



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – (THIRD SESSION)

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

THURSDAY, AUGUST 20, 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) **Whether a Bill to amend the Constitution may be amended by the House**

"Honourable Members,

You may recall that on Wednesday, August 4, 2015 during the morning sitting, the Member for Ainabkoi, the Hon. Samuel Chepkong'a while contributing to the Second Reading of the Constitution of Kenya (Amendment) Bill, National Assembly Bill No 1 of 2015, sought guidance of the Speaker on whether the House can amend a Bill seeking to amend the Constitution. During the same sitting, the Leader of the Majority Party also sought guidance of the Speaker on whether that particular Bill will require the approval of the people of Kenya by way of a referendum as contemplated under Articles 255 and 256(5)(a).

Honourable Members, you are aware that the said Bill which is proposed by the Member for Ugenya, the Hon. David Ochieng' is proposing to amend Articles 101(1), 136(2)(a), 177(1)(a) and 180(1) of the Constitution of Kenya relating to the date of the general elections for Members of Parliament, the President, members of County Assemblies and Governors. From the onset, it is clear that to me that the scope of some of the matters submitted for guidance, particularly on the issue of referendum is beyond matters of procedure and traditions of this House and has implication beyond Parliament. In this regard, even as I make my determination known to the House, I am conscious that my findings are limited to one of my cardinal roles of facilitating the transaction of business in the National Assembly. Let me start with the first question of whether **a Bill to amend the constitution can be amended in the House.** To begin with, **Hon. Members**, I wish to restate to the House the provisions of Article 256 of the Constitution relating to amendment of the Constitution through parliamentary initiative which is the option preferred by the Member for Ugenya in his Bill, state and I quote—

(1) A Bill to amend this Constitution—

(a) may be introduced in either House of Parliament;

- (b) may not address any other matter apart from consequential amendments to legislation arising from the Bill;*
 - (c) shall not be called for second reading in either House within ninety days after the first reading of the Bill in that House; and*
 - (d) shall have been passed by Parliament when each House of Parliament has passed the Bill, in both its second and third readings, by not less than two-thirds of all the members of that House.*
- (2) Parliament shall publicise any Bill to amend this Constitution, and facilitate public discussion about the Bill.*
- (3) After Parliament passes a Bill to amend this Constitution, the Speakers of the two Houses of Parliament shall jointly submit to the President—*
- (a) the Bill, for assent and publication; and*
 - (b) a certificate that the Bill has been passed by Parliament in accordance with this Article.*
- (4) Subject to clause (5), the President shall assent to the Bill and cause it to be published within thirty days after the Bill is enacted by Parliament.*

Honourable Members, It must be noted from the foregoing that the Constitution sets out a distinct procedure for the consideration and passage of Bills to amend the Constitution different from that prescribed for ordinary legislation. First, and with regard to amendments through parliamentary initiative, such a Bill is not to address any other matter apart from consequential amendments to legislation arising from it. Secondly, the Bill cannot be read for a Second time until at least ninety days have lapsed since its First Reading to allow for public discussion of its contents. Thirdly, the Bill requires passage by not less than two-thirds majority in both Houses of Parliament at both its Second and Third Readings. Lastly the Bill is to be assented into law within thirty days of its passage. This process deliberately excludes additional processes such as concurrence between the two Speakers on whether the Bill concerns Counties use of mediation committees to harmonize differing views between the Houses and reservations by the President to the content of a Bill.

Honourable Members, From the foregoing, nothing would have been easier for the framers of our Constitution than expressly importing into, or at the very least referencing the amendment procedure applicable to ordinary legislation under Articles 109 to 123 of the Constitution into the framework provided under Article 256. Articles 3 and 10 of the Constitution and Standing Order 47(3) oblige the Speaker to respect, uphold and defend the Constitution. I am guided by this particular duty in my considered opinion that the provisions of Article 256 of the Constitution are worded deliberately. **Indeed**, as was well noted by the Hon. Member for Ainabkoi, the Hon. Chepkong'a the former Constitution of Kenya imposed explicit limits on the nature of interventions that the House could make with regard to the content of a Bill to amend the Constitution. Section 47 (4) of the former Constitution provided that, and I quote—

When a Bill for an Act of Parliament to alter this Constitution has been introduced into the National Assembly, no alterations shall be made in it before it is presented to the President for his assent, except alterations which are certified by the Speaker to be necessary because of the time that has elapsed since the Bill was first introduced into the Assembly.

