMBLY  
1<sup>ST</sup> ASSEMBLY-3<sup>RD</sup> SESSION



OFFICIAL REPORT

(The Hansard)

Tuesday 24<sup>th</sup> November, 2015

*The Assembly met at the Assembly Chambers, Manunga Catholic Hall, at 2:30 P.M*

*The Speaker, Hon. Ndegwa Wahome, in the Chair*

Prayer

**QUORUM CALL AT THE COMMENCEMENT OF THE SITTING**

*The clerk-at-the-table confirms that there is quorum*

**Speaker:** There being quorum we can proceed with the business for today.

First order

**COMMUNICATION FROM THE CHAIR**

**Speaker:** Hon. Members, I have two communications to make. The first one has been presented to me by his Excellency the Governor and, as indicated in the forwarding letter, he requested me to make it to the Assembly. The same is dated 24<sup>th</sup> November, 2015 and it was received in my office the same day.

The letter is addressed to me and the reference is that:

Message from His Excellency the Governor on the Appointment of Frank Kanja Muchina as a County Executive Committee Member for Communication, Legal I.C.T and Intergovernmental Affairs and revocation of his position as the County Secretary and Head of Public Service.

The above subject matter refers.

Attached herewith is vide a letter from his Excellency the Governor.

The above mentioned person received in the office of the clerk on 25<sup>th</sup> November 2015, the same is forwarded to your office for communication to the assembly.

The letter in which it is indicated that I communicate to the assembly is dated 6<sup>th</sup> November 2015 and the same is addressed to Frank Kanja Muchina.

The reference is:

Appointment as the County Executive Committee Member for Communication, Legal, I.C.T and Intergovernmental Affairs and Revocation of Your Position as the County Secretary and Head of Public Service.

Your previous correspondences to the above matter refers.

By your letter of 9<sup>th</sup> October 2015 you by paragraph 3 appreciated the proposed appointment but declined the same giving various reasons. Further by your letter dated 16<sup>th</sup> October 2015 you reiterated the contents of the letter dated 9<sup>th</sup> October 2015 declining the offer of the County Executive Committee Member. The upshot of your correspondence is that you have declined the appointment as the County Executive Committee Member for Communication, Legal, I.C.T and Intergovernmental Affairs. The rejection or decline of the said appointment is hereby accepted. In the meantime, arrange to hand over the office of the County Secretary and Head of Public Service to the Acting County Secretary and Head of Public Service, Mr. Daniel Irungu Mwangi with immediate effect. In regard to service benefits the same shall be communicated under a separate cover.

On behalf of County Government of Nyandarua, I wish to thank you for the time you served the county and wish you success in your future endeavours.

It is signed by his Excellency Daniel Waithaka Mwangi, the Governor Nyandarua County Government. The second communication is from me. It is dated today 24<sup>th</sup> November 2015 and the same is communication from the chair on the Court Order extending the status quo on the leadership of the County Assembly that is relating to Majority and Minority Parties.

Hon. Members, you recall that during the sitting of Saturday 21<sup>st</sup> November 2015 the chair made a communication to the effect that the High Court of Nakuru had extended that Order

retaining the status quo of the leadership of the County Assembly that is relating to Majority and Minority Parties until Monday 23<sup>rd</sup> November 2015. The matter was to be heard in the parties. Indeed the matter came up in the parties' hearing that is yesterday Monday 23<sup>rd</sup> November 2015 where upon the Court issued the following orders which have been duly served upon my office.

1. That the orders given on 13<sup>th</sup> November 2015 and issued on 16<sup>th</sup> November 2015 are hereby extended.
2. The matter will come up for ruling on the preliminary objection on 11<sup>th</sup> December 2015

Hon. Members, the upshot of the said orders is that the status quo on the leadership of the County Assembly Majority and Minority Party shall be maintained until 11<sup>th</sup> December 2015 when the Court shall deliver itself on the matter.

