



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – THIRD SESSION

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

THURSDAY, MARCH 19, 2015

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 Allegiance to the following Member –

Mr. KANCHORY, Elijah Memusi

5. **COMMUNICATION FROM THE CHAIR ON THE DEMISE OF HON. GRACE OGOT**

The Speaker conveyed the following Communication –

“Honourable Members,

The morning of Wednesday, March 18, 2015 was a sad day for the National Assembly, and indeed the nation as we lost one of our own, the Hon. Grace Ogot, former Member for Gem Constituency. The Hon. Ogot passed on at the Nairobi Hospital while undergoing treatment.

The late Grace Ogot was born in Asembo in the then Nyanza Province in the 1930s. She went to Ng'iya Girls' High School and Butere Girls' High School, after which she trained as a nurse at the Nursing Training Hospital in Uganda and later worked in London before returning to Kenya in 1958 to work at Maseno Hospital. Besides nursing, she worked as a journalist with the BBC Overseas Service as a radio announcer and a script writer.

Honourable Members,

The Hon. Grace Ogot demonstrated service to her country through her talent as a writer and is well known for her first book *The Promised Land* which was published in 1966. In 1968, her collection of short stories titled *Land Without Thunder* was published. Mrs. Ogot was recognized for her blossoming literary career and was named as a delegate to the United Nations General Assembly in 1975. In 1976, she was named as a member of the Kenyan delegation to UNESCO. She was also the founder of the Writers' Association of Kenya and served as its Chairperson from 1975 to 1980.

Honourable Members,

The Hon. Grace Ogot was an extraordinary woman who pioneered women liberation in Kenya as matters of the girl child were close to her heart. In 1983, she became one of only a handful of women to serve as a Member of Parliament and the only female assistant Minister in the Cabinet. She was elected MP for Gem in 1985 after a two-year stint as a nominated Kanu MP to becoming the second elected woman MP in Kenya after Mrs. Grace Onyango. The then President His Excellency Daniel Arap Moi later appointed her an assistant minister for Culture. In 1988, she was reappointed to her ministerial position and elected as the Member of Parliament for Gem Constituency, a position she held until 1992.

The former Gem MP was the wife of renowned academician Professor Bethwel Ogot. The couple has four children.

Honourable Members,

On behalf of the Members of the National Assembly, and indeed on my own behalf, I wish to take this opportunity to condole with the family of the Professor, the people of Gem Constituency and all her friends for the loss of this champion of women's rights and prolific writer. May the Almighty God grant comfort to the bereaved and give them strength to bear the profound loss, and may her soul rest in eternal peace.

In tribute to our departed former Member, I request that we all stand to observe a minute of silence.

Thank You".

6. PETITIONS

(i) The Speaker conveyed the following Petition –

Honorable Members,

Standing Order 225 requires the Speaker to report to the House, any Petition other than those presented through a Member. I wish to convey to the House that my office has received a Petition regarding the removal of the Chairperson and a member of the Ethics and Anti-Corruption Commission (EACC).

The Petition is signed by one Oriaro Geoffrey, stating that the Chairperson, Mr. Mumo Matemu and a member, Ms. Irene Keino of the Ethics and Anti-Corruption Commission (EACC) -

- a. are in serious violation of the Constitution and the Ethics and Anti-Corruption Commission Act, the Anti-Corruption and Economic Crimes Act, and the Penal Code;
- b. have shown gross misconduct in performance of their functions and duties as Commissioners; and
- c. are incompetent in the management of the Commission.

In this regard, the Petitioner prays that: -

- (i) this House resolves that this Petition discloses grounds for removal of the named Chairperson and Commissioner under Article 251(a) (b) and (d) of the Constitution; and

- (ii) the National Assembly recommends to H.E. the President to appoint a tribunal to investigate the named Chairperson and Commissioner in accordance with the provision of Article 251(4) of the Constitution.