The only change that could be made to a Bill to amend the Constitution at that time was corrections to references to time and dates and such change could be made only upon the certification of the necessity for the change by the Speaker.

Honourable Members, you will agree with me that it would be imprudent for the Speaker, or indeed this House, to assume that the exclusion of the above limits from the current Constitution is interpreted as allowing room for amendment to a Bill proposing to amend it. The custom and tradition of our democracy has been to restrict amendments to the Constitution. I see no reason to depart from this practice as the Speaker cannot rely on allegory or allusion in guiding this House.

Indeed, Members will note that the Preamble to the Constitution highlights that the people of Kenya adopted, enacted and gave the Constitution to themselves and to future generations. The sanctity of the Constitution as a social contract between the people of Kenya and not a document belonging to the Houses of Parliament, nor any other organ for that matter, is to be jealously safeguarded at every turn and any process of its amendment is delicate and can only be undertaken with reference to a definite procedure that deviates from the ordinary. While Parliament has been given the power to amend the Constitution, we should be mindful that the Constitution belongs to the people of this Republic and treating the process of its amendment to be akin to an ordinary legislation subverts the collective will of the People. In this regard, it is expected that any person intending to amend the Constitution must be very clear and precise on what he or she is intending to alter, but not to change mind while in the process. It is my strong view that any proposal to amend the Constitution should be preceded by meaningful and adequate consultations before such Bill is published, a principle that is embodied in the Article 256(2) of the Constitution. Bearing in mind that the legislative power is originally derived and consequently vested in the people, we ought to obtain the confidence of our fellow citizens even as we endeavor to amend the Constitution. The process of making or amending the Constitution therefore cannot be without consultations, precision and guarded restraint. Indeed, James Madison, the fourth president of the United States of America (1809-1817) who is considered as the "Father of the American Constitution" once wrote, and I quote-

"that the American Constitution was not, like fabled goddess of wisdom, the offspring of single brain. It ought to be regarded as the work of many heads and many hands"

Honourable Members, one of the fundamental questions that would arise if the Speaker was to allow amendments to a Bill proposing to amend the Constitution is whether such a Bill would be subjected to mediation processes in terms of Article 113 of the Constitution as read with Standing Order 149. A close reading of Article 256(1)(d) of the Constitution reveals unequivocally that a Bill to amend the Constitution would not as I had earlier stated be subjected to mediation, as it is a process prescribed for ordinary legislation. Articles 111 and 112 of the Constitution further extrapolates this by providing that only special and ordinary Bills may be subjected to mediation processes. A Bill to amend the Constitution is clearly NOT one of the Bills under Article 111 or 112 of the Constitution which invites the application of mediation processes. Further, as I had stated earlier the Constitution is a document belonging to the people of Kenya and not to the Houses of Parliament. In this regard therefore, if mediation processes were to apply to Bills seeking to amend the Constitution, this would negate the very essence to which the Constitution was made. Article 113(4) of the Constitution as read with Standing Order 149(6) provides that if a mediation Committee fails to agree on version of the Bill to be presented to both Houses for approval, the Bill will be deemed to have been defeated and negated. A Bill to amend the Constitution may be termed as one that forms part of the engine which seeks to propel the aspirations of Kenyans as a people. Consequently, the drafters of the Constitution could not have intended to dilute or hamper any avenue or channel for

Kenyans to do so by subjecting a Bill to amend the Constitution to mediation processes which have the potential of ending in a *cul de sac* where the mediation Committee fails to agree on a version of the Bill.