Hon. Members I wish to interrupt the Order Paper. We are on a new venue for our sittings which was properly gazetted. In regard of this, it is good parliamentary practice to give the member of the county assembly who represents this particular ward an opportunity to formally welcome us to his jurisdiction under Statements but, Hon. Members, I find that it might not be the best way to approach the issue in that if I wait up to the order on Statements we shall have already started transacting business and it would defeat good order that we are already transacting business before we are invited by the member. At this point, I kindly request the Deputy Leader of Majority and member for Kipipiri, Hon. Michael Njoroge Kirumba to make his statement in view of our present sitting within his jurisdiction, which is Kipipiri ward.

**Hon. Michael Kirumba:** Thank you very much Mr. Speaker. I would like to welcome all the Hon. Members and the staff of Nyandarua County Assembly who have come to transact business in this area. This is Kipipiri ward.

Mr Speaker most of the members have probably been here during the public participation. On behalf of the Hon. Members from Kipipiri Sub County, that is, Hon. Githinji Mwaniki, Hon. Silvester Kagiri, Hon. Mumba Gichini, Hon. Nancy Ng'ang'a and Hon. Jane Mwathe, let everyone feel welcome in this sub county. By the time we leave this place as gazetted we shall find out that this is the place we ought to have been from the beginning

because it is spacious. Where I normally sit in the assembly I always have to rise to give you room to go to the Speaker's chair.

Today it feels like we are in an assembly. Mr Speaker, if today we were in our assembly precincts you would have had a person to shield you from the rain using an umbrella during the procession.

Around here there are joints like Be Joy and Jubilee that offer very delicious meals such as nyama choma.

Members will give their input on this when we get time because at some point you had talked about *bunge mitaani*. Right now I have so many letters from the surrounding schools which would like to be allowed to come to the assembly for the time that the assembly will be sitting here. One will come tomorrow Mr. Speaker.

Mr Speaker I would like to appreciate the Office of the Clerk and the department of Sergeant-At-Arm for mobilization and making sure that within one day things are as they are now. They arranged this place yesterday. That is the way it should be Mr. Speaker.

Mr Speaker I have a request from one old man called Mr. Kirira who would like to come and see his grandson Samuel Njiraini. This is a great opportunity because unlike where we normally sit the public gallery here can accommodate more than 100 people. I am not saying that this should be the place for the sitting. All I am saying is that you will enjoy your stay here. Thank you.

**Speaker:** Very well; we now feel welcome within this jurisdiction. I believe that this assembly has always been very receptive of the visitors only that we have been suffering from lack of space and I think that this will be addressed by the Office of the Clerk and the department of the Sergeant-At-Arms to ensure that as many people as can be accommodated in this hall are allowed to participate in the debates that touch on their livelihoods.

Next order.

### **PAPER(S) LAID**

NYANDARUA COUNTY GOVERNMENT FIRST QUARTER EXPENDITURE RETURNS

2015/2016.

**Speaker:** In the House Business Committee it was agreed that the Deputy Leader of Majority will be handling all those businesses that were to be handled by the Leader of Majority. Member for Kipipiri ward, Hon. Michael Njoroge Kirumba

**Hon. Michael Kirumba:** Mr. Speaker on behalf of the Leader of Majority, I beg to table the first paper, that is, Nyandarua County Government First Quarter Expenditure Returns 2015/2016. I table

**Speaker:** Very well, that is business to be handled by the committee on Public Accounts and Investments. Member for Githioro, Hon. Silvester Kagiri Mwangi maybe you can give an indication of when you will interrogate the report and bring the report back to the House.

**Hon. Silvester Kagiri:** Thank you Mr. Speaker, I would like to urge this house to give us about two months so that we can peruse that document.

