



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – THIRD SESSION

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

THURSDAY, MARCH 05, 2015

1. The House assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with Prayer.
3. **PRESIDING** – the Speaker
4. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following Communications –

**(i) THE MEMBERS' MEDICAL SCHEME**

"Hon. Members,

This is to communicate on an issue relating to Members' Medical Scheme. In recent times, a number of Members have had concerns about the implementation of the Members' Medical Scheme, ranging from entitlements to Members to administration and management of the Scheme. The Parliamentary Service Commission (PSC) recently held a meeting with the management of the scheme administrators, M/s AON Kenya Insurance Brokers Limited. It has been agreed that the top management of AON Kenya Insurance Brokers Limited attend and brief a joint *Kamukunji* on Thursday, 12th March, 2015 at 10.00 am in this Chamber. This is, therefore, to request all Hon. Members to note and attend the *Kamukunji*. All concerns and questions regarding the medical scheme will be addressed during the *Kamukunji*.

Thank you, Hon. Members."

**(ii) THE ALLEGED BREACH OF PRIVILEGE BY MEMBERS OF THE PUBLIC ACCOUNTS COMMITTEE**

"Honourable Members,

You will recall that yesterday during the afternoon sitting, the Leader of the Majority Party the Hon. Aden Duale, MP sought the guidance of the Chair on the recent claims of malpractices within the Public Accounts Committee as a whole including its chairperson. In particular, the Leader of the Majority Party sought directions on the following issues-

- (i) *Whether the claims made by Members of the Public Accounts Committee against the Chair and against each other constitute a breach of the privileges and/or code of conduct of Members of Parliament ;and*
- (ii) *Whether, following the allegations, the Public Accounts Committee would be in order to continue discharging its mandate of offering oversight to other Government institutions and agencies, on behalf of the House.*

Several Members including, the Deputy Speaker, Honourables Midiwo, Manje, Wandayi, Yusuf, Osele, Ngeno, Abdikadir, Baiya and the Chairperson of the Public Accounts Committee subsequently contributed to the debate, raising issues peripheral to those raised by the Leader of the Majority Party. Amongst the issues raised were-

- (i) whether criminal culpability accrues to a group of persons or to an individual person and whether it is prudent to condemn a whole membership, either of a Committee or of the House, merely on account of an allegation that is directed or is connected to a particular individual.
- (ii) whether the House should entertain allegations against its Members without substantiation by the person alleging as required under Standing Order 91;
- (iii) whether a matter that has been investigated in a Committee and an outcome delivered in the Committee can be revisited by the plenary of the House or by another Committee of the House; and
- (iv) whether allegations of breach of privilege or the ethics by Members of the House should be dealt with by their respective political parties or by the House.

Honourable Members, before I make my decision known to the House, allow me to revisit the question of the place of the Public Accounts Committee as I had done sometime last year. There has been growing interest in parliamentary accountability and oversight as part of the wider interest in stronger political institutions and structures.

The popularity of 'parliamentary public accounts committees' is regarded as having originated in the nineteenth century Britain with the establishment of 'Select Committee of Public Account' in 1861 which was a precursor to the earlier notably sporadic committees and commissions of public accounts. This trend has developed in most Parliaments with many legislatures having equivalent of Public Accounts Committees to scrutinize government funds. In this regard, 'watchdog' committees like the parliamentary public accounts committees, have been established to deal with these matters. In our case, the Public Accounts Committee (PAC) and the Public Investments Committee (PIC) have been established by Standing Orders 205 and 206 respectively.

The Committee draws its power from the provisions of the Constitution of Kenya in particular Articles 95 and 229 which give the National Assembly powers to appropriate funds for expenditure by the National Government and State Organs through approval of the Budget and subsequently offer oversight over the national revenue and its expenditure. On the other hand, the Auditor General is required to audit and report on accounts of the National Government and State organs among others, and submit such reports to Parliament.

Honourable Members, The Auditor General thus has a direct responsibility to Parliament and the Committee whose work is made more credible by the support of the Auditor General. It follows therefore that the work and the reports of the Public Accounts Committee must of essence maintain the values of accountability, integrity and reliability, and latitude of independence from any person or authority.