Honourable Members, consciously aware that the House looks to the Speaker to decide any procedural question that arises in the House, I am therefore of the opinion that a plain reading of Article 256 of the Constitution clearly reveals that while the Constitution does not expressly disallow amendments to a Bill proposing to amend any of its Articles, it deliberately **discouraged** such amendments, unless there is anything extraordinary in the proposed Bill that would require application of the extraordinary measures. In this regard, I am constrained **NOT** to allow any amendment to the Bill proposed by the Member for Ugenya or indeed any of the other four Bills proposing to amend the Constitution. This now settles the first question.

Honourable Members, on the second question of whether the Bill proposed by the Member for Ugenya should be subjected to a referendum, several weighty matters were canvassed. In particular, there has been debate, on whether the Bill has the effect of extending the term of office of the President in terms of Article 255(1)(f) of the Constitution an argument that has been advanced in this House, in the previous House and elsewhere. The determination of whether this particular Bill should be subjected to a referendum is tied to first establishing what exactly the term of office of the President is. In my gracious attempt to do this, allow me to refer to Article 142(1) of the Constitution which provides that and I quote "the President shall hold office for a term beginning on the date on which the President was sworn in, and ending when the person next elected President in accordance with Article 136(2) is sworn in". It should not escape our minds that the current President was sworn in on the 9th of April, 2013. A reading of this provision does not therefore expressly state what is the term of office of the President. Further, a reading of the interpretation clause of the Constitution under Article 260 does not also answer the fundamental question of what is really the term of office of the President as that explanation is not included in the definitions. However, a quick perusal of the Constitution and in particular Articles 136(2)(a), 146(4)(a) and 177(1)(a) and (4) is perhaps the closest one would get in determining or rather construing what is the term of office of the President. Article 136(2)(a) provides that an election of the President shall be held on the same day as a general election of the Members of Parliament, being the second Tuesday in August of every fifth year. This provision seems to suggest that the term of office of the President is five years. Further, Article 146(4)(a) provides that if the Deputy President assumes office where there is a vacancy in the office of the President, such person shall be deemed to have served for a full term as a President if at the date which the person assumed office, more than two and half years remain before the date of the next regular scheduled election. Reference to the period of two and half years, which connotes a full half of a term of five years seems to solidify the provisions of Article 136 that the term of office of the President is indeed five years. Article 177(1)(a) and (4) 180(1) as read together with Article 136 also indicate that the term of office of the President is five years as it provides that the term of a county assembly is five years. Indeed, the members of county assemblies are elected on the same day as a general election of the Members of Parliament, being the second Tuesday in August of every fifth year the same day which, as already discussed, the President is also elected.

Hon. Members, consequently, having looked at the Constitution, the Bill by Hon. David Ochieng' which seeks to change the election date to provide that general elections shall be held on the 3rd Monday of December in the FIFTH YEAR may NOT be said as being one that has the effect of extending the term of office of the President since, under the provisions of the Bill, those elections would still be held WITHIN THE FIFTH YEAR.

Honourable Members, I now wish to draw the attention of the House to provisions of Article 256(5) of the Constitution, which provides as follows-

(5) If a Bill to amend this Constitution proposes an amendment relating to a matter specified in Article 255 (1)—

(a) the President shall, before assenting to the Bill, request the Independent Electoral and Boundaries Commission to conduct, within ninety days, a national referendum for approval of the Bill; and

(b) within thirty days after the chairperson of the Independent Electoral and Boundaries Commission has certified to the President that the Bill has been approved in accordance with Article 255 (2), the President shall assent to the Bill and cause it to be published.

I note in that regard, that the question of whether or not the Bill proposed by the Member for Ugenya should be subjected to a referendum is that of construing and interpreting the Constitution. Indeed, any attempt by the Speaker to make such a determination would be in blatant violation of the Constitution which pursuant to Article 165(3)(d) gives the High Court the jurisdiction to hear any question respecting the interpretation of the Constitution. As such the Speaker can neither purport to wear the hat of the judge nor hide behind the mask that blurs the principle of separation of powers between the Legislature and the Judiciary. Needless to say that the interpretation of the Constitution cannot be said to be a procedural matter for determination by the Speaker. Further,, I wish to quote the authority derived from a commonly quoted publication titled *The Fifth Edition of the House of Representatives Practice of the Commonwealth of Australia* on the subject of interpretation of the Constitution, that-

"the Speakers have generally taken the view that, with exception of determining questions of procedure relating to business in the House, the obligation to interpret the Constitution does not rest with the Chair and that the only body fully entitled to do so is the High Court. Not even the House has the power finally to interpret the terms of the Constitution".