**Speaker:** Hon. Members, I believe Hon. Members that you have no problem with that. I believe you know the work load that is with the Committee on Public Accounts and Investments. The Clerk will ensure that the matter is in the Order Paper 60 days after today's date. Next order

NYANDARUA COUNTY REVENUE ADMINISTRATION BILL 2015

**Speaker:** Nyandarua County Revenue Administration Bill 2015 to be laid by the Deputy Leader of Majority, Hon. Michael Njoroge Kirumba

**Hon. Michael Kirumba:** Mr. Speaker again on behalf of the Leader of Majority, I beg to table the Nyandarua County Revenue Administration Bill 2015. I table

**Speaker:** Next Order

NYANDARUA COUNTY WARD DEVELOPMENT FUND BILL 2015

**Speaker:** The third paper, Nyandarua County Ward Development Fund Bill 2015, Deputy Leader of Majority

**Hon. Michael Kirumba:** Mr. Speaker again on behalf of the Leader of Majority, I beg to table the Nyandarua County Ward Development Fund Bill 2015, I table.

**Speaker:** The paper is duly tabled. Next order

Yes member for Kipipiri

**Hon. Michael Kirumba:** Mr. Speaker, I am seeking your guidance on the papers that I have tabled, that is the bills. Is it not at this stage that you would direct where they would go?

**Speaker:** Member for Kipipiri that will be order number 8. Next order.

### STATEMENTS

**Speaker:** I am aware of three statements that I will not be able to approve because of this movement but I will do that after the plenary. The concerned members should be assured that the statements will be presented to the House before the close of this session. Next order.

### BILLS

#### NYANDARUA COUNTY REVENUE ADMINISTRATION BILL 2015

**Speaker:** I direct that the Nyandarua County Revenue Administration Bill 2015 be read for the first time

*The bill is read for the first time*

**Speaker:** Very well there has been compliance with Standing Order no. 119. I think this is becoming an issue because this bill should have gone to Finance Committee but without the House's approval this will be pushed to the Committee on Budget and Appropriations which has a huge work load. Since this bill is urgent, I do not know what will happen because I cannot see the chair or the vice chairperson... I can see Hon. Githinji Mwaniki who is a member of that committee. We have to refer this matter to the Budget Committee. Can you tell the House the time you require to address the issue?

**Hon. Githinji Mwaniki:** Thank you Mr. Speaker, I think one month will be enough.

*Hon. Wambugu King'ori rises on a point of order*

**Speaker:** What is it Hon. Wambugu King'ori?

**Hon. Wambugu King'ori:** Thank you Mr. Speaker. I have a concern in relation to that because the ward development fund is much awaited...

**Speaker:** Next order.

NYANDARUA COUNTY WARD DEVELOPMENT FUND BILL 2015

**Speaker:** I direct that the Nyandarua County Ward Development Fund Bill 2015 be read for the first time

*The bill is read for the first time.*

**Speaker:** That one falls under the mandate of the Budget and Appropriations Committee. Member for Geta, Hon Githinji Mwaniki how much time do you require to do a report on that? Member for Geta remember to observe the timeline because the budget process has already started and you need to incorporate money for this bill in the budget.

**Hon. Githinji Mwaniki:** Thank you Mr. Speaker. We can deal with this one as a priority and give it three weeks and then call for a Special Sitting.

**Speaker:** Very well after you are through in the three weeks' time inform the Office of the Clerk immediately so that we can convene a Special Sitting. Next order

**MOTION**

REPORT OF THE COMMITTEE ON DELEGATED COUNTY LEGISLATION ON NYANDARUA COUNTY ALCOHOLIC DRINKS CONTROL REGULATIONS, 2015

**Speaker:** Yes member for Rurii and chairperson of the Committee on Delegated County Legislation, Hon. Peter Wahome Kamoche

**Hon. Wahome Kamoche:** Mr. Speaker sir, I beg to move the following motion that this House does adopt the report Of the Committee on Delegated County Legislation on Nyandarua County Alcoholic Drinks Control Regulations, 2015 as a report of this House and the recommendations therein as resolutions of this house.