Erskine May, a leading authority in parliamentary practice notes that the oversight role of PACs is concerned with whether policy is carried out efficiently, effectively and economically rather than with the merits of government policy. **The primary role of these committees therefore is the safeguarding of public interest.** The stature of PACs has traditionally been placed above other Committees and they are seen as the apex for financial oversight and scrutiny. The Committees, most of which are usually headed by Members of the Opposition or Minority Parties in many jurisdictions, are seen as the embodiment of the overall oversight image of Parliament.

Honourable Members, that brief now brings me to the question of whether the Speaker or the House has jurisdiction on a matter that has been canvassed or indeed settled in a Committee. Faced with a similar question, Speaker Statham of the New Zealand House of Representatives ruled in 1921 that, *"The House has no cognisance of anything taking part before a Committee, unless it is reported by the Committee through its Chairperson, or the matter relates to a question of privilege"*. Later in 1979, Speaker Harrison of the same House, upholding the ruling of his predecessor, observed that, *"The Speaker has no jurisdiction or authority whatsoever to get involved in proceedings of a select committee, unless approached by the Chairperson following a resolution of the Committee calling the Speaker to adjudicate on any matter, or if the matter is one of the Privilege of the House or Personal Privilege of a Member of that Committee"*

**Honourable Members,** You will recall that the Leader of the Majority Party indicated that his submission was a question of Privilege and had posed the question whether the House should bury its head in the sand as if nothing had happened.

The Question therefore for me to determine is whether the matters raised yesterday afternoon constitute Privilege. *Mason's Manual of Legislative Procedure, 2010 Edition, Section 220*, defines a Question of Privilege as one that relates to the body or to its members in such a manner as to affect proper functioning of the body. The Manual goes on to note that *"It is necessary that these questions be under immediate control of the body. They relate to the rights and privileges of the body or to any of its members in their official capacity, or to the comfort and convenience of the body or its members in the performance of their official duties."* The Manual further indicates on Sec.222 that Questions of Privilege take precedence over all other questions except a motion of adjournment or an objection to the quorum of the House. I put emphasis on the words **"immediate"** and **"precedence."**

According to the New Zealand House of Representatives Parliamentary Practice, **"A Member may raise a matter of Privilege at any time during a Sitting... and it must be in connection with something affecting the House or its Members in their capacity as such"**(Page 744). In addition, Section 100 of the Rules of the House of the Philippines House of Representatives provides that questions of privilege are those affecting the duties, conduct, rights, privileges, dignity, integrity or reputation of the House or its Members, individually or collectively.

Honourable Members, the allegations and counter-allegations of bribery or inducements made by the Members of the Public Accounts Committee against themselves including against the Chairperson are matters of public notoriety. You will all agree with me a matter of this magnitude cannot be swept under the carpet on the basis that the Committee had dealt with it. The public who bestowed you with the honour of representing them in this August House deserves answers. From the foregoing, I find that the matters raised by Hon. Duale and other Members who spoke after him indeed relate to Privilege of the House and are therefore subject to the consideration and decision of the House as what goes on in the Committees affect the integrity and reputation of the House and its Members, individually or collectively and cannot be wished away.

The next question that arises is, now that these are matters of Privilege, what then do we do?

Honourable Members, to answer this question, allow me now to interrogate the relevant provisions of the Constitution of Kenya, the Leadership and Integrity Act, 2012, the Public Officer and Ethics

Act, 2003 and the National Assembly (Powers and Privileges) Act (Cap 6 Laws of Kenya). The allegations of compromises, prejudices, deceit or corruption against the members of the Public Accounts Committee relate to financial probity of State Officers which is governed by Article 76 of the Constitution. In particular, I draw your attention to Article 76(2)(b) which provides "*that a State Officer shall not seek or accept a personal loan or benefit in circumstances that compromise the integrity of the State Officer*". This provision is replicated under section 12 of the Leadership and Integrity Act, 2012. A similar provision is provided for under section 11 of the Public Officer Ethics Act, 2003. Section 6 of the Leadership and Integrity Act further prescribes a general Code of Conduct for State Officers. It provides as follows-