Hon. Members, I have no intention of deviating from this longstanding Commonwealth practice which in our case, and as stated earlier is espoused in Article 165 of the Constitution. It is also important to state that, in the process of amending the Constitution by Parliamentary Initiative, the responsibility of the Speakers ends when they jointly present the Bill to the President for assent together with a ***certificate that the Bill has been passed by Parliament in accordance with Article 256.*** Indeed, the particular duty of determining that question of whether or not the Bill proposed by the Member for Ugenya should be subjected to a referendum is vested in other competent authorities including the President under Article 256(5)(a) of the Constitution.

In summary therefore, on the two questions, it is my finding -

(a) **THAT**, I will not allow any amendment to the Bill proposed by the Member for Ugenya or indeed any of the other four published Bills proposing to amend the Constitution; and,

(b) **THAT**, the determination as to whether a Bill proposing to amend the Constitution requires the approval by a referendum in terms of Articles 255 and 256 of the Constitution is outside the purview of the Speaker.

The House is, therefore, guided accordingly.

(ii) **Holding of a *Kamukunji* on Tuesday, August 25, 2015 regarding Extension of Time for Legislation with Constitutional Timelines and other matters**

"Honourable Members,

You will recall that yesterday, the Chairperson of the Constitution Implementation Oversight Committee (CIOC) gave Notice of Motion, seeking approval of the House, to extend by twelve (12) months, the period in respect of legislation with Constitutional timeline of August 27, 2015 pursuant to Article 261 (2) of the Constitution. In the ensuing debate, which was adjourned pursuant to Standing Order 96, Members from both sides of the House expressed their frustration for the delay by relevant bodies to timeously initiate the process of developing the said Bills for consideration by Parliament, putting the House in a situation where an extension has to be sought.

Consequently, I urged the Leaders of the Majority and Minority Parties in the House to urgently hold a consultative meeting with a view of finding a solution to this matter. I wish to report that my office has received communication from the Leadership of the House indicating that their meeting resolved that a Speaker's *Kamukunji* be convened on Tuesday, August 25, 2015, at 12:00 noon, in the National Assembly Chamber to deliberate on this matter. Also arising from those consultations, the business has been revised as indicated in the Supplementary Order Paper for today.

Honourable Members, you will also recall that on Tuesday, 19th August 2014, precisely a year later, this House, finding itself in a similar situation in respect to the enactment of Year Four Constitutional Bills, adopted a Motion that extended the period in respect to legislation that had a Constitutional timeline of 27th August 2014 by nine (9) months from August 27, 2014. The Chairperson of the CIOC is making a similar appeal to this House. Indeed even the previous House, namely the Tenth Parliament, had to pass a Motion to extend the period prescribed for enactment of legislation relating to land in 2012.

Honourable Members, it is obvious that the Bills earmarked for passage by the 27th August 2015, cannot be enacted since Parliament has barely seven (7) calendar days left. In this regard, I wish to urge Members to take their time to apprise themselves with the provisions of Article 261 of the Constitution. In so doing, honourable Members, I request that you apply yourselves to how the provisions of that Article 261 weigh on Parliament; the implications contained therein and the window of opportunity provided to this House in the circumstances that the House finds itself in today.

This is therefore to urge all Members to attend the *Kamukunji* to deliberate on the matter as aforesaid and the matters touching on the CDF.

Thank you".

(iii) **Consideration of the Presidential Memorandum on the Ethics and Anti-Corruption Commission (Amendment) Bill (National Assembly Bill No.33 of 2015)**

"Honourable Members,

You may recall that, on Thursday, 28th July, 2015, I issued a Communication relating to the consideration of Presidential Reservations on Bills referred to Parliament for re-consideration.

