



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – FOURTH SESSION

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, MARCH 15, 2016

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** - the Speaker
4. **ADMINISTRATION OF OATH**

The Speaker administered the Oath of Office to the following Member –

MTENGO William Baraka

5. **COMMUNICATION FROM THE CHAIR ON THE LEGISLATIVE PROPOSAL ON ANTI-DOPING**

The Speaker conveyed the following Communication –

"Honourable Members,

You will recall that on Tuesday, 1st March 2016, the Member for Cherangany Constituency, Hon. Wesley Korir, stood on a Point of Order during consideration of the Motion resolving to hold sittings on Thursday mornings for purposes of considering Bills having Constitutional timelines. In his discourse, the Honourable Member informed the House on the urgency of the Anti-Doping legislation, which, as per an international accord with the World Anti-Doping Agency (WADA), ought to be passed by 5th April 2016. On this account, I did direct the Honourable Member to move with speed to have his legislative proposal prioritized.

You will likewise recall, Honourable Members, that on Tuesday, 8th March 2016, the Hon. Korir brought up the matter once more, this time bemoaning the lack of quorum in three sittings of the Departmental Committee on Labour and Social Welfare that were ostensibly meant to deliberate on his legislative proposal on the anti-doping law. Upon the revelation of this matter, I did direct the said Committee to meet on Thursday, 10th March 2016 to consider this crucial legislative proposal for the sake of our Kenyan athletes who continue to bring great glory and recognition to this county.

Honourable Members, during the Sitting of Wednesday, 9th March 2016, the Vice Chairperson of the Departmental Committee on Labour and Social Welfare, Hon. Tiyah Galgalo, did table a Report on the Status of the Anti-Doping Legislative Proposal, in which she highlighted the progress the Committee had made on the matter. Hon. Galgalo cited the appearance of the Cabinet Secretary for Labour, Social Security and Services, and quorum, as the challenges encountered in the abortive meetings of 1st and 3rd March 2016, and further informed the House that the Sponsor of the said draft law, Hon. Korir, had actually failed to turn up in the scheduled meetings of 3rd and 8th March 2016. Concerning this latter statement, the Hon. Korir maintained that he had not only appeared at the said meetings, but alleged that he had seen fellow Members of the Committee appearing at the venues for the sole purpose of signing the Attendance Register, after which they immediately left. He claimed, and I quote:

"People came, signed and went away. Then, am told that I have not been appearing before the Committee. That is a lie. The Vice-Chair must substantiate and say whether I have not been appearing because people come in, sign and go!"

Honourable Members,

You will additionally recall that on account of the divergent views canvased by the Vice Chairperson of the Committee and the Sponsor of the Legislative Proposal on Anti-Doping Law, I did instruct the Director of Committee Services to provide me with a Report of the Work and Activities undertaken by the Departmental Committee on Labour and Social Welfare. I have since received the Report, which, among other things, highlights the Committee's activities and the progress made on Hon. Korir's legislative proposal. As to the allegations made by the Hon. Korir, the Report states that the Honourable Member did not turn up at the appointed time for the scheduled meetings of 3rd and 8th March 2016. Indeed, the Report affirms that apart from the quorum factor, Hon. Korir's failure to turn up at the appointed time was the key reason that the two meetings were adjourned. The Report further clarifies that no Member signed any Attendance Register since the two meetings had adjourned due to lack of quorum pursuant to Standing Order 185, which states, and I quote:

"Unless quorum is achieved within thirty minutes of the appointed time, a meeting of a committee of the House shall stand adjourned to such further time or day as the chairperson of the committee may appoint."

Honourable Members,

You may, with understandable regret, recall the unfortunate incidents last year in which Members of two Committees openly accused their colleagues of various forms of impropriety, which they sadly could not substantiate. As you are aware, some were reprimanded by this noble House in line with the Recommendations of the Committee on Privilege.