- (1) *this Part prescribes a general Leadership and Integrity Code for State officers.*
- (2) *the provisions of Chapter Six of the Constitution shall form part of this Code.*
- (3) *unless otherwise provided in this Act, the provisions of the Public Officer Ethics Act shall form part of this Code; and*
- (4) *iff any provision of this Act is in conflict with the Public Officer Ethics Act, 2003 this Act shall prevail.*

Honourable Members, having made those observations, let me now interrogate the relevant legal provisions governing the consequences of any alleged breach of privilege or code of conduct of Members of Parliament. Firstly, Article 75(2)(a) of the Constitution provides that "*where a person contravenes Article 76 of the Constitution he or she shall be subject to the applicable disciplinary procedure for the relevant office*". Secondly, section 3(10) of the Public Officer Ethics Act, 2003 provides that-

*"..(10) The responsible Commission for a public officer for which no responsible Commission is otherwise specified under this section is the commission, committee or other body prescribed by regulation*

Thirdly, Section 41(2) of the Leadership and Integrity Act, 2013 provides as follows-

*(2) Where an allegation of breach of the Code has been made against a State officer in respect of whom the Constitution or any other law provides the procedure for removal or dismissal, the question of removal or dismissal shall be determined in accordance with the Constitution or that other law.*

Lastly, section 10(4) of the National Assembly (Powers and Privileges) Act (Cap 6 Laws of Kenya) provides as follows-

*(4) The Committee of Privileges shall, either of its own motion or as a result of a complaint made by any person, inquire into any alleged breach by any member of the Assembly of the Code of Conduct issued under section 9, or into any conduct of any member of the Assembly within the precincts of the Assembly (other than the Chamber) which is alleged to have been intended or likely to reflect adversely on the dignity or integrity of the Assembly or the member thereof, or to be contrary to the best interests of the Assembly or the members thereof. (5) The Committee of Privileges shall, after such inquiry as is referred to in subsection (4), report its findings to the Assembly together with such recommendations as it thinks appropriate.*

Honourable Members, though our Rules of procedure are silent on the manner of disposing questions of privilege, comparative jurisdiction from the Indian Lok Sabha for instance provide, under rule 225, that the House may consider a question of privilege or refer it to a Committee of Privileges and the Speaker may issue such directions as may be necessary for regulating the procedure in connection with all matters connected with the consideration of the question of privilege either in the Committee of Privileges or in the House. Erskine May notes that the

acceptance by a Member of either House of a bribe to influence his conduct in connection with any matter submitted or intended to be submitted before the House is contempt and an abuse of privilege and is a gross affront to the dignity of the House and an attempt to pervert the parliamentary process implicit in Members' free discharge of their duties to the electorate.

It is therefore my considered opinion that a general reading of the aforementioned provisions and practice from other Parliamentary jurisdictions suggest that it is within the purview of the Committee of Privileges to inquire into the alleged conduct of any Member who commits a breach of privilege or code of conduct. May I also hasten to add that issues of conduct of Members within the precincts of Parliament is solely the mandate of the Committee of Privileges and other outside investigative bodies may only deal with the matters if the Committee of Privileges recommends so and the House approves the recommendations.

Honourable Members, further, a study of the practice in the Commonwealth of Canada reveals the following-

- (a) A House has authority to require the attendance of any of its Members, whether they are Ministers or not. It should be borne in mind that the House has always claimed a right to exercise a substantial degree of control over its own Members when the matter in any way relates to the privileges of the House, including in respect of attendance upon the service of the House, attendance before another House, and even conflicts between Members.
- (b) When a Member has been ordered to appear before the House or a committee, the Member is under the same obligations to answer questions before the Committee just like a member of the public. Further, where a Member objects to a question in a committee, the objection must be raised and determined by the committee, and not by the House.

