



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – (SECOND SESSION)

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, FEBRUARY 25, 2014

1. The House assembled at Two Thirty O'clock.
2. The Proceedings were opened with Prayer.
3. **COMMUNICATION FROM THE CHAIR – REFUSAL TO ASSENT TO THE INSURANCE (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.5 OF 2013)**

The Speaker conveyed the following Communication –

"Honourable Members,

"You will recall that on Wednesday, February 12, 2014, I promised to give a communication on the procedure to be followed when considering the Memorandum from H.E. the President on the Insurance (Amendment) Bill, (National Assembly Bill No.5), 2013.

H.E. the President's memorandum indicates the specific provisions of the Bill which require to be re-considered by this House. Article 115(4) of the Constitution provides, and I quote:-

(4) Parliament, after considering the President's reservations, may pass the Bill a second time, without amendment, or with amendments that do not fully accommodate the President's reservations, by a vote supported—

(a) by two-thirds of members of the National Assembly; and

(b) two-thirds of the delegations in the Senate, if it is a Bill that requires the approval of the Senate.

Also relevant to this process is the provision of Standing Order 154 which requires the National Assembly to dispose of the memorandum within 21 days. Therefore, the House has to conclude the reconsideration of the Bill by March 4, 2014.

Honourable Members,

Provisions of Article 115 of the Constitution, gives the House three Options, Option one, the House may approve the President's reservations as contained in the memorandum. To do this, you require a simple majority;

Option Two, the House may approve the President's reservations with amendment; and Option Three, you may refuse to accept the President's reservations and therefore approve the Bill in its original form. For the House to take the latter two options, you require resolution supported by votes of not less than Two Thirds of all Members of the National Assembly. Since the Speaker does not have a vote, two thirds of 349 translates to 233 Members. It is therefore clear that for the House to either defeat or enter any amendment on the president's reservations, you pass a resolution supported by not less than 233 members.

Honourable Members,

As you are aware, in terms of procedure, Standing Order No.138 provides that on re-committal of Bills, the Committee of the Whole House considers only those matters which are specifically referred to it for consideration. This Procedure also applies to the consideration of the President's reservations on a Bill. This means that only amendments to specific clauses being re-considered shall be entertained.

In addition, Standing Order 72 requires the Speaker to direct a division to be taken in every instance where the Constitution lays down that a fixed majority is necessary to decide any question. It therefore follows that; each amendment will have to be put to an electronic vote for decision.

As soon as the Order for Committee is read, the House will proceed to the Committee. The Leader of the Majority will move a Motion for consideration of the Bill as re-committed. The Committee will then consider the specific recommendations by H.E. the President as indicated on the Order Paper and approve the same with or without amendments. On conclusion of the consideration, the Committee will report to the House by way of a motion "That, the House do agree with the Committee in the said Report".

In the event that the Committee of the whole House approves President's Reservations without amendments, pursuant to the provisions of Article 115 of the Constitution, a simple majority will be adequate to pass the amendment as recommended by the President. However, if the Committee rejects the recommendations by the President *in toto*, a majority vote of not less than Two - Third (2/3) will be required as I have already indicated.

Honourable Members,

The essence of Article 115 of the Constitution is that in order for the House to reject the recommendation by H.E. the President, it requires a requisite number of 233 Members. On the reporting procedure, the Bill will not be read a Third Time as this was done when it was passed on 31st October 2013.

It is, therefore sufficient that a resolution of the House adopting or rejecting the report of the Committee of the Whole House in accordance with Standing Order No. 138, read together with Standing Order No.136 which states that "*the House doth agree with the Committee in the said report*" will satisfy Article 115 of the Constitution and will be in conformity with the rules and procedure on re-committal of Bills as amplified by Standing Orders No.138.

Thank you".

4. PETITIONS

The following Petitions were presented –

- (i) Pursuant to Standing Order 220(b), the Member for South Imenti (Mr. Kathuri) presented a Petition on behalf of South Imenti residents and tea farmers.
- (ii) Pursuant to Standing Order 220(a), the Speaker conveyed the following Petition –

“Honourable Members,

“Standing Order 225(2)(b) requires that the Speaker reports to the House, any Petition other than those presented through a Member.

I therefore wish to convey to the House that my office has received a Petition regarding persistent problem of cattle-rustling in the country and resultant destruction of property and loss of life.

