



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – FOURTH SESSION

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

THURSDAY, FEBRUARY 11, 2016

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) **Use of Un-Parliamentary Words**

"Yesterday, in the afternoon sitting, Hon. Chris Wamalwa rose in his place claiming to be standing on a point of order and alleged, among other things, that Hon. John Munuve had referred to certain Members as having mediocre brains and, therefore, sought that Hon. John Munuve, among others, withdraws and apologizes for the use of those words.

I have in my possession the transcript of the HANSARD of what happened yesterday. It is true that Hon. John Munuve used the words "mediocre brains", but it is not in reference to what Hon. Chris Wamalwa alleged.

Hon. Chris Wamalwa alleges that a letter was written in accordance with the Political Parties Act. No such letter has been made available. It is, therefore, not possible to connect his alleged letter written on the authority of the Political Parties Act to anybody. Therefore, the reference by Hon. Munuve about people with mediocre brains is not in direct reference to any Member of this House. I, therefore, see no need for Hon. John Munuve to withdraw the use of the words "mediocre brains" because those words are in themselves plainly not un-parliamentary.

It is accordingly so ordered."

(ii) **A Guide on the Management of Business appearing as Order No. 9 and Order No. 10 on today's Order Paper**

"Hon. Members, before proceeding to the next business, I wish to guide the House with regard to the dispensation of Orders No. 9 and 10 on today's Order Paper. To

start with, you will note that the Motion for the adoption of the Report of the Public Accounts Committee on the Judicial Service Commission and the Judiciary has received no less than eight proposed amendments. For the convenience of the House and pursuant to Standing Order 54(6), the amendments will be considered in the following order:-

- (i) Proposed Amendments on Recommendation 2, 4 and 5 by Hon. David Ochieng;
- (ii) Proposed Amendments on Recommendation 6 by the Deputy Leader of Majority Party;
- (iii) Proposed Amendments on Recommendation 19 by Hon. Amina Abdalla;
- (iv) Proposed Amendments on Recommendation 20 by Hon. Samuel Chepkonga. Should these amendments be passed or rejected, the amendments by the Hon. Irungu Kangata will automatically be dropped since they are similar; and
- (v) Proposed Amendments on New Recommendation 23 by the Deputy Leader of Majority Party.

Hon. Members, with regard to the Motion for the adoption of the Report on the Crisis Facing the Sugar Industry in Kenya, I have today morning received a letter from the Hon. Opiyo Wandayi withdrawing his proposed amendments to the report. Consequently, the amendments by the Hon. Wandayi appearing on page 13 of the Order Paper will not be considered.

I thank you."

5. PETITIONS

- (i) The Speaker conveyed the following Petition on unlawful termination of Indu Farm (EPZ) Ltd Employees –

"Honourable Members,

Pursuant to the provisions of Standing Order 225(2) (b), I hereby convey to the House that my office is in receipt of a Petition from over three hundred former employees of the Indu-Farm EPZ Limited also referred to as Indu-Farm Processing located at the Sameer Industrial Park No.4, regarding unlawful termination of their employment.

Honourable Members,

The Petitioners allege that they were sent on compulsory leave on 13th July 2015, subsequent to which they were informed of a temporary closure of the Company and immediate termination of their services. The Petitioners claim that this action contravenes Article 41 of the Constitution and the provisions of the Employment Act, 2007 (Cap.226).

The Petitioners therefore pray that the National Assembly: -

- (i) examines the legitimacy of the process applied in termination of service of the employees and confirm whether due process was followed; and
- (ii)

(iii) finds that, should the closure or winding up of the Company be inevitable, the Company ought to expeditiously pay terminal dues and other benefits owed to the employees.

Honourable Members,

You will agree with me that the prayers sought by the Petitioners are indeed justiciable before Industrial Court or any other appropriate Court. However, Honourable Members, Article 95 (2) which provides that the National Assembly deliberates on and resolves issues of concern to the people, obligates the House to also attempt to address such matters, with a view to resolving them. It may be well that the grievances of the Petitioners may be resolved without having to result to a judicial process.

Honourable Members,

This Petition therefore stands committed to the Departmental Committee on Labour and Social Welfare for consideration. The Committee is requested to consider the Petition and report its findings within sixty days in accordance with Standing Order 227 (2).

Thank you!"