Arising from the above, and in order to protect the integrity of the National Assembly of the Republic of Kenya as whole and to give a fair hearing to Members of the Public Accounts Committee, I now direct as follows-

- (i) **THAT**, the Committee of Privileges enquires into the matters of alleged breach of privileges and/or code of conduct of Membership of the Public Accounts Committee, including recent claims of compromises, corruption and deceit, and submit a report to this House in accordance with Section 10(5) of the National Assembly (Powers and Privileges) Act, (Cap 6 Laws of Kenya) within twenty one days from the date of this communication. The House will be expected to deliberate on the report within three days thereafter. The Committee is at liberty to interrogate the submissions made by the individual Members in the Committee on February 26, 2015 which were captured in the *Hansard* of the House, including any related correspondences by any Member of the Committee to the Clerk or the Speaker. May I also remind the Committee that, given the seriousness of an allegation of bribery, the standard of proof required to substantiate the claims ought to be very high;
- (ii) **THAT**, invoking the provisions of Standing Order 1, the operations of the Public Accounts Committee are hereby suspended until the expiry of the period I have prescribed or such earlier time the House shall make a resolution following an earlier submission of the Report by the Committee of Privileges. Let me make it clear that, this direction does not amount to disbanding the Committee nor discharging any Member from the Committee;
- (iii) **THAT**, the Hon. Moses Cheboi, the First Chairperson of Committees is hereby appointed to chair the Committee during the period of this Inquiry on behalf of the Speaker. The Committee of Privilege is at liberty to co-opt not more than three other

sitting Members who have served for more than one term to assist them in the Inquiry. Such co-opted Members will however not be allowed to vote in the Committee, nor will they be counted for purposes of quorum. **The Committee should hold its first meeting on Monday, the 9<sup>th</sup> day of March, 2015 at 2.30 pm.**

- (iv) **THAT**, the Committee of Privileges develops, for consideration by this House, a code of Conduct for Members of Parliament as required under Section 37 of the Leadership and Integrity Act, 2012. This should be submitted on or before the end of August, this year.

Having said that, Let me make it clear that, by referring this matter to the Committee of privileges, It is not to put the Public Accounts Committee under trial, but it is to allow the relevant body of this House as required by the law and practice of the House to attend to the allegations of breach of privilege and/or code of conduct so as to assist the House to make a decision. Similarly, the Chairperson of the Public Accounts Committee asked me confirm whether anybody is at liberty to divulge information shared with the Speaker in confidence. Certainly, an attempt to do so would be out of order. However, I can confirm that the submission the Chairperson was referring to was formally made to the Speaker in writing and seeking guidance. It was neither personal nor peculiar. Indeed, the matters contained in that letter were canvassed during the Committee's Meeting of February 26, 2015. The letter is passed over to form part of the Committee inquiry.

**Honourable Members**, as I conclude, I wish to call upon this House to search their souls and conscience as to whether some of our actions befit the status of Members of this House. One famous British politician, Winston Churchill stated that and I quote:

**"If you have integrity, nothing else matters. If you don't have integrity, nothing else matters."**

May I also paraphrase a saying of **Confucius**, one of the greatest philosophers, "That, the strength of a Nation derives from the integrity of Parliament." In our case, this strength is founded in Article 94(2) of the Constitution of Kenya, which provides that Parliament manifests the diversity of the nation, represents the will of the people and exercises their sovereignty. We therefore must have moral authority to be the peoples' representatives and to perform the mandate they have bestowed upon us.

I thank you".

## 5. MESSAGES

The Speaker conveyed the following Message –

"Honourable Members,

I also wish to convey that I have since received a Message from the Senate regarding the passage of the National Youth Service (Amendment) Bill (Senate Bill No. 26 of 2014). The message states **"THAT, the National Youth Service (Amendment) Bill (Senate Bill No. 26 of 2014), which was published in the Kenya Gazette Supplement No. 97 of 27<sup>th</sup> June, 2014 as a Bill originating from the Senate was passed with amendments by the Senate on Thursday 19<sup>th</sup> February, 2015.** The Senate now seeks the concurrence of the National Assembly on the said Bill.