*Hon. Kamau Ngotho rises on a point of order*

**Speaker:** What is it member for Karau Hon. Sammy D Kamau Ngotho?

**Hon. Kamau Ngotho:** Mr. Speaker, there is the preliminary issue that I had raised with you. In the Act there are some issues that were not followed. First is the composition of the board because what was taken by the then CEC is not what was passed by the assembly. He took the bill that he had proposed to the government printers.

If the Act has issues there is no way that Hon. Kamoche can bring another statutory instrument on the same because it does not conform to the Act that we passed in the House. The Act that was taken to government printers is the proposed bill that had been taken there before the assembly published it. This was brought to our committee and we have not yet sat to look into the said issues.

Mr. Speaker, I need your guidance on whether we can go on with the regulations on an Act that has not been properly done?

*The speaker consults with the clerk-at-the-table*

**Speaker:** Yes member for North Kinangop

**Hon. Wambugu King'ori:** Mr. Speaker, before you direct the House in the Committee's Report and I am not pre-empting what the chairperson is going to read, we wrote about it in our recommendation number 13 that there is an anomaly and there is need for amendments on the same.

**Speaker:** Yes member for Karau

**Hon. Kamau Ngotho:** Mr. Speaker the Standing Order no. 185 is very clear and as a lawyer you know that regulations come from the Act. The Standing Order no. 185 (3) (a) says

(3) The Committee shall consider in respect of any statutory instrument whether it-

(a) Is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law;

The Act on which the regulations have been brought has anomalies.

**Speaker:** Hon. Members, I think that the issues that are being raised by the member for Karau are valid because the regulations are informed by the provisions of an Act. An Act can exist without regulations but regulations cannot exist without a parent law. When I delegated this matter to the Committee on Delegated County Legislation and I directed that they work very closely with the joint committee that was working on the Alcoholic Bill so that they even

consider a way to bring in an Amendment Bill on the Alcoholic Drinks Control Act so that it incorporates what was passed by the assembly on the Alcoholic Bill.

It would be very dangerous and we would be setting very bad precedence if we pass regulations that are not in line with the Act that already. If the regulations are in line with the Act as it is, we can amend the Act and then the regulations and that is another approach but is it fair for this House to pass regulation on an Act that they never passed? We would be abdicating our role and any CEC member will be publishing any Act they want because the assembly will pass the regulations according to what they published and not what was passed by the Assembly.

For this Assembly to be on very solid grounds and for the reason that the parent Act is not the Act that we published as an assembly and that in passing these regulations which are not in line with the Act that we passed as an assembly... I would want to hear from some other members but I think for me it is a clear cut case that those regulations are pursuant to an Act that was not passed in this assembly. That one renders everything surrounding the regulations on the basis that is not the Act that passed. On any challenge they would run null and void from the initial even without anyone moving anything to that effect. Yes member for Rurii.

**Hon. Wahome Kamoche:** Mr. Speaker sir this can set a very bad precedence because the Act was brought to this assembly and we looked at it. The problem that was cited was that the collection of fees and charges were to be extracted and annexed to the finance bill. Mr. Speaker you delegated this to Committee on Education before you directed us to bring the regulations. One committee can drag the other behind because it is busy.

We have worked and have cited where there are anomalies and we said that we should present this because ours is only one thing to accede or to make recommendations. Those are the recommendations that we have made in this document according to Standing Order no. 185. We are supposed to see whether an Act is in line with the Standing Order and the Constitution. That is why we have recommended that this document to be annulled and we cannot annul ourselves because we are not acceding this bill

**Speaker:** Member for Rurii, I want you to convince me. You need to appreciate that the Act on which you are building the regulations is not the same Act passed in this Assembly. Do you still

insist that you want to create regulations on an illegal Act? An Act not passed in this Assembly? You ought to know that whatever foundation you building right now is very critical.