- (ii) The Member for Kitui Central (Hon. Makali Mulu) presented a Petition on behalf of the Kenya Union of Braille Technicians and Transcribers on the challenges faced by the Technicians and Transcribers;

The Petition was referred to the Departmental Committee on Education, Research and Technology pursuant to Standing Order 227(1).

6. PAPERS LAID

The following Papers were laid on the Table:

- (i) The Special Audit Report on Kenya Bureau of Standards Tender No. KEBS/T057/2014-2015 for the Provision of Pre-Export Inspection Services for Used Motor Vehicles;
- (ii) The Special Audit Report on Kenya Bureau of Standards Tender for Construction of Mombasa Regional Offices and Laboratories;
- (iii) The Reports of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30th June, 2015 and the certificates therein:-
 - (a) Information and Communications Technology Authority;
 - (b) Kenya Pipeline Company Limited;
 - (c) Embu University College;
 - (d) Kenya Vision 2030 Delivery Secretariat;

- (e) Judicial Service Commission;
- (f) Kenya Law Reform Commission;
- (g) Witness Protection Agency;
- (h) Water and sanitation Services Improvement Project Component No.3 (IDA Grant 5103-KE) – Lake Victoria North Water Services Board;
- (i) ADF Loan No. 210015546 and Grant No. 5800155000101 Water Services Board Support Project (P-KE-E00-005) - Northern Water Services Board;
- (j) Upper Tana Natural Resources Management Project IFAD Loan 1-867-KE and Spanish Trust Fund Loan 1-E-8-KE – Ministry of Water and Irrigation;
- (k) Kenya Plant Health Inspectorate Service;
- (l) NEPAD Kenya Secretariat;
- (m) National Council for Law Reporting;
- (n) Kenya Copyright Board;
- (o) East African Portland Cement Company Limited;
- (p) Capital Markets Authority;
- (q) Brand Kenya Board; and
- (r) Kipchabo Tea Factory Limited (A Subsidiary of Nyayo Tea Zones Development Corporation)

(The Leader of the Majority Party)

7. **NOTICES OF MOTION –**

The following Notices of Motion were given –

(i) **MAKING ALL PUBLIC BUILDINGS ACCESSIBLE FOR PERSONS WITH DISABILITIES**

THAT, aware that Article 54 (c) of the Constitution provides that a person with disability is entitled to reasonable access to all places, public transport and information; further aware that Section 21 of the Persons with Disability Act, 2003 provides that persons with disabilities are entitled to a barrier-free and disability-friendly environment to enable them have access to buildings, roads and other social amenities, assistive devices and other equipment to promote their mobility; concerned that over the years, persons with disabilities have not been given the right to enjoy all their fundamental freedoms; cognizant of the fact that accessibility is vital in increasing the mobility of these individuals and reducing the ratio of dependency on people; this House urges that the Government makes the necessary structural design adjustments to all public buildings, Government Ministries, departments and agencies to make them more user-friendly to persons with disabilities, and that the National Council for Persons with Disabilities approves all new public structures to ensure their designs are compliant to minimum accessibility standards.

(Hon. Isaac Mwaura)

(ii) **INTRODUCTION OF KENYAN SIGN LANGUAGE IN PRIMARY SCHOOLS**

THAT, aware that Article 7 (3) (b) of the Constitution provides that a State shall promote the development and use of indigenous language, Kenyan Sign language, Braille and other communication formats and technologies accessible to persons with disabilities; further aware that Article 54 (d) provides that a person with disability is entitled to use sign language or other appropriate means of communication; noting that sign language for the deaf is the most important source of knowledge, access to national participation and of great importance to their school work; cognizant of the fact that Kenyan sign language is the medium of communication for the deaf with the community, this House urges that the Government introduces Kenyan sign language to be taught in schools as part of the primary school curriculum to enable Kenyans to acquire the basic skills to communicate with people that have a hearing impairment.

(Hon. Isaac Mwaura)

(iii) **ESTABLISHMENT OF TEACHER-AID SCHEME FOR LEARNERS WITH SPECIAL NEEDS**

THAT, aware that many learners with disabilities are not able to attend school due to various barriers such as, negative attitudes from the society, poverty and depravity; concerned that only 2% of learners with disabilities are enrolled in learning institutions as per research conducted by the United Nations Educational and Socio-Cultural Organization (UNESCO); noting that the completion rates of learners with disabilities from primary, secondary and university education remains low; cognizant of the fact that teachers of learners with disabilities require more time to teach students with disabilities than other children; mindful that they do this without due assistance whatsoever for other co-curricular auxiliary/support services such as feeding, orientation and mobility, toileting, interpretation and transcription, this House urges the Government, through the Ministry of Education, to allocate resources to establish a teacher-aid scheme for schools and units of learners with special needs.