Honourable Members,

I am aware that the Clerk has since circulated copies of the Bill, which is scheduled for First Reading today, upon which it will stand referred to the Departmental Committee on Labour and Social Welfare for consideration. The Committee is expected to submit a report

before the Bill is considered by the House for Second Reading. I also direct that, before the Bill is scheduled for Second Reading, the Committee must engage the Budget and Appropriations Committee with a view to satisfying the requirement of Article 114 of the Constitution relating to money Bills.

Thank you!"

## 6. PAPERS LAID

The following Papers were laid on the Table –

- (i) The Report of the Senate Standing Committee on Finance, Commerce and Budget on the Medium Term Budget Policy Statement, 2015
- (ii) The Report of the Auditor General on the Financial Statements of the Kenya Universities and Colleges Central Placement Service for the five (5) months period ended 30<sup>th</sup> June, 2014 and the certificate of the Auditor-General therein;
- (iii) The Report of the Auditor General on the Financial Statements of the Kenya Literature Bureau for the year ended 30<sup>th</sup> June, 2014 and the Certificate thereon by the Auditor General
- (iv) The Report of the Auditor General on the Financial Statements of the University of Nairobi for the year ended 30<sup>th</sup> June, 2014 and the Certificate thereon by the Auditor General
- (v) The Report of the Auditor General on the Financial Statements of the National Council for Law Reporting for the year ended 30<sup>th</sup> June, 2014 and the Certificate thereon by the Auditor General

*(Majority Party Whip)*

- (vi) Report of the Committee on Justice and Legal Affairs on the vetting of a nominee to the Kenya National Commission on Human Rights

*(Chairperson, Departmental Committee on Justice & Legal Affairs)*

## 7. NOTICE OF MOTION – *(Chairperson, Departmental Committee on Justice & Legal Affairs)*

THAT, pursuant to section 11(7) of the Kenya National Commission on Human Rights Act, 2011, this House adopts the Report of the Committee on Justice and Legal Affairs and **rejects the appointment of Dr. Samuel Njuguna Kabue** as a Commissioner to the Kenya National Commission on Human Rights.

## 8. STATEMENT PURSUANT TO STANDING ORDER 44

Pursuant to Standing Order 44(2)(b), the Majority Party Whip issued a Statement regarding the Business of the House for the week commencing Tuesday, March 10, 2015

## 8. THE NATIONAL YOUTH SERVICE BILL (SENATE BILL NO. 26 OF 2014)

*(Chairperson, Departmental Committee on Labour and Social Welfare)*

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

9. THE CLIMATE CHANGE BILL (NATIONAL ASSEMBLY BILL NO. 1 OF 2014)

Question put and agreed to;

Bill read a Third Time and passed.

10. THE CHILDREN (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.18 OF 2014)

Question put and negatived;

Rising in their places on Points of Order, several Members claimed for a Division;

And there being the requisite number of Members required rising in support of the claim;

And the Speaker acceding to the claim directed the Division Bell to be rung;

And after expiry of ten minutes, the Bar having been drawn and the doors closed;

Thereupon, the House proceeded to a Roll Call;

Question put and upon a Roll Call negatived;

AYES

NOES

ABSTENTIONS

65

97

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11. MOTION – EXTENSION OF PERIOD FOR CONSIDERATION OF AMENDMENTS TO THE STANDING ORDERS

Motion made and Question proposed –

**THAT**, notwithstanding the provisions of Standing Order 263(4), this House resolves to extend the period for consideration of proposals to amendment to the Standing Orders by the Procedure and House Rules Committee as initiated by the Chairperson of the Departmental Committee on Justice and Legal Affairs, by a period of twenty eight (28) days from March 05, 2015.

*(The Chairperson, Procedure and House Rules Committee)*

Debate arising;

Mover replied;

Question put and agreed to.

12. MOTION – APPROVAL OF THE BUDGET POLICY STATEMENT 2015

Order deferred to another day



13. MOTION- THE PUBLIC PROCUREMENT AND DISPOSAL (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 31 OF 2013)

Motion made and Question proposed –

THAT, the Senate Amendments to the Public Procurement and Disposal (Amendment) Bill (National Assembly Bill No. 31 of 2013) be now considered.

