



**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – FOURTH SESSION**

**NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**WEDNESDAY, OCTOBER 5, 2016**

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

The Speaker conveyed the following communication:

**CORRIGENDUM ON THE MESSAGE FROM THE PRESIDENT REGARDING THE  
NOMINATION OF JUSTICE DAVID KENANI MARAGA AS CHIEF JUSTICE OF THE  
REPUBLIC OF KENYA**

"Honourable Members, this Communication is a corrigendum to the correct the timelines contained in my Message delivered yesterday regarding the nomination of Justice David Kenani Maraga as Chief Justice of the Republic of Kenya. You will recall that, I inferred that the seven-day notification period that ought to be given to the public for submission of memoranda, should begin today and end on Tuesday, 11 October 2016.

I have since scrutinized the timelines provided in Section 6(4) of the Public Appointments (Parliamentary Approval) Act, 2011, as read together with the provisions of Article 259(5)(a) of the Constitution regarding calculation of time, which states, and I quote:

*"(5) In calculating time between two events for any purpose under this Constitution, if the time is expressed—*

*(a) as days, the day on which the first event occurs shall be excluded, and the day by which the last event may occur shall be included;"*

Honourable Members, it is thus apparent that there needs to be an alignment between when notification was made to the public and when the Justice and Legal Affairs Committee can proceed to vet the nominee. I therefore wish to clarify that the seven-day period starts counting from tomorrow, Thursday, 6 October 2016 and ends on Wednesday, 12 October 2016. The Committee therefore ought to make the necessary adjustments and proceed to conduct the vetting of the nominee for Chief Justice on Thursday, 13 October 2016 and prepare a report for tabling in the House. Thereafter, the House should expedite the approval process.

I thank you!"

## 5. MESSAGES

The Speaker conveyed the following Message from the President:

**REFERRAL, BY H.E. THE PRESIDENT OF THE PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL (NATIONAL ASSEMBLY BILL NO. 44 OF 2015) AND THE ENERGY BILL (NATIONAL ASSEMBLY BILL NO. 50 OF 2015)**

"Honourable Members, you may recall that on the 25th August, 2016, the House passed the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 44 of 2015) and the Energy Bill (National Assembly Bill No. 50 of 2015), which were sponsored by the Leader of the Majority Party; Hon. Aden Duale, EGH, MP. Accordingly, I presented the two Bills to H.E. the President for Assent in accordance with the provisions of the Constitution and of our Standing Orders. However, H.E. the President, by way of Memoranda, dated 13th September 2016, has since returned those Bills back to Parliament for reconsideration pursuant to the provisions of Article 115(1)(b) of the Constitution.

Honourable Members, on the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 44 of 2015), H.E. the President has expressed reservations to Clauses 51, 58 and 85 of the Bill, relating to the ratification of production sharing contracts and functions and objects of the Agency. H.E. the President has recommended amendments to that effect.

On the Energy Bill (National Assembly Bill No. 50 of 2015), the President has expressed reservations on Clauses 55, 69 and 194 of the Bill and also recommended amendments to those Clauses.

Honourable Members, the two Bills concern County Governments and the Memoranda will therefore require consideration by both Houses. As you may be aware, this will be the second time that Parliament will be reconsidering President's reservations on Bills concerning County Governments, the first being that of the reconsideration of the Public Procurement and Asset Disposal Bill (National

Assembly Bill No. 40 of 2014) and the Public Audit Bill (National Assembly Bill No. 38 of 2014) in 2015 whereby, the two Houses.

I hasten to remind the House that on 16th June 2015, I did make a Communication guiding the House on the manner of considering President's reservations on a Bill and amendments thereto, on Bills that require passage by both Houses in which I suspended the operation of Standing Order 155, as it clearly contradicts the provisions of Article 115 of the Constitution.

In this regard, Honourable Members, that purpose of this Message is two-fold, as follows-

- (i) to notify the House that I have received the President's reservations to the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 44 of 2015), the Energy Bill (National Assembly Bill No. 50 of 2015; and
- (ii) to notify the House that I will be reaching out to the Speaker of the Senate so that we can consult and agree on the most appropriate procedure, including the timelines, within which Parliament is to reconsider the two Bills within the requirements of Article 115 of the Constitution.

In the meantime, I direct the Clerk to circulate the Reservations of H.E. the President to all Members so that they can familiarize themselves with the contents.

Thank you!"

## **6. PETITIONS**

The Member for Embakasi West Constituency (Hon. George Theuri) presented a Petition on behalf of the residents of Mowlem Ward in Embakasi West Constituency regarding irregular allocation of land LR No. 11397/3.

The Petition was referred to the Departmental Committee on Land, pursuant to Standing Order 227.