(Hon. Isaac Mwaura)

(iv) **CREATION OF AN INNOVATION FUND AND A NATIONAL INCUBATION SYSTEM**

THAT, aware that there are many talents amongst the youth of this country; having noted that this talents have been severally displayed through various inventions and innovations by the youth in platforms such as the Science Congress and the Annual Youth Innovation Week; concerned, that most of these discoveries do not go beyond making sensational newspaper and electronic media stories; noting that most of these innovations are aimed at addressing the problems that afflict us as Kenyans on a daily basis; further concerned that there is inadequate enabling legislation and administrative measures to support these innovations; cognizant of the fact that the Kenya Vision 2030 seeks to make our country an industrialized middle-income economy in the next 14 years; aware of the immense potential for wealth creation and job opportunities that such innovations would generate if well-developed and commercialized; also recognizing that our imports are well in excess of Kshs. 1.3 billion

shillings, a gap that would be narrowed if we had our own local production, this House urges the Government to support youth innovation by creating an innovation fund and a national incubation system, among other measures.

(Hon. Isaac Mwaura)

(v) **MOTION - REPORT ON THE STATE HOUSE CRESCENT LAND**

(Chairperson, Departmental Committee on Lands)

THAT, this House adopts the Report of the Departmental Committee on Lands on the State House Crescent Land, laid on the Table of the House on Tuesday, November 24, 2015.

(vi) **MOTION - REPORT ON LAND CONFLICT IN KEDONG RANCH**

(The Vice-Chairperson, Departmental Committee on Lands)

THAT, this House adopts the Report of the Departmental Committee on Lands on Land conflict in Kedong Ranch, laid on the Table of the House on Thursday, August 06, 2015.

(vii) **MOTION - REPORT ON SIRIKWA SETTLEMENT SCHEME**

(The Vice-Chairperson, Departmental Committee on Lands)

THAT, this House adopts the Report of the Departmental Committee on Lands on Sirikwa Settlement Scheme, laid on the Table of the House on Thursday, 6th August 2015.

(viii) **MOTION - REPORT ON COMPENSATION OF EVICTEES OF GALLERIA MALL AND THE EXPANSION OF LANG'ATA ROAD**

(The Vice-Chairperson, Departmental Committee on Lands)

THAT, this House adopts the Report of the Departmental Committee on Lands on Compensation of evictees of Galleria Mall and the Expansion of Lang'ata Road, laid on the Table of the House on Wednesday, 3 December 2014.

(ix) **MOTION - REPORT ON LAND ADJUDICATION ISSUES IN MERU AND THARAKA NITHI COUNTIES**

(The Vice-Chairperson, Departmental Committee on Lands)

THAT, this House adopts the Report of the Departmental Committee on Lands on Land adjudication issues in Meru and Tharaka Nithi Counties, laid on the Table of the House on Wednesday, 3 December 2014.

(x) **MOTION - REPORT ON NYALI CONSTITUENCY LAND ISSUES**

(The Vice-Chairperson, Departmental Committee on Lands)

THAT, this House adopts the Report of the Departmental Committee on Lands on Nyali Constituency Land Issues, laid on the Table of the House on Thursday, 3 December 2015.

(xi) **MOTION - REPORT ON ALLEGED IRREGULARITIES IN THE DISBURSEMENT OF FUNDS TO CIVIL SOCIETY GROUPS BY NACADA**

(The Chairperson, Departmental Committee on Administration and National Security)

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on the investigations into alleged irregularities in the disbursement of funds to civil society groups by the National Authority for the Campaign Against Alcohol and Drug Abuse (NACADA), laid on the Table of the House on Tuesday, November 17, 2015.

(xii) **MOTION - REPORT ON GARISSA UNIVERSITY COLLEGE TERRORIST ATTACK**

(The Chairperson, Departmental Committee on Administration and National Security)

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on the investigations into the Garissa University College Terrorist Attack, laid on the Table of the House on Tuesday, November 17, 2015.