*(The Chairperson, Departmental Committee on Finance, Planning and Trade)*

Debate arising;

Rising in her place on a Point of Order, the Member for Mbita (Hon. Millie Odhiambo) claimed to move that the Question be now put, pursuant to Standing Order 95(2);

And the Speaker acceding to the claim;

Question put and agreed to.

14. COMMITTEE OF THE WHOLE HOUSE

Order for Committee read;

IN THE COMMITTEE

Second Chairperson of Committees in the Chair

THE SENATE AMENDMENTS TO THE PUBLIC PROCUREMENT AND DISPOSAL (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.31 OF 2013)

Clause 2 – amendment proposed -

**Senate Amendment**

**THAT** clause 2 of the Bill be amended by deleting the proposed new paragraph (g) and substituting therefor the following new paragraph-

- (g) “to facilitate affirmative action for disadvantaged groups in accordance with Articles 27, 54 and 55 of the Constitution and to advance their participation in the procurement process in accordance with Article 227 of the Constitution”.

*(The Chairperson, Departmental Committee on Finance, Planning & Trade)*

Question of the Senate amendment proposed;

Debate arising;

Question put and agreed to

**Clause 3 – amendment proposed -****Senate Amendment**

**THAT**, clause 3 of the Bill be deleted and substituted with the following new clause-  
"Section 3 of the principal Act is amended by-

(a) inserting the following new definitions in their proper alphabetical sequence-

"disadvantaged group" means a group of persons perceived to be denied by mainstream society of access to resources and tools which are useful for their survival in a way that disadvantages them, or individuals who have been subjected to prejudice or cultural bias because of their identity as members of a certain group without regard to their individual qualities, and includes enterprises in which a majority of the members or shareholders are youth, or persons with disability;

"persons with disability" means a person with disability who has attained the age of eighteen years and includes a company, association or body of persons, corporate or unincorporated in which at least seventy percent of the shareholders, members or persons and a majority of the directors are persons with disability;

"women" means a person of the female gender who has attained the age of eighteen years and includes a company, association or body of persons, corporate or unincorporated in which at least seventy percent of the shareholders, members or persons and a majority of its directors are of the female gender;

"youth" means a person who has attained the age of eighteen years and has not attained the age of thirty-five years and includes a company, association or body of persons, corporate or unincorporated in which all its directors or proprietors are persons who have attained the age of eighteen years and have not attained the age of thirty-five years.

(b) deleting the definition of the expression "accounting officer" and substituting therefor the following new definition-

"accounting officer means-

(a) for a public entity other than a county government entity, the person appointed by the principal secretary to the treasury as the accounting officer or, if there is no such person, the chief executive of the public entity; or

(b) for a county government entity, a person appointed by the county executive committee member responsible for finance as the accounting officer, or if there is no such person, the chief executive of the county entity";

(c) deleting the definition of the word "Minister" and substituting therefor the following new definition-

"Cabinet Secretary" means the Cabinet Secretary responsible for matters relating to finance";

(d) deleting the definition of the expression "public entity" and substituting therefor the following new definition-

"public entity" means-

- Cap 446  
Cap 490  
Cap 211  
No. 42 of  
20122012
- (a) the national Government or any department of the national Government;
  - (b) the county Government or any department of the county Government;
  - (c) the courts;
  - (d) the commissions and independent offices established under the Constitution;
  - (e) a state corporation within the meaning of the State Corporations Act;
  - (f) the Central Bank of Kenya established under the Constitution;
  - (g) a co-operative society established under the Co-operative Societies Act;
  - (h) a public school within the meaning of the Education Act;
  - (i) a public university within the meaning of the Universities Act;
  - (j) a college or other educational institution maintained or assisted out of public funds; or
  - <) an entity prescribed as a public entity for the purpose of this paragraph";

*(The Chairperson, Departmental Committee on Finance, Planning & Trade)*

Question of the Senate amendment proposed;

Debate arising;

Question put and agreed to

#### **Clause 4 – amendment proposed -**

##### **Senate Amendment**

**THAT** Clause 4 of the Bill be amended by-

- (a) re-numbering the existing paragraphs (a) and (b) as paragraphs (b) and (c), respectively;
- (b) inserting the following new paragraph immediately before the re-numbered paragraph (b);
  - (a) deleting the word "Minister" appearing after the words "present to the" in sub-section (b) and substituting therefor the words "Cabinet Secretary".