The Petition, signed by six residents of Mukutani Division, Baringo County is praying that Parliament:-

- a) Enacts law on pastoralism and livestock farming;
- b) Amend the Firearms Act (CAP 114) to include disarmament and procedure for the disarmament and to further devise other effective ways of addressing the issue of illicit arms; and
- c) Resettle Internally Displaced Persons occasioned by cattle-rustling.

Honourable Members,

This Petition therefore shall stand committed to the Departmental Committee on Administration and National Security for consideration. The Committee is requested to consider the Petition and report its findings in accordance with Standing Order 227 (2) for consideration.

Thank you”.

4. PAPERS LAID

The following Papers were laid on the Table of the House –

- (i) The Ethics and Anti-Corruption Commission Annual Report – 2012/2013
- (ii) Commission on Revenue Allocation Annual Report and Financial Statements, 2012/2013
- (iii) Nyayo Tea Zones Development Corporation Financial Statements for the year ended 30th June, 2012
- (iv) Kipchabo Tea Factory Limited Financial Statement for the year ended 30th June, 2012
- (v) Report of the Auditor-General on the Financial Statements of Nursing Council of Kenya for the year ended 30th June, 2013

- (vi) Report of the Auditor-General on the Financial Statements of Kenya Copyright Board for the year ended 30th June, 2013

(Leader of the Majority Party)

- (vii) Budget and Appropriations Committee Report on the Supplementary Budget for 2013/2014

(Chairperson, Budget and Appropriations Committee)

5. **NOTICE OF MOTION** – (Chairperson, Budget and Appropriations Committee)

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Supplementary Estimates 1 for 2013/2014, laid on the Table of the House today, Tuesday, February 25, 2014.

6. **NOTICE OF MOTION** – (Leader of the Majority Party)

THAT, pursuant to the provisions of Standing Order 28(1), this House approves the Calendar of the Assembly (Regular Sessions) for the Second Session of the 11th Parliament.

7. **STATEMENTS PURSUANT TO STANDING ORDER 44(2)c**

Pursuant to the provisions of Standing Order 44(2)(c), the following Members sought Statements –

- (i) the Member for Mandera South (Mr. Huka) from the Chairperson, Departmental Committee on Education, Science and Technology regarding the shortage of Education Quality Assurance and Standards Officers countrywide;
- (ii) the Member for Mwatate (Mr. Mwadime) from the Chairperson, Departmental Committee on Transport, Public Works and Housing regarding completion of the Voi-Mwatate-Wundanyi Road;
- (iii) the Member for Runyenjes (Ms. Mbarire) from the Chairperson, Departmental Committee on Education, Science and Technology regarding online loan application system failure at the Higher Education Loans Board (HELB);
- (iv) the Member for Mathare (Mr. Wanjohi) from the Chairperson, Departmental Committee on Lands regarding planned rehabilitation of Nairobi City Park;
- (v) the Member for Ndaragwa (Mr. Waweru) from the Chairperson, Departmental Committee on Health regarding the implementation of the Nutrition and Dieticians Act, 2007;
- (vi) the Member for Turkana County (Ms. Emanikor) from the Chairperson, Departmental Committee on Transport, Public Works and Housing regarding the state of major roads in the country, in particular the Kitale-Lodwar-Lokichogio Road;
- (vii) the Member for Gatanga (Mr. Kimani) from the Chairperson, Departmental Committee on Lands regarding dishonest land buying companies; and

- (viii) the Member for Kuresoi South (Mr. Cheruiyot) from the Chairperson, Departmental Committee on Labour and Social Welfare regarding the status of construction of stadiums across the country.

8. **PERSONAL STATEMENT PURSUANT TO STANDING ORDER 84**

Pursuant to the provisions of Standing Order 84, the Member for Kitui Central (Mr. Mulu) issued a Personal Statement regarding a visit by the Departmental Committee on Environment and Natural Resources to Umaa Dam in Kitui Central Constituency.

The Member informed the House that he was concerned by the way the visit was planned and executed without his knowledge as the area Member of Parliament. The Member pleaded with the House Committees to be courteous and inform area Members of Parliament before visits are made to their constituencies to avoid unfortunate embarrassment to the House.