Honorable Members,

In accordance with paragraph (3) of Standing Order 230, this Petition shall stand committed to the Departmental Committee on Justice and Legal Affairs for consideration. The work of the Committee is to guide the House, by way of a Report, on whether the Petition satisfies the grounds for removal of a member of a Constitutional Commission as set out in paragraphs (1) and (2) of Article 251 of the Constitution. The Committee has fourteen days within which to submit a report to the House as required under paragraph (4) of Standing Order 230. Further, once the Committee tables its report, the House will have **ten** (10) days to decide whether or not the Petition contains valid grounds for removal of the Chairperson and member of the Commission.

Thank you".

- (iii) The Member for Kibwezi West (Hon. Jessica Mbalu) presented a Petition on behalf of residents of Masongaleni Ward of Kibwezi East constituency, regarding a dispute over ownership of Tisya Primary School land, plot number 280 Makueni/Masongaleni Settlement Scheme.

Petitions referred to the relevant Departmental Committees pursuant to the Standing Orders.

7. PAPERS LAID

The following Papers were laid on the Table –

- (i) The Public Finance Management (Equalization Fund) Guidelines, 2015;
- (ii) The Performance Report of the Independent Policing Oversight Authority for the period of January 2014 to June 2014, *prepared pursuant to Section 30 of the IPOA Act, 2011*;
- (iii) The Annual Report and Financial Statements of the Kenya Institute of Curriculum Development (KICD) for the year ended 30th June 2013;
- (iv) The Report of the Auditor-General on the Financial Statements of Prisons Industries Fund for the year ended 30th June 2014, and the certificate of the Auditor-General therein;
- (v) The Report of the Auditor-General on the Financial Statements of Kenya Prisons Farms Revolving Fund for the year ended 30th June 2014, and the certificate of the Auditor-General therein;
- (vi) The Report of the Auditor-General on the Financial Statements of National Authority for the Campaign Against Alcohol and Drug Abuse for the year ended 30th June 2014, and the certificate of the Auditor-General therein;

- (vii) The Report of the Auditor-General on the Financial Statements of Export Promotion Council for the year ended 30th June 2014, and the certificate of the Auditor-General therein; and
- (viii) The Report of the Auditor-General on the Financial Statements of Jomo Kenyatta University of Agriculture and Technology Enterprises Limited for the year ended 30th June 2014, and the certificate of the Auditor-General therein.
- (ix) The Reports of the Select Committee on Regional Integration on:
 - (a) The Nordic-EAC Trade and Investment Conference, Gavle, Sweden from 27th – 28th May 2014; and
 - (b) The Benchmarking Visit to Canada from 11th – 15th June 2014.

(Chairperson, Committee on Regional Integration)

8. **NOTICE OF MOTION – EXPRESSION OF DISPLEASURE**
(Hon. (Dr.) Patrick Musimba)

THAT, pursuant to the provisions of Standing Order 87(1) and noting with concern that the Speaker of the National Assembly, Hon. Justin Muturi, EGH, M.P. has and continues to degrade the character and ability of the Honourable Members of this August House through making of contemptuous, malicious and unfounded allegations against them; aware that the said allegations have eroded the collective dignity, esteem and honour of Members of Parliament in and out of the House; concerned that the Speaker in so doing has failed in his constitutional duty to protect the dignity, honour and integrity of Parliament, this House expresses its displeasure and disappointment with the conduct of the Speaker and censures him.

9. **STATEMENT PURSUANT TO STANDING ORDER 44(2)(b)**

Pursuant to Standing Order 44(2)(b), the Majority Whip issued a Statement regarding the Business of the House for the week commencing Tuesday, March 24, 2015

10. **PROCEDURAL MOTION – REDUCTION OF PUBLICATION PERIOD FORBILLS**

Motion made and Question proposed –

THAT, notwithstanding the provisions of Standing Order 120, this House resolves to reduce the publication period of the following Bills:-

- (i) The Division of Revenue Bill (National Assembly Bill No. 11 of 2015) from 7 to 2 days;
- (ii) The Fair Administrative Action Bill (National Assembly Bill No. 10 of 2015) from 14 to 7 days.