For your information, Members might be tempted to ask; what was the joint committee doing that it never noticed that there were problems from the published Act? When we released the Bill for publication, we were never brought a copy. I had to liaise with Office of the Clerk to get someone to go to the Government's Printer and apply, in writing, a copy of the bill, which was given about a month ago. There before no copy of the bill was available even for the Executive. Therefore, the Joint Committee constituted by the Committee on Education as well as the Committee on Delegated County Legislation did not have the opportunity to have a look at the Act. This was wrong because the Executive did not bring back a copy and we had to go and find a copy directly from the Government's Printer.

Yes, Member for Gathanji, Hon. Samuel Thuita.

**Hon. Samuel Thuita:** Thank you Mr. Speaker. On the same point, it is on record that a bill was passed in this House (Appropriations Bill) and it was not gazetted. If everyone remembers, it brought a lot of confusion in this County because what was gazetted was not what Members had passed. Even today, the Act has caused a lot concerns in the wards because specific projects were earmarked for financing but they were not done. This is because the wrong bill was published.

Mr Speaker, we now have the Ward Development Fund Bill and a bill on revenue among others. If we come here and debate a bill, it is only important that the concerned persons take it seriously and ensure that the correct thing is published. We should not be sitting in the Committee of the Whole until late in the night then someone somewhere gets what we have deliberated wrongly and thereafter comes seeking to do some regulations. As such, I oppose the debate on these regulations until such a time that the correct bill passed in this House is gazetted.

**Speaker:** Yes, Member for Gathara, Hon. Daniel Kibebo.

**Hon. Daniel Kibebo:** Thank you Mr. Speaker. I think that you will give us guidance on this issue because some months have elapsed since we passed the Trade Fund Bill. In the bill, we had allocated some money in the budget.

First, we passed the bill with an amendment and thereafter, passed to the Government Printer for publication. However, it did not capture the amendments we did and it has come back to us for more amendments. Time is of essence here. We do not use the money that we had

already allocated in the Bill despite the fact that we had gone throughout the County taking into account the views of our people. This is because of these issues.

Mr Speaker, we have passed so many bills but none is operational. I don't know what the CECM in charge is doing. He does not follow up on the bills that we pass in this House. Our term is almost over without implementing even a single bill and it worries me.

Thank you Mr. Speaker.

**Speaker:** Yes, Member for North Kinangop, Hon. Wambugu King'ori.

**Hon. Wambugu King'ori:** Thank you Mr. Speaker. I have one concern. We have not been collecting revenue from alcohol business for the last three years yet we already passed the Alcohol Bill into an Act. We need to come up with a mechanism on how to collect revenue from alcohol before we effect these amendments. Thank you.

**Speaker:** Yes, Member for Kipipiri, Hon. Michael Kirumba

**Hon. Michael Kirumba:** Thank you Mr. Speaker. I would like to provide my opinion on the matter. Three years down the line, we are still unable to collect revenues from liquor stores and pubs just because the initial Alcohol Bill was not right. What do we usually do? We start mourning and apportioning blame, which will take us nowhere and in fact, we have seen no response so far. Time is not on our side.

Mr Speaker, if we take a walk down the memory lane, we shall remember the Kiosk Bill and unsurprisingly, we will witness what have here today. Very soon, we will be put on the spotlight regarding how many Acts we have legislated. Somebody somewhere is pulling us down for reasons I do not want to imagine. I suppose they do not want us getting down with these very critical legislations. Time is coming when we shall be forced to call a spade a spade. We cannot be coming here and raising our concerns and nothing happens.

Mr Speaker, these regulations cannot go on if the Act is defective. I would urge your office to go out and ensure that these issues are ironed out. When water is blocked and not flowing as it should, you need to undo the blockage for it to continue flowing smoothly. Similarly, we need to do the same to the flow of these bills from the Executive. If we continue seeing these things, we have the power to demand for answers from some of the officials in the Executive. We are getting frustrated and I do not think that we can continue this way.