I wish to remind you, that, from the Communication, I guided that the Presidential Memorandum can be amended in two ways:-

- (i) where the proposed amendment does not fully accommodate the President's Reservations, it will require two-thirds majority for its passage; and,
- (ii) where the proposed amendment fully accommodates the President's Reservations, it will require a simple majority for its passage.

Honourable Members,

In this regard, you are aware that the Presidential Memorandum to the Ethics and Anti-Corruption Commission (Amendment) Bill (National Assembly Bill No.33 of 2015) has attracted amendments from the Departmental Committee on Justice and Legal Affairs and from the Hon. Chris Wamalwa, MP.

Honourable Members,

I have made the following determinations regarding the proposed amendments to the Presidential Reservations to Clause 4 and Clause 6:-

- i. **THAT**, the proposed amendments by the Departmental Committee on Justice and Legal Affairs relating to Clause 4 have the effect of fully accommodating the Presidential Reservations relating to that Clause and therefore will require a simple majority of Members for passage; and,
- ii. **THAT**, the proposed amendments by the Departmental Committee on Justice and Legal Affairs and those proposed by the Hon. Chris Wamalwa to the Presidential Reservations to Clause 6 have the effect of negating the Presidential Reservations on the said Clause and therefore will require two-thirds majority of Members for passage.

My determinations on those two Clauses have been summarised in the Order Paper on Pages 740 and 741.

Honourable Members,

It is also important to remind you that the absence of at least two-thirds majority at the time of putting the question does not in any way imply that the House is improperly constituted. The Committee of the Whole House will therefore proceed as guided.

I thank you".

5. PAPERS LAID

The following Papers were laid on the Table –

- (i) The Report of the Auditor-General on the Financial Statements of Unclaimed Financial Assets Authority for the year ended 30th June, 2014 and the certificate therein;
- (ii) The Report of the Auditor-General on the Financial Statements of Policyholders' Compensation Fund for the year ended 30th June, 2014 and the certificate therein;

- (iii) The Report of the Auditor-General on the Financial Statements of Kenya Water Institute for the year ended 30th June, 2014 and the certificate therein;
- (iv) The Report of the Auditor-General on the Financial Statements of Kenya Leather Development Council for the year ended 30th June, 2014 and the certificate therein;
- (v) The Report of the Auditor-General on the Financial Statements of National Aids Control Council for the year ended 30th June, 2014 and the certificate therein;
- (vi) The Report of the Auditor-General on the Financial Statements of the Youth Enterprise Development Fund Board for the year ended 30th June, 2014 and the certificate therein;
- (vii) The Report of the Auditor-General on the Financial Statements of the Kenya Industrial Research and Development Institute for the year ended 30th June, 2014 and the certificate therein;
- (viii) The Report of the Auditor-General on the Financial Statements of the Ministry of Industrialization and Enterprise Development for the year ended 30th June, 2014 and the certificate therein;
- (ix) The Report of the Auditor-General on the Financial Statements of the National Housing Corporation for the year ended 30th June, 2014 and the certificate therein; and,
- (x) The Report of the Auditor-General on the Financial Statements Egerton University for the year ended 30th June, 2014 and the certificate therein.

(The Leader of the Majority Party)

6. **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, August 25, 2015.

7. **PROCEDURAL MOTION – REDUCTION OF PUBLICATION PERIOD**

Motion made and Question proposed –

THAT, pursuant to the provisions of Standing Order 120, this House resolves to reduce the Publication Period of the Energy Bill (National Assembly Bill No.50 of 2015) from 14 to 9 days

(The Leader of the Majority Party)

Debate arising;

There being no Member wishing to debate;

Question put and agreed to.