Debate arising;

Question put and agreed to.

11. **THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO.11 OF 2015)**

(The Leader of the Majority Party)

Order for First Reading Read;

Bill read a First Time and ordered to be read a Second Time tomorrow;12. **THE FAIR ADMINISTRATIVE ACTION BILL (NATIONAL ASSEMBLY BILL NO.10 OF 2015)**

(The Leader of the Majority Party)

Order for First Reading Read;

Bill read a First Time and ordered to be read a Second Time tomorrow;13. **MOTION – REPORT ON VETTING OF THE NOMINEE FOR APPOINTMENT AS AMBASSADOR TO THE FEDERAL REPUBLIC OF SOMALIA**

Motion made and Question proposed –

THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on the vetting of the nominee for appointment as Ambassador, laid on the Table of the House on Tuesday, March 17, 2015, and pursuant to Article 132(2)(e) of the Constitution, **approves** the appointment of **Major General (Rtd) Lucas K. Tumbo** as Ambassador to the Federal Republic of Somalia.

(Chairperson, Departmental Committee on Defence & Foreign Relations – 17.03.15)

Debate interrupted on Wednesday, March 18, 2015 resumed;

Mover replied;

Question of the Motion deferred to another day.

14. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The Third Chairperson of Committees in the Chair

The Protection against Domestic Violence Bill (National Assembly Bill No. 28 of 2013)Clause 15 - amendment proposed –

THAT, clause 15 of the Bill be amended in subclause (2) by deleting the word “encourages” appearing immediately after the words “respondent who” and substituting therefor the words “aids or abets”;

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 15 - as amended agreed to

Clause 16 - amendment proposed –

THAT, clause 16 of the Bill be amended in subclause (1) by deleting the words “including those provided by religious institutions and any suitable cultural programmes subject to their satisfaction that these programmes will not in any way undermine the objects of this Act or the values and principles of the Constitution” and substituting therefor the words “or any other programme that is acceptable to the court”;

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 16 - as amended agreed to

Clause 17 - agreed to

Clause 18 - amendment proposed –

THAT, the Bill be amended by deleting clause 18;

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Proposed amendment withdrawn;

Clause 18 - agreed to

Clause 19 - amendment proposed –

THAT, clause 19 of the Bill be amended—

(a) in subclause (1) by deleting the words “is inciting or encouraging, or has incited or encouraged, the respondent to engage in behaviour against a protected person where that behaviour, if engaged in by respondent, would amount to domestic violence” and substituting therefor the words “aids and abets the respondent”;

(a) by deleting subclause (2);

(c) by deleting subclause (3);

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 19 - as amended agreed to

Clause 20 - amendment proposed –

THAT, the Bill be amended by deleting clause 20;

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Proposed amendment withdrawn;

Clause 20 - agreed to

Clause 21 - amendment proposed –

THAT, clause 21 of the Bill be amended—

(a) in subclause (2) by deleting the word “follow” appearing in paragraph (b) and substituting therefor the word “stalk”;

(b) in subclause (7) by deleting the word “modified” appearing immediately after the words “revoked or” in paragraph (b) and substituting therefor the word “varied”;

(c) by deleting subclause (8);

(d) by deleting subclause (9);

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Proposed amendment (d) withdrawn;

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 21 - as amended agreed to

Clause 22 - amendment proposed –

THAT, clause 22 of the Bill be amended by deleting subclause (5);

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Proposed amendment withdrawn;

Clause 22 - agreed to

Clause 23 - amendment proposed –

THAT, the Bill be amended by deleting clause 23;