Mr Speaker, we cannot debate these regulations when the word 'Act' is already defective. Let us go back to the drawing board, come out boldly and let them understand that we are not

here to please anybody save for *Wanjiku* who expects that we shall get money to deliver services at the grassroots. We are unlikely to get anywhere if we are not raising enough revenue just because of technical issues. My hope is that you will make a communication before we leave or even tomorrow on the way forward. I don't want to ambush you and communicate on what you want us to do. Please give it some thought, come out boldly, and I can assure you that we will be solidly behind because the communication will be premised on moving the Assembly forward. Again, condemnation does not only affect the Executive; it affects all of us. We address all these issues because someone somewhere is really weighing us down despite our unsurpassed efforts to ensure that the County moves forward.

Thank Mr. Speaker.

**Speaker:** Yes, Member for Rurii, Hon. Peter Wahome Kamoche.

**Hon. Wahome Kamoche:** Mr. Speaker, I don't want to belabour much on this issue because I am aware that certain sections were defective. With your authority, we went all over the County collecting the views of our people during the public participation activity on this bill. We also went to Kiambu and exchanged notes on making the bill. However, Standing Order 185 (3) g states that

(3) The Committee shall consider in respect of any statutory instrument whether it-

(g) involves expenditure from the County Revenue Fund or other public revenues;

Mr. Speaker, we have stopped collecting tax revenue from the liquor stores and bars yet our people are being harassed continuously. They are often arraigned in court and fined huge amount of money.

Standing Order number 169 asserts that,

Committees shall enjoy and exercise all the powers and privileges bestowed on Assembly by the Constitution and statute, including the power to summon witnesses, receive evidence and to request for and receive papers and documents from the Government and the public.

Therefore, Committee on Delegated County Legislation is exercising its powers since the regulations have been gazetted and we cannot remain mum now that we are breaking for the long recess since the document has been laying here. We will be back from recess after January and therefore we need to take cognizance of the fact that many pub and bar operators are usually

harassed during December owing to the festivities. The Bill is only wrong in the sense that the fees and charges list was not annexed.

They annexed it to Finance Bill. After consultations, we agreed that the part could be removed. We need to appreciate that the bill has a timeline and that the bill came way before the regulations and it was the work of the Joint Committee to go through it. If we do not debate these regulations, the County of Nyandarua will suffer irreparable and irrecoverable loss yet we are the same people demanding to have things done in our wards and county at large. If we happen to do the amendments and then the Government Printer does it wrongly again, does it mean we shall remain here indefinitely? We will have no development because the revenue will be constrained. I beg the members to notice that this is something we can agree on because we are not in dispute on regulations. Again, we have an option of either rejecting or agreeing with the regulations after debating.

Further, if we need something to be changed, we can have the Joint Committee look at it within the given timeline. The Speaker of the House also has the ability of publishing the document within a week and help us to move forward. Currently, we do not have a County Attorney because the person who occupied the office resigned. We also don't have a legal advisor and the only person we can liaise with to see this matter concluded is CECM in charge of Finance.

Mr Speaker, I want to emphasize that whatever we are doing is in the best interest of this county. The person who messed up cannot be put to task because they resigned from their positions. We have set a precedent in this House that every time someone does something wrong, he or she should be held accountable. We should not hold our people at ransom because we know where this problem came from. Therefore, the Joint Committee pleads with you hon. Members to have temporary regulations and let the bursary disbursement to proceed.

Mr. Speaker, lack of regulations will have a direct effect on the members. People are be harassed by the police and nothing is being done...

**Speaker:** I will have to intervene Member for Rurii. You are now discussing the merits, which are very critical for any law. Can you really now discuss the regulations when there is no Act? The act that we have is not effective. So my question to you is; is it proper to discuss the regulations when we do not have a valid Act in this Assembly?

**Hon. Wahome Kamoche:** Mr. Speaker I said earlier that in my opinion, we have an Act that needs few amendments. Therefore, we have an Act.