9. **THE PUBLIC PROCUREMENT AND DISPOSAL (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.31 OF 2013)**

Order for Second Reading read;

Question put and agreed to;

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

11. **COMMITTEE OF THE WHOLE HOUSE**

IN THE COMMITTEE

The First Chairperson of the Committees - in the Chair

THE INSURANCE (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 5 OF 2013)

Memorandum from H.E. The President on reservations to the Insurance (Amendment) Bill, 2013

Clause 6 - amendment proposed –

THAT, Clause 6 of the Bill be amended by deleting paragraph (b).

(Leader of the Majority Party)

Debate arising;

Question of the amendment proposed, put and agreed to

Clause 6 - as amended agreed to

Clause 11 - amendment proposed –

THAT, Clause 11 be deleted

(Leader of the Majority Party)

Debate arising;

Question of the amendment proposed, put and agreed to

Clause 11 - deleted

New Clause 13A proposed –

THAT the following new Clause be inserted immediately after clause 13 as follows:-

13A. THAT, the principal Act is amended by repealing section 68A and replacing it with the following new section-

Authority to carry out assessment **68A.** (1) Notwithstanding any other provision of this Act, the Authority shall, from time to time, carry out an assessment of the suitability of the person managing, controlling or having a significant ownership or significant beneficial interest in a person, licensed under this Act.

(2) An assessment under subsection (1) shall be in accordance with such criteria as may be prescribed in regulations.

(3) Where, upon an assessment under this section, the Authority is satisfied as to the suitability of the person managing, controlling or having a significant ownership or significant beneficial interest in a person licensed under this Act, it shall so certify in writing.

(4) A person who, upon an assessment under this section, is not certified by the Authority as suitable to manage or control a person licensed under this Act, shall be deemed to be disqualified from holding such office.

(Leader of the Majority Party)

Motion made and Question proposed:-

THAT, the New Clause 13A be now read a Second Time;

Question put and agreed to.

Motion made and Question proposed;

THAT, the New Clause 13A be part of the Bill

Debate arising;

Question put and agreed to.

Clause 20 - amendment proposed –

THAT, Clause 20 be amended by deleting paragraph (b).

(Leader of the Majority Party)

Debate arising;

Question of the amendment proposed, put and agreed to

Clause 20 - deleted

Clause 22 - amendment proposed -

THAT, Clause 22 be deleted.

(Leader of the Majority Party)

Debate arising;

Question of the amendment proposed, put and agreed to

Clause 22 - deleted

Consideration of H.E. the President recommendation to the Insurance (Amendment) Bill, 2013 to be reported without amendments;

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

Consideration of H.E. the President recommendation to the Insurance (Amendment) Bill, 2013 reported without amendments;

Question put and agreed to.

13. **APPOINTMENT OF MEMBERS OF THE PARLIAMENTARY SERVICE COMMISSION**

Motion made and Question proposed -

THAT, pursuant to the provisions of Article 127(1)(d) of the Constitution, this House approves the appointment of Hon. (Dr.) Abdullahi Ibrahim Ali and Mrs. Lonah Mumelo to be Members of the Parliamentary Service Commission

(Vice-Chairperson, Parliamentary Service Commission)

Debate arising;

Mover replied;

Question of the Motion deferred.

14. **THE MARRIAGE BILL (NATIONAL ASSEMBLY BILL NO.13 OF 2013)**

Order for Second Reading read;

Motion made and Question proposed;

THAT, The Marriage Bill (National Assembly Bill No.13 of 2013) be now read a Second Time.

(Chairperson, Departmental Committee on Justice and Legal affairs)

Debate interrupted on Thursday, February 20, 2014 resumed;

Mover replied;

Question of the Motion deferred.

15. THE MILITARY VETERANS BILL (NATIONAL ASSEMBLY BILL NO.34 OF 2013)

Order deferred;

16. THE KENYA QUALIFICATIONS FRAMEWORK BILL (NATIONAL ASSEMBLY BILL NO.29 OF 2013)

Order deferred;

17. THE CONSTITUTION OF KENYA (AMENDMENT) (NO.1) BILL (NATIONAL ASSEMBLY BILL NO.15 OF 2013)

Order deferred;

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

18. HOUSE ROSE - at six minutes past Six O'clock.

MEMORANDUM

The Speaker will take the Chair on
Wednesday, February 26, 2014 at 9.00 a.m.

--X--