8. **STATEMENT PURSUANT TO STANDING ORDER 44(2)(a)**

Pursuant to the provision of Standing Order 44(2) (a), the Leader of the Majority Party issued a Statement regarding the Business of the House for the week commencing Tuesday, February 16, 2016.

9. **THE NATURAL RESOURCES (CLASSES OF TRANSACTIONS SUBJECT TO RATIFICATION) BILL (NATIONAL ASSEMBLY BILL NO.54 OF 2015)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Natural Resources (Classes of Transactions Subject to Ratification) Bill (National Assembly Bill No.54 of 2015) be now read a Second Time

(The Leader of the Majority Party – 16.12.2016)

Debate on the Second Reading having been concluded on Wednesday, February 10, 2016 (Afternoon Sitting);

Question put and agreed to;

Bill read a Second Time and committed to the Committee of the Whole House tomorrow.

10. **MOTION – REPORT OF THE PUBLIC ACCOUNTS COMMITTEE**

Motion made and Question proposed –

THAT, this House adopts the Report of the Public Accounts Committee on the Judicial Service Commission (JSC) and the Judiciary Special Audit Report of May, 2014, laid on the Table of the House on Tuesday, July 7, 2015

(The Chairperson, Public Accounts Committee)

Debate arising;

Amendment proposed –

THAT, the Motion be amended by inserting the following words immediately after the words "Tuesday, 7th July, 2015"-

"Subject to the –

- (i) deletion of recommendation number 2 appearing on page 136 of the Report;
- (ii) deletion of recommendation number 4 appearing on page 136 of the Report, and substituting therefor with the following –

"The various Commissioners of the Judicial Service Commission must take personal responsibility for allowances paid to them for attending meetings that were convened without the knowledge and approval of the Chief Justice. An audit of all such meetings should be undertaken and the responsible Commissioners surcharged;" and

- (iii) deletion of recommendation number 5 appearing on page 136 of the Report."

(Hon. David Ochieng)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment proposed –

THAT, the Motion be amended by inserting the following words immediately after the words "Tuesday, 7th July, 2015"-

"Subject to the insertion of the following:-

- (i) New recommendation 6.v on page 137 of the Report as follows:-

"v. Mrs. Lydia Achode for her role in the irregular procurement of offices at Mayfair Court Centre, when she was the Registrar of Judiciary."

- (ii) New recommendation number 23 on page 140 of the Report as follows:-

"23. That the Judicial Service Commission forthwith desists from interfering with the financial administrative and operational functions of the Judiciary; and further that National Assembly through the Departmental Committee on Justice and Legal Affairs, undertakes an urgent review of the Judicial Service Act 2011 to address through statute, the unlawful encroachment of the Judicial Service Commission into the administration of the Judiciary which falls outside of its mandate under Article 172 of the Constitution of Kenya."

(Hon. Naomi Shaban)

Question of the amendment proposed;

Debate arising;

Question of the proposed amendment (i) put and negatived;

Question of the proposed amendment (ii) put and agreed to.

Further amendment proposed –

THAT, the Motion be amended by inserting the following words “immediately after the words “Tuesday, 7th July 2015”-

“Subject to the deletion of recommendation number 19 on page 139 of the report, and substitution thereof with the following:-

“The security upgrades implemented by Mr. Simiyu Werunga, a security consultant and contractor, should be subjected to detailed audit by an independent Security Consultant, working jointly with relevant departments of the Government, and any sums paid over and above fair market value be claimed from the consultant/contractor”.

(Hon. Amina Abdalla)

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Further amendment proposed –

THAT, the Motion be amended by inserting the following words “immediately after the words “Tuesday, 7th July 2015”-

“Subject to the insertion of the following words immediately after the words “Administration Committee of the JSC” appearing in the recommendation number 20 on page 139 of the Report:

“Commissioners Smokin Wanjala, Mohammed Warsame, Ahmednassir Abdullahi, Rev. Samuel Kobia, Christine Mango and Emily Ominde.”

(Hon. Samuel Chepkonga)

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Further amendment proposed by the Hon. Irungu Kang’ata dropped.

Question on the Motion as amended proposed;

Debate on the Motion as amended arising;

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

11. 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, February 16, 2016 at 2.30 p.m.