*Loud consultations*

**Speaker:** Order Members! I think we all admit that we have a problem and if all these regulations are urgent as the Chair of Delegated County Legislation Committee is saying, we passed these regulations sometimes back. Actually, we have been asking for this Act for almost one year. We had to go and get it ourselves from the Government Printer.

We realized that the Act had some problems and indeed, it was not the Act that we passed. Article 185 of Standing Orders is very clear that regulations can only grow from a parent law, which is an Act of Parliament or Constitution. Otherwise, this will be an effort in futility and in vain especially if it is challenged. And, if we appreciate as an Assembly that it is not proper, why would we want to do something that is not proper?

Hon. Members, I appreciate your comments and the urgency of this matter. I have advised the Executive without them soliciting the advice. Under section 8 of the County Government Act, there is no reason why the Nyandarua County Government is not collecting license fees. Section 8 of the County Government Act is clear because it says that in case you do not have laws, you use the National Government laws. I cannot understand why the license fees are not being collected because we can use the *'Mututho law'*. Unless there are people being motivated by other things other than doing the best for this County.

Secondly, I believe and request that the House be in consensus with me on this one. Everything in the Bursary Fund Act was incorporated in the publication. We are saying that we passed a law that was published defectively and completely different from the one we passed and it is completely different from the Bursary Fund Act. When the Controller of Budget recommended that we amend the Bursary Fund Act, it took the legal department less than 24 hours to come up with the amendments. Since we are doing this in fidelity with the law mainly for future reference, I was of the opinion that I will be suspending the debate on these regulations.

*Applause*

I am also directing the Joint Committee to sit with the Legal Department and come up with an Amendment Bill to the Act so that we can process it first and if we find it necessary, we can reintroduce the report on regulations with or without amendment. This is the best way to

pursue this matter. In the meantime, the County Government of Nyandarua can collect license fees using *Mututho law* if they invoke section 8 of the County Government Act.

Yes, Member for Rurii, Hon. Peter Wahome Kamoche.

**Hon. Wahome Kamoche:** Mr. Speaker, we came here in the context of urgency. The discrimination will continue because if you go to Rurii and collect some license fees using the *Mututho law*...

**Speaker:** Member for Rurii, I want us to be very clear on this. Do you want us to build regulations on an Act that we have deemed to be improper? The Members have challenged the correctness of the Act and said that it is not the same as the one we passed but if you want us to pass regulations on an Act that we never passed then tell us to proceed that way.

**Hon. Wahome Kamoche:** Mr. Speaker, my point is that these people are complaining and yet they have been sleeping on this document for the last three months...

*Hon. Michael Kirumba rises on a point of order*

**Speaker:** What is it Member for Kipipiri?

**Hon. Michael Kirumba:** Thank you Mr. Speaker. Is it in order for Hon. Kamoche to refer to Hon. Members as these complaining people? Again, we are not complaining but contributing to this motion by airing our views. I think we should be decorous and stop going in circles. I get agitated when an hon. member start calling the rest of the members 'these complaining people'. This is very unacceptable and I require your guidance.

**Speaker:** Member for Rurii, I believe you already know that referring to other hon. members as these people is actually wrong. These hon. members are not complaining but citing the law. You did not tell us that the law they have cited is wrong. To be precise, they are very serious people because they have pointed that what we are attempting to is in contravention of the law.

*Applause*

The only person who I think is in the wrong is you especially now that you are a lawmaker. Hon. Members, I think this is a very serious issue because we passed a law in this House and the CECM in charge went ahead and published the wrong law. Do we want to sanitize the errors of the CECM by building regulations on defective law? I think if we did so, we shall be failing as an Assembly. If the Member for Rurii had told me that, there is any room to go around the Act and build regulations that are binding, I would have listened to him. However, without the confirmation that the right law is in place, it will be an exercise in futility. Let us

have the Joint Committee reconvene immediately, meet with the legal department, and come up with an Amendment Bill.