## **7. PAPERS**

The following Papers were laid on the Table -

- a) The East African Legislative Assembly (EALA) Reports and Resolutions adopted by the Assembly at the First Meeting of the Fifth Session of the Third Assembly;
- b) The Insurance Industry Annual Report, 2015 from the Insurance Regulatory Authority;
- c) The Annual Report and Financial Statements of the Jomo Kenyatta University of Agriculture and Technology for the year ended 30<sup>th</sup> June, 2015;

- d) The Reports of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30<sup>th</sup> June, 2015 and the Certificates therein:-
- (i) Garissa University;
  - (ii) Kenya Industrial and Research Development Authority.
  - (iii) Bobasi Constituency;
  - (iv) Bondo Constituency;
  - (v) Awendo Constituency; and
  - (vi) Postal Corporation of Kenya.

*(The Leader of the Majority Party)*

- e) Reports of the Departmental Committee on Finance, Planning & Trade on its consideration of:
- (i) The Public Private Partnerships (Amendment) Bill, 2016;
  - (ii) The Privatization (Amendment) Bill, 2016;
  - (iii) The Proceeds of Crime and Anti-Money Laundering (Amendment) Bill, 2016;
  - (iv) The Competition (Amendment) Bill, 2016; and
  - (v) The Insurance (Amendment) Bill, 2016.

*(Hon. Abdul Dawood, Member, Departmental Committee on Finance, Planning and Trade)*

## **8. COMMITTEE OF THE WHOLE HOUSE**

Order for Committee of the Whole House read;

### **IN THE COMMITTEE OF THE WHOLE HOUSE**

*(The First Chairperson in the Chair)*

#### **The County Assemblies Powers and Privileges Bill (Senate Bill No. 14 of 2014)**

Clauses 2, 3, 4, 5, 6, 7, 8, 9 and 10	-	<u>agreed to;</u>
Clauses 11, 12, 13,14,15,16,17,18,19 and 20	-	<u>agreed to;</u>
Clauses 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30	-	<u>agreed to;</u>
Clauses 31, 32, 33, 34, 35, 36, 37, 38 and 39	-	<u>agreed to;</u>
First Schedule	-	<u>agreed to;</u>

Second Schedule – agreed to;

Title – agreed to;

Clause 1 – agreed to;

Bill to be reported without amendments.

**9. HOUSE RESUMED** – The Honourable Speaker in the Chair

Bill reported without amendments;

Motion made and Question proposed –

**THAT**, the House do agree with the Committee in the said report  
(*The Chairperson, Departmental Committee on Justice and Legal Affairs*)

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

**THAT**, the County Assemblies Powers and Privileges Bill (Senate Bill No. 11 of 2014) be now read a Third Time.

(*The Chairperson, Departmental Committee on Justice and Legal Affairs*)

Debate arising;

Question put and agreed to;

Bill read a Third Time and **Passed.**

**10. THE PUBLIC FUNDRAISING APPEALS BILL (SENATE BILL NO. 28 OF 2014)**

Order for Second Reading read;

Motion made and Question proposed -

**THAT**, the Public Fundraising Appeals Bill (Senate Bill No. 28 of 2014) be now read a Second Time

(*The Chairperson, Departmental Committee on Justice and Legal Affairs*)

Debate interrupted on Tuesday, October 04, 2016 – Afternoon Sitting, resumed;

Rising in her place on a point of order under Standing Order 95, the Member for Nairobi County (Hon. Rachel Shebesh) claimed that 'the Mover be now called upon to reply;'

And the Speaker acceding to the claim

Question put and agreed to;

Thereupon the Mover replied;

Question put and negatived;

Bill referred to a Mediation Committee pursuant to the provisions of Standing Order 149.

**11. THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (No.2) BILL (NATIONAL ASSEMBLY BILL NO. 58 OF 2015)**

Order for Second Reading read;

Motion made and Question proposed -

**THAT**, the Statute Law (Miscellaneous Amendments)(No. 2) Bill (National Bill No. 58 of 2015) be now read a Second Time.

*(The Leader of the Majority Party)*

Debate arising;

Mover replied;

Question of the Second Reading deferred to another day.

**12. MOTION - APPROVAL OF SESSIONAL PAPER ON THE NATIONAL CHILDREN POLICY**

**THAT**, this House adopts Sessional Paper No. 6 of 2014 on the National Children Policy, laid on the Table of the House on Tuesday, August 25, 2015.

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

Motion deferred.

**13. MOTION - APPROVAL OF SESSIONAL PAPER ON THE NATIONAL POLICY ON ELIMINATION OF CHILD LABOUR**

**THAT**, this House adopts Sessional Paper No. 1 of 2015 on the National Policy on Elimination of Child Labour, laid on the Table of the House on Wednesday, August 19, 2015.

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

Motion deferred.

14. **MOTION** - **ADOPTION OF THE TWENTIETH REPORT OF THE PUBLIC INVESTMENTS COMMITTEE**

Motion made and Question proposed -

**THAT**, this House adopts the Twentieth Report of the Public Investments Committee on the Accounts of State Corporations, laid on the Table of the House on Thursday December 03, 2015.

*(The Vice Chairperson, Public Investments Committee)*

Debate arising;

There being no other Member willing to contribute, debate concluded;

Mover to reply;

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

15. **HOUSE ROSE** - at thirty four 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  
Thursday, October 6, 2016 at 2.30 p.m.

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