*(The Chairperson, Departmental Committee on Finance, Planning & Trade)*

Question of the Senate amendment proposed;

Debate arising;

Question put and agreed to

#### **Clause 5 – amendment proposed -**

##### **Senate Amendment**

**THAT** clause 5 of the Bill be amended-

- (a) by re-numbering the existing paragraphs (a) and (b) as paragraphs (b) and (c), respectively;

- (b) by inserting the following new paragraph immediately before the re-numbered paragraph (b);
- (a) deleting the words "the Minister" appearing after the words "subsection (8)" in subsection (2) and substituting therefor the words "the Cabinet Secretary";
- (c) in the proposed new subsection (9) by deleting the words "the youth, women and persons with disability" appearing after the words "allocated to" and substituting therefor the words "disadvantaged groups";
- (d) in the proposed new subsection (12)-
- (i) in paragraph (b), by deleting the words "youth, women and persons with disability" appearing after the words "the number of" and substituting therefor the words "disadvantaged groups";
- (ii) by inserting the following new paragraph immediately after the proposed new paragraph (b)-
- (c) provide an explanation for failure to comply with the provisions of this section and the efforts made by the entity to ensure compliance in the future;
- (e) in the proposed new subsection (13) by deleting the words "youth, women and persons with disability" appearing after the words "opportunities for" and substituting therefor the words "disadvantaged groups";
- (f) in the proposed new subsection (14) by deleting the words "Articles 55 and 227(2)" appearing after the words "objectives of" and substituting therefor the words "Articles 27, 54, 55 and 227";
- (g) in the proposed new subsection (15)(b) by deleting the expression "the youth" appearing immediately after the words "impediment to" and substituting therefor the words "disadvantaged groups";
- (h) in the proposed new subsection (16)-
- (i) by deleting paragraph (a) and substituting therefor the following new paragraph-
- (a) facilitating affirmative action to ensure that disadvantaged groups access employment and have opportunities to participate in economic spheres of life as contemplated under Articles 27, 54, 55 and 227 of the Constitution;
- (ii) in paragraph (b), by deleting the words "the youth" appearing after the words, "advancement of" and substituting therefor the words, "disadvantaged groups".

*(The Chairperson, Departmental Committee on Finance, Planning & Trade)*

Question of the Senate amendment proposed;

Debate arising;

Question put and agreed to.

**Clause 4 – amendment proposed -****Senate Amendments**

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 4-

*(The Chairperson, Departmental Committee on Finance, Planning & Trade)*

Question of the Senate amendment proposed;

Debate arising;

Question put and agreed to, put and agreed to

**New Clause 4A proposed –**

Section 20 of the principal Act is amended-

(a) in subsection (2) by deleting the word “Minister” appearing after the words “Board and to the” and substituting therefor the words “Cabinet Secretary”; and

(b) in subsection (5) by deleting the words “the Minister” appearing at the beginning of the sub-section and substituting therefor the words “the Cabinet Secretary”.

*(The Chairperson, Departmental Committee on Finance, Planning & Trade)*

Motion made and Question proposed;

THAT, the New Clause 4A be part of the Bill

Question put and agreed to.

**New Clause 4B proposed -**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 4-

**Clause 4B**

The principal Act is amended in paragraph (a) of section 22(1) by deleting the word “Minister” appearing immediately after the words “appointed by the” and substituting therefor the words “Cabinet Secretary”.

*(The Chairperson, Departmental Committee on Finance, Planning & Trade)*

Motion made and Question proposed;

THAT, the New Clause 4B be part of the Bill

Question put and agreed to.