Once the amendment bill has been drafted and passed in this House, the regulations will be reintroduced so that we can move uniformly. In the meantime, the Executive can invoke section 8 of the County Government Act and use ‘*mututho law*’ to collect license fees on the people operating liquor stores and pubs.

Yes, Member for Karau Hon. Kamau Ngotho.

**Hon. Kamau Ngotho:** Mr. Speaker, I would also like to get some guidance from you now that the regulations have been published and are in the House. How should the House deal with them? Should they be annulled at this juncture as we await the amendment bill for the amended regulations if they conform with the *mututho law*?

**Speaker:** That is why I said we are suspending the debate. This will enable us to confirm the kind of an Act we have when we consider the regulations. There before, we thought that we could only approve or disapprove the regulations but we now know that we can also amend them.

The Statutory Instruments Act is clear gives us the authority to amend the regulations. If we feel that the regulations are not satisfactory, we can make a resolution to annul them and get fresh ones. We can also amend the resolutions to conform to the amended Nyandarua County Alcoholic Drinks Control Act. Therefore, we have two options. If we move on with any debate on these regulations in lieu of the fact that they are built on irregular Nyandarua County Alcoholic Drinks Control Act, we will have only one option of rejecting the regulations and declare them annulled since they will have been built on the wrong law. Suspending the debate presents us with an opportunity to look into the law and make sure that it conforms to the amended Act or annul and ask for fresh regulations that conforms to the amended Act. Therefore, Member for Rurii, I am advising that this matter be suspended since we will be going in the wrong direction were to continue discussing this matter.

Yes, Member for North Kinangop, Hon. Wambugu King’ori.

**Hon. Wambugu King’ori:** Thank you Mr. Speaker. My only concern is that you need to give us guidelines on when this matter shall have been concluded.

**Speaker:** When do you expect to have concluded this matter, the Chairman of the Joint Committee? We know where the errors are because we know the law we passed. I will also

advise that if we pass the right law yet the wrong law was published, should we still bring an amendment bill? I will look into this issue and provide the guidance appropriately because we passed a right law but the wrong law was published. Can we have the rectifications done without having an amendment bill? I will report tomorrow in the morning. Therefore, what time will the Joint Committee take if we report tomorrow in the morning? Yes, Chairperson Joint Committee, Hon. Kamau Ngotho.

**Hon. Kamau Ngotho:** Mr. Speaker, can have a very concrete report within 14 days.

**Speaker:** We expect to have a very comprehensive report within 14 days. If need arises we shall then have to recall members from the recess to come and deal with the matter. We will make it known to the Hon. Members whether they will be required to come within fourteen days to come and confirm that the Act has been rectified or if an amendment bill is or not required. We have a way of having published a special gazette so that we can have within the shortest time possible so that we can recall from recess to come and deal with it. For the time being, let us keep this report suspended because as we stand the only option we have for this report is to reject it and annul the regulations.

Next order.

*Hon. Michael Kirumba rises*

**Speaker:** Yes Member for Kipipiri, Deputy Leader of Majority

**Hon. Michael Kirumba:** Mr. Speaker I have observed that there is something that I did not touch on when I was welcoming you and it touches on our safety. The floor of this chamber is very slippery and I have seen Hon. Kamau Ngotho leaping while coming to you and I have seen Gatonga, the commissionaire, doing the same.

The chamber is very friendly even to people with disability. If anyone wants to consult with the Speaker he or she can use the stair case instead of the rump to avoid skidding. The clerks should use the stair case when coming to consult with you. This is purely for safety.

**Speaker:** Thank you Hon. Michael Kirumba.

Next order

### ADJOURNMENT

**Speaker:** There being no other business the House stands adjourned to Wednesday, 25<sup>th</sup> November, 2015 at 9.00 a.m.

*The House rose at 3.33 p.m.*