8. THE ENERGY BILL (NATIONAL ASSEMBLY BILL NO. 50 OF 2015)

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 BUSINESS REGISTRATION SERVICE BILL (NATIONAL ASSEMBLY BILL NO.13 OF 2015)

Motion made and Question proposed –

THAT, the Business Registration Service Bill (National Assembly Bill No.13 of 2015) be now read a Second Time

(The Leader of the Majority Party – 19.8.2015(PM))

Debate on the Second Reading having been concluded on August 19, 2015 (Afternoon Sitting);

Question put and agreed to;

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

10. MOTION - THE MEDIATED REPORT ON THE FERTILIZERS AND ANIMAL FOODSTUFFS (AMENDMENT) BILL

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 Fertilizers and Animal Foodstuffs (Amendment) Bill, laid on the Table of the House on Wednesday, 19th August 2015, and **approves** the mediated version of the Fertilizers and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No.36 of 2013)

(Chairperson, Mediation Committee on the Fertilizers and Animal Foodstuffs (Amendment) Bill – 19.8.2015 (AM))

Debate on the Motion having been concluded on Wednesday, August 19, 2015 (Morning Sitting);

Question put and agreed to;

11. COMMITTEE OF THE WHOLE HOUSE

Order for Committee read;

IN THE COMMITTEE

The Third Chairperson in the Chair

Presidential Memorandum on the Ethics and Anti-Corruption Commission (Amendment) Bill (National Assembly Bill No.33 of 2015)

Amendments recommended by H.E. the President to the Ethics and Anti- Corruption Commission (Amendment) Bill (National Assembly Bill No. 33 of 2015)

Clause 4

THAT, Clause 4 of the Bill be amended by deleting the proposed Section 10 and substituting therefor the following new section –

Filling of vacancy 10. Notwithstanding section 6, whenever a vacancy arises in the membership of the Commission, the Public Service Commission shall, within fourteen days after the vacancy arises, advertise, interview and shortlist three qualified applicants for each vacancy and forward the names of the applicants so qualified to the President for appointment

Amendments proposed to the President's Reservations by the Departmental Committee on Justice and Legal Affairs to Clause 4

Clause 4

THAT, the Bill be further amended in the proposed Clause 4 by deleting Section 10 as proposed by H.E the President and substituting therefor the following—

Filling of vacancy **10.** (1) Whenever a vacancy arises in the membership of the Commission, the Public Service Commission shall, within fourteen days—

- (a) invite applications from persons who qualify for nomination and appointment by advertisement in at least two daily newspapers of national circulation;
- (b) consider the applications received to determine their compliance with the provisions of the Constitution and this Act;
- (c) short list the applicants;
- (d) conduct interviews of the shortlisted persons in public;
- (e) shortlist three qualified applicants for each vacancy; and
- (f) forward the names of the qualified persons to the President.

(2) The President shall, within fourteen days of receipt of the names of successful applicants forwarded under subsection (1) (f), select the person to fill the vacancy in the Commission and forward the name of the person to the National Assembly for approval.

(3) The National Assembly shall, within twenty-one days of the day it next sits after receipt of the name of an applicant under subsection (2), vet and consider the applicant, and may approve or reject applicants for any or all vacancies in the Commission.

(4) Where the National Assembly approves of an applicant, the Speaker of the National Assembly shall forward the name of the approved applicant to the President for appointment.

(5) The President shall, within seven days of receipt of the name of the approved applicant from the National Assembly, by notice in the *Gazette* appoint the applicant to the Commission.

(6) Where the National Assembly rejects any nomination, the Speaker shall within three days communicate its decision to the President and request the President to submit fresh nominations.

(7) Where a nominee is rejected by the National Assembly under subsection (6), the President shall within seven days, submit to the National Assembly a fresh nomination from amongst the persons shortlisted and forwarded by the Public Service Commission under subsection (1)(f).

(8) If the National Assembly rejects any or all of the subsequent nominees submitted by the President for approval under subsection (1), the provisions of subsections (1) and (2) shall apply.

(9) In short listing, nominating or appointing persons to fill a vacancy in the Commission, the Public Service Commission, the National Assembly and the President shall ensure that not more than two-thirds of the members are of the same gender.