**New Clause 4C proposed –**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 4-

Clause 4C

The principal Act is amended in section 33 by deleting paragraph (b) of sub-section (1) and substituting therefor the following new paragraph-

"a Cabinet Secretary, public servant or a member of a board or committee of the Government or any department of the Government or a person appointed to any position by the President or a Cabinet Secretary; or

*(The Chairperson, Departmental Committee on Finance, Planning & Trade)*

Motion made and Question proposed;

THAT, the New Clause 4C be part of the Bill

Question put and agreed to.

**New Clause 5A proposed –****Senate Amendment**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 5-

Clause 5A

The principal Act is amended in paragraph (d) of section 105(1) by deleting the words "Kenya Anti-Corruption Commission" appearing after the words "entity and to the" and substituting therefor the words "Ethics and Anti-Corruption Commission".

*(The Chairperson, Departmental Committee on Finance, Planning & Trade)*

Motion made and Question proposed;

THAT, the New Clause 5A be part of the Bill

Question put and agreed to.

**New Clause 6A proposed –****Senate Amendment**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 6-

New Clause 6A

The principal Act is amended in section 140 by deleting the words "the Minister" appearing at the beginning of the section and substituting therefor the words "the Cabinet Secretary".

*(The Chairperson, Departmental Committee on Finance, Planning & Trade)*

Motion made and Question proposed;

THAT, the New Clause 6A be part of the Bill

Question put and agreed to.

## **THE SCHEDULES**

### **Senate Amendments**

#### **New First Schedule proposed -**

**THAT** the First Schedule to the principal Act be amended-

- (a) in paragraph 3(1) by deleting the word "Minister" appearing after the words "addressed to the" and substituting therefor the words "Cabinet Secretary";
- (b) by deleting paragraph 3(2) and substituting therefor the following new paragraph-

3(2) A resignation is effective upon being received by the Cabinet Secretary or by a person authorized by the Cabinet Secretary to receive it.
- (c) in paragraph (4) by deleting the words "the Minister" appearing at the beginning of the paragraph and substituting therefor the words "the Cabinet Secretary".

*(The Chairperson, Departmental Committee on Finance, Planning & Trade)*

Question of the Senate amendment proposed;

Debate arising;

Question put and agreed to.

#### **New Second Schedule proposed -**

**THAT** the Third Schedule to the principal Act be amended-

- (a) in paragraph 2(1) by deleting the words "the Minister" appearing after the words "section 22(1)(a)" and substituting therefor the words "the Cabinet Secretary";
  - (b) in paragraph 2(2) by deleting the words "the Minister" appearing at the beginning of the paragraph and substituting therefor the words "the Cabinet Secretary";
  - (c) in paragraph (4) by deleting the word "Minister" appearing after the words "into operation, the" and substituting therefor the words "Cabinet Secretary"; and
- in paragraph (17) by deleting the words "the Minister" appearing at the beginning of the paragraph and substituting therefor the words "the Cabinet Secretary".

*(The Chairperson, Departmental Committee on Finance, Planning & Trade)*

Question of the Senate amendment proposed;

Debate arising;

Question put and agreed to.

Senate Amendments to be reported without amendments;

15. **HOUSE RESUMED** - The Deputy Speaker in the Chair

**The Senate Amendments to the Public Procurement and Disposal (Amendment) Bill (National Assembly Bill No.31 of 2013)**

Senate Amendments reported without amendments;

Motion made and Question proposed:-

THAT, the House do agree with the Committee of the whole House in the said report

*(The Chairperson, Committee on Finance, Planning and Trade)*

Debate arising;

Question put and agreed to.

16. **THE COUNTY GOVERNMENTS (AMENDMENTS) BILL (SENATE BILL NO.1 OF 2014)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the County Governments (Amendments) Bill (Senate Bill No.1 of 2014) be now read a Second Time

*(The Chairperson, Committee on Finance, Planning and Trade)*

Debate arising;

And the time being thirty minutes past Six O'clock, the Second Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

17. **HOUSE ROSE** - at thirty minutes past Six O'clock.

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**M E M O R A N D U M**

The Speaker will take the Chair on  
Tuesday, March 10, 2015 at 2.30 p.m.

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