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 23 - deleted

Clause 24 - agreed to

Clause 25 - amendment proposed –

THAT, clause 25 of the Bill be amended—

(a) in subclause (1) by deleting the words “has received an explanation of the order in accordance with section 31” appearing immediately after the words “protection order”;

(b) by deleting subclause (2);

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 25 - as amended agreed to

Clause 26 - agreed to

Clause 27 - amendment proposed –

THAT, clause 27 of the Bill be amended—

(a) in subclause (1) by deleting the words “of the first class” appearing immediately after the word “Courts”;

(b) in subclause (2) by deleting the words “soon as possible” appearing immediately after the words “court as” in paragraph (b) and substituting therefor the words “maybe directed by the court”;

(c) by deleting subclauses (4), (5), (6), (7), (8), (9), (10), (11), (12) and (13);

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 27 - as amended agreed to

Clause 28 - amendment proposed –

THAT, clause 28 of the Bill be amended by deleting subclauses (2), (3) and (4);

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 28 - as amended agreed to

Clause 29 - amendment proposed –

THAT, the Bill be amended by deleting clause 29;

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 29 - deleted

Clauses 30 & 31 - agreed to

Clause 32 - amendment proposed –

THAT, the Bill be amended by deleting clause 32;

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 32 - deleted

Clause 33 - amendment proposed –

THAT, the Bill be amended by deleting clause 33;

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 33 - deleted

Clause 34 - amendment proposed –

THAT, the Bill be amended by deleting clause 34;

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 34 - deleted

Clause 35 - amendment proposed –

THAT, the Bill be amended by deleting clause 35;

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and negatived;

Clause 35 - agreed to

Clause 36 - amendment proposed –

THAT, the Bill be amended by deleting clause 36

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 36 - deleted

Clause 37 - amendment proposed –

THAT, clause 37 of the Bill be amended by deleting subclauses (4), (5), (6) and (7);

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 37 - as amended agreed to

Clause 38 - amendment proposed –

THAT, the Bill be amended by deleting clause 38;

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 38 - deleted

Clause 39 - amendment proposed –

THAT, the Bill be amended by deleting clause 39;

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 39 - deleted

Clause 40 - amendment proposed –

THAT, clause 40 of the Bill be amended by inserting a new subclause immediately after subclause (3)—

“(4) A publication under this section shall be made thirty days after the final determination of the proceedings”;

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 40 - as amended agreed to

Clause 41 - agreed to

Clause 42 - amendment proposed –

THAT, the Bill be amended by deleting clause 42;

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 42 - deleted

Clause 43 - amendment proposed –

THAT, clause 43 of the Bill be amended—

(a) by deleting subclause (1);

(b) in subclause (2) by inserting the word “have” immediately after the words “shall”;

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 42 - as amended agreed to

THAT, the Bill be amended by deleting clause 44;

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 42 - deleted

Clauses 43 - amendment proposed –

THAT, clause 43 of the Bill be amended—

(a) by deleting subclause (1);

(b) in subclause (2) by inserting the word “have” immediately after the words “shall”;

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 43 - as amended agreed to

Clause 44 - amendment proposed –

THAT, the Bill be amended by deleting clause 44

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 44 - deleted

Clause 45 - amendment proposed –

THAT, the Bill be amended by deleting clause 45

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 45 - deleted

Clause 46 - agreed to

Clause 1 - agreed to

Title - agreed to

Bill to be reported with amendments.

15. **HOUSE RESUMED** - the Fourth Chairperson in the Chair

Bill reported with amendments;

Motion made and Question proposed –

THAT, the House do agreed with the Committee of the whole House in the said Report

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Question put and agreed to;

Motion made and Question proposed –

THAT, the Protection against Domestic Violence Bill (National Assembly Bill No. 28 of 2013)

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Debate arising;

Question of the Third Reading deferred.

And the time being thirty minutes past Six O'clock, the Fourth Chairperson of Committees 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
Tuesday, March 24, 2015 at 2.30 p.m.

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