(The Speaker has determined the proposed amendment as having the effect of fully accomodating the President's Reservations on Clause 4)

(Chairperson, Departmental Committee on Justice & Legal Affairs)

Debate arising;

Question put and agreed to.

Clause 6 - amendment proposed -

THAT, the Bill be amended by deleting Clause 6 and substituting therefor the following new Clause-

Transitional provision 6. (1) Every person who immediately before the commencement of this Act was an employee of the Commission, shall upon such commencement continue to serve in his or her respective position in accordance with the contract of employment:

Provided that the Commission shall, within the period of one year after the appointment of Commissioners under this Act, using criteria determined by the Commission, vet such employee to ensure that he or she is fit and proper to continue serving as such.

(2) The services of any person who fails to meet the vetting criteria established by the Commission under this section shall be terminated in accordance with the contract of employment.

Amendments proposed to the President's Reservations by the Departmental Committee on Justice and Legal Affairs to Clause 6

Clause 6

THAT, the Bill be further amended in the proposed Clause 6 by deleting clause 6 proposed by H.E the President and substituting therefor the following —

Transitional
provision.

6. (1) Within six months of the commencement of this Act, the Commission shall—

(a) develop criteria to vet all employees of the Commission; and

(b) determine whether the employees are fit to continue serving the Commission.

(2) The Commission shall terminate the services of a person determined unfit to continue serving under subsection (1).

(The Speaker has determined the proposed amendment as having the effect of negating the President's Reservations on Clause 6 and two-thirds majority of Members is required for its passage)

Question of the amendment proposed;

Debate arising;

Further amendment proposed -

THAT, the proposed new clause 6 be amended in subclause (1), by deleting the words "one year" appearing in the proviso and substituting therefor the words "six months".

(Hon. Chris Wamalwa)

Question of the further amendment proposed;

Debate arising;

Question put and agreed to.

Consideration of H. E. the President's recommendations to the Ethics and Anti-Corruption Commission (Amendment) Bill (National Assembly Bill No. 33 of 2015) to be reported **with** amendments

12. **HOUSE RESUMED** – the Fourth Chairperson in the Chair

Consideration of H. E. the President's recommendations to the Ethics and Anti-Corruption Commission (Amendment) Bill (National Assembly Bill No. 33 of 2015) reported **with** amendments

Question put and agreed to.

13. **THE EXCISE DUTY BILL (NATIONAL ASSEMBLY BILL NO.28 OF 2015)**

Motion made and Question proposed –

THAT, the Excise Duty Bill (National Assembly Bill No.28 of 2015) be now read a Second Time

(The Leader of the Majority Party)

Debate arising;

There being no more Members wishing to contribute;

Mover replied;

Question of the Second Reading deferred to another day.

14. **THE POLITICAL PARTIES (AMENDMENT) BILL (SENATE BILL NO.3 OF 2014)**

Motion made and Question proposed –

THAT, the Political Parties (Amendment) Bill (Senate Bill No.3 Of 2014) be now read a Second Time

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

Order deferred to another day.

15. **THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL (SENATE BILL NO6 OF 2014)**

Motion made and Question proposed –

THAT, the Statute Law (Miscellaneous Amendments) Bill (Senate Bill No. 6 of 2014) be now read a Second Time

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

Order deferred to another day.

16. **MOTION – ADOPTION OF THE REPORT ON THE RESETTLEMENT OF SQUATTERS IN MURI; MATHENGETA TUMUTUMU, RIAKANAU, DRAKE & KASEKU FARMS**

Motion made –

THAT, this House adopts the Report of the Departmental Committee on Lands on the Resettlement of Squatters in Muri Farm; Mathengeta Tumutumu/Riakanau Farm; and Drake Farm and Kaseku Farm, laid on the Table of the House on Thursday, 12th June, 2014.

(The Chairperson, Departmental Committee on Lands)

Motion deferred in the absence of the Mover.

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

17. HOUSE ROSE - at twenty-seven minutes past Six O'clock

M E M O R A N D U M

The Speaker will take the Chair on
Tuesday, August 25, 2015 at 2.30 p.m.

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