Honourable Members,

I shall not bear any assumed culture of making unsubstantiated insinuations, and more so when the allegations are made by a Member against other Members of this August House. Indeed, you will recall that before the Hon. Korir made his allegations on the floor on the afternoon of Wednesday, 9th March 2016, I did advise him against making unsubstantiated claims contrary to Standing Order 91, and the attendant consequences of Standing Order 107. He, in spite of my warning, proceeded to make his allegations nevertheless, which, now, stand unsubstantiated.

In order not to belabour the issue further, and for purposes of discouraging any similar unfounded allegations by any Member, I hereby rule as follows-

1. THAT, on account of making allegations that have neither been substantiated by the Member himself nor by the Departmental Committee on Labour and Social Welfare nor by aforementioned Report of the Directorate of Committee Services, Hon. Wesley Korir is in breach of Standing Order 91(1), AND
2. THAT, the Member's conduct breached Standing Order 107 on Grossly Disorderly Conduct, but shall be, and hereby is, on this occasion only, required to Withdraw his Allegations and give a Suitable Apology to this House in line with Standing Order 91(2) within three sittings of this Ruling.

In concluding, I wish once again to remind Members to desist from making unsubstantiated allegations which only serve to lower the dignity of this House and cast aspersions on its Members.

The Member and indeed the House stands guided.

I thank you".

6. **MESSAGE FROM THE SENATE ON THE PASSAGE OF BILL BY THE SENATE**

The Speaker conveyed the following Message –

"Honourable Members,

Standing Order 41 relating to Messages requires the Speaker to expeditiously report to the House any Message(s) received from the Senate. In this regard, Honourable Members, I wish to report that on Friday, March 11, 2016, I received three (3) Messages from the Senate regarding the passage of the following Bills. -

- (1) The Public Appointments (County Assembly Approval) Bill (Senate Bill No. 20 of 2014);
- (2) The HIV and Aids Prevention and Control (Amendment) Bill (Senate Bill No. 4 of 2015); and
- (3) The County Industrial Development Bill (Senate Bill No. 7 of 2014).

Honourable Members, these Bills were passed by the Senate on March 01, 2016 with amendments. The Senate now seeks the concurrence of the National Assembly to the said Bills in accordance with Article 110 of the Constitution

Honourable Members, I am aware that the Clerk of the National Assembly has since circulated copies of the Bills. After being read a First Time pursuant to Standing Order 143, the Bills will stand committed to the following Departmental Committees for consideration: -

S/No.	Bill	Departmental Committee
(1)	The Public Appointments (County Assembly Approval) Bill (Senate Bill No. 20 of 2014)	Administration and National Security
(2)	The HIV and Aids Prevention and Control (Amendment) Bill (Senate Bill No. 4 of 2015)	Health
(3)	The County Industrial Development Bill (Senate Bill No. 7 of 2014)	Finance, Planning and Trade

The Committees are expected to submit a report before the Bills are considered by the House for Second Reading.

I also direct that, before the Bills are scheduled for First Reading, the Liaison Committee, which is now performing the roles of the Budget and Appropriations Committee, submits to the House its recommendations pursuant to Article 114 of the Constitution relating to money Bills.

Thank you".

7. PETITION

The Member for Ijara presented a Petition on behalf of residents of Ijara constituency regarding the irregular gazettement of Boni/Ijara Forest. Petition was referred to the relevant Departmental Committees pursuant to Standing Order 227(2)

8. PAPERS LAID

The following Papers were laid on the Table –

- (i) The 2015/2016 Supplementary Estimates I – Programme Based Budget of the National Government of Kenya for the year ending 30th June, 2016;
- (ii) The 2015/2016 Supplementary Estimates I – recurrent Expenditure for the year ending 30th June, 2016; and,
- (iii) The 2015/2016 Supplementary Estimates I – Development Expenditure for the year ending 30th June, 2016

(The Leader of the Majority Party)

9. NOTICE OF MOTION – SUPPLEMENTARY ESTIMATES 1 OF EXPENDITURE FOR THE FINANCIAL YEAR 2015/16

(The Leader of the Majority Party)

THAT, in accordance with the provisions of Article 223 of the Constitution of Kenya, this House approves the reduction of the approved withdrawal from the Consolidated Fund a sum of **Kenya Shillings (41,015,599,827)** representing the total net estimates of Recurrent and Development Expenditure of the National Government made up of the following:

