



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – SECOND SESSION

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, JUNE 03, 2014

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 from the Chair –

(i) **Demise of the Hon. Joseph NgugiNyumu, MP**

"Honourable Members,

As most of you are aware, during the May recess, we lost the Honourable Joseph NgugiNyumu MP. Our late colleague and friend passed on after what the doctors have described as cardiac arrest in the morning on 21st of May 2014 and was thereafter laid to rest on Friday, the 30th of May, 2014. Our departed colleague was, until his death, the Member for Gatundu South Constituency having made his debut in Parliament in March 2013 on a TNA ticket. The late Hon. Joseph Ngugi was an active member of the Departmental Committee on Education, Research and Technology and the Constitutional Implementation Oversight Committee.

Honourable Members,

Our late colleague had presented a petition regarding the eviction of persons from Muthanga Farm in Gatundu South Constituency. The report on