- i. A sum not exceeding **Ksh. 22,997,618,387** be granted from the Consolidated Fund to meet expenditure during the year ending 30th June, 2016, in respect of Supplementary Estimates 1 of 2015/2016 Financial Year (Recurrent) having regard to the proposed reduction of **Ksh. 14,846,318,795** therein appearing; and
- ii. A sum not exceeding **Ksh. 11,064,903,308** be granted from the Consolidated Fund to meet expenditure during the year ending 30th June, 2016, in respect of Supplementary Estimates 1 of 2015/2016 Financial Year (Development) having regard to the proposed reduction of **Ksh. 60,231,802,727** therein appearing.

(The Speaker has determined the Motion as having the effect of a Money Bill in accordance with Article 114 of the Constitution).

10. **NOTICE OF MOTION - ADJOURNMENT OF THE HOUSE UNDER STANDING ORDER 33 TO DISCUSS A MATTER OF DEFINITE NATIONAL IMPORTANCE REGARDING HARRASSMENT OF KENYANS RESIDING IN MIGINGO ISLAND BY UGANDA SECURITY FORCES**

Rising in his place on a Point of Order, the Member for Gem (Hon. Jakoyo Midiwo) claimed to move a Motion for the adjournment of the House under the provisions of Standing Order 33 in order to discuss a definite matter of national importance regarding the harassment of Kenyans residing in Migingo Island by Ugandan security forces;

And the Speaker having acceded to the claim;

And there being sufficient number of Members rising in their places in support of the claim;

Thereupon, the Speaker directed that the Motion be moved at thirty minutes past Five O'clock today.

11. **MOTION - THE REPORT OF THE MEDIATED VERSION OF THE MINING BILL, 2014**

Motion made and Question proposed –

THAT, pursuant to the provisions of Article 113 (2) of the Constitution and Standing Order 150, this House adopts the Report of the Mediation Committee on the Mining Bill, 2014 laid on the Table of the House, Tuesday, 8th March 2016, and **approves** the mediated version of the Mining Bill (National Assembly Bill No. 9 of 2014).

(Co-Chairperson, Mediation Committee on the Mining Bill, 2014 – 10.03.2016)

Debate on the Motion having been concluded on Thursday, March 15, 2016;

Question put and agreed to.

12. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The Third Chairperson in the Chair

(i) **The Protection of the Traditional Knowledge and Traditional Cultural Expressions Bill (National Assembly Bill No. 48 of 2015)**

Clause 3 - amendment proposed –

THAT, clause 3 of the Bill be amended by inserting the words “promote positive traditional culture that is not repugnant to justice and morality and” immediately after the words “cultural expressions shall”

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and negatived;

Clause 3 - agreed to

Clause 4 - agreed to

Clause 5 - amendment proposed –

THAT, clause 5 of the Bill be amended in sub-clause (1) —

- (a) by inserting the words “at the Kenya Copyright Board” immediately after the words “maintenance of the Repository.”

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

- (b) by deleting the words “and conservation” appearing in paragraph (b);

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and negatived;

- (c) by deleting paragraph (d).

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and negatived;

Clause 5 - as amended agreed to

Clause 6 - agreed to

Clause 7 - amendment proposed –

THAT, clause 7 of the Bill be amended in sub-clause (6) by deleting the words “national government” and substituting therefor the words “Kenya Copyright Board”

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 7 - as amended agreed to

Clause 8 - amendment proposed –

THAT, clause 8 of the Bill be amended in sub-clause (3) by inserting the words “ in consultation with the relevant county government” immediately after the words “national government shall.”

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question for the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 8 - as amended agreed to

Clause 9 - agreed to**Clause 10** - amendment proposed –

THAT, clause 10 of the Bill be amended in sub-clause (3) by deleting the words “which shall provide for such matters as the Cabinet Secretary may prescribe” and substituting therefor the words “prescribing the procedures for the authorization of the exploitation of their traditional knowledge”.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 10 - as amended agreed to

Clauses 11, 12, 13, 14, 15, 16 & 17 - agreed to**Clause 18** - amendment proposed –

THAT, clause 18 of the Bill be amended—

(a) in sub-clause (4) by inserting the words “in consultation with county governments” immediately after the words “The national government.”

(b) in sub-clause (6) by inserting the words "in consultation with county governments" immediately after the words "The Cabinet Secretary."

(c) in sub-clause (7) by inserting the words "in consultation with county governments" immediately after the words "The Cabinet Secretary."

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 18 - as amended agreed to

Clauses 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 & 30 - agreed to

Clauses 31, 32, 33, 34, 35, 36, 37, 38, 39 & 40 - agreed to

Clauses 41, 42, 43 & 44 - agreed to

Clause 2 - amendment proposed –

THAT, clause 2 of the Bill be amended—

(a) by deleting the definition of the term "artistic works";

(b) by deleting paragraph (d) appearing in the definition of "traditional cultural expressions" and substituting therefor the following new paragraph—

"(d) tangible expressions, including productions of art, drawings, etchings, lithographs, engravings, prints, photographs, designs, paintings, including body-painting, carvings, sculptures, pottery, terracotta, mosaic, woodwork, metal ware, jewellery, basketry, pictorial woven tissues, needlework, textiles, glassware, carpets, costumes; handicrafts; musical instruments, maps, plans, diagrams architectural buildings, architectural models; and architectural forms;"

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 2 - as amended agreed to

Title - amendment proposed

THAT, the title of the Bill be deleted and substituted therefor the following new title —

"The Protection of Traditional Knowledge and Cultural Expressions Bill, 2015;"

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Title - as amendment proposed

Long Title - amendment proposed

THAT, the long title of the Bill be deleted and substituted therefor the following new title —

"A Bill for an Act of Parliament to provide a framework for the protection and promotion of traditional knowledge and cultural expressions; to give effect to Articles 11, 40 and 69(1)(c) of the Constitution; and for connected purposes;"

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Long Title - as amended agreed to

Clause1 - amendment proposed –

THAT, Clause 1 of the Bill be deleted and substituted therefor the following new clause —

"This Act may be cited as the Protection of Traditional Knowledge and Cultural Expressions Act, 2016;"

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause1 - as amended agreed to

Bill to be reported with amendments;

(ii) Petroleum (Exploration, Development, and Production) Bill (National Assembly Bill No. 44 of 2015)

Consideration deferred to another day

13. **HOUSE RESUMED** - The First Chairperson in the Chair

The Protection of the Traditional Knowledge and Traditional Cultural Expressions Bill (National Assembly Bill No. 48 of 2015)

Bill reported with amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in the said Report

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question put and agreed to;

Motion made and Question proposed –

THAT, the Protection of the Traditional Knowledge and Traditional Cultural Expressions Bill (National Assembly Bill No. 48 of 2015) be now read a Third Time.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Debate arising;

Question of the Third Reading deferred to another day

14. **THE LAND LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLYBILL NO. 55 OF 2015)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Land Laws (Amendment) Bill (National Assembly Bill No.55 of 2015) be now read a Second Time

(The Leader of the Majority Party – 09.03.2016)

Debate interrupted on Wednesday, March 09, 2016 (Afternoon Sitting) resumed;

Debate interrupted at 5:30 p.m. to allow debate on a Motion for Adjournment of the House to discuss a matter of definite National Importance urgent under Standing Order 33.

15. **ADJOURNMENT OF THE HOUSE UNDER STANDING ORDER 33 TO DISCUSS A MATTER OF DEFINITE NATIONAL IMPORTANCE REGARDING HARRASSMENT OF KENYANS RESIDING IN MIGINGO ISLAND BY UGANDA SECURITY FORCES**

Motion made and Question proposed –

THAT, the House do now adjourn;

(Hon. Jakoyo Midiwo)

Debate 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.

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

M E M O R A N D U M

The Speaker will take the Chair on
Wednesday, March 16, 2016 at 9.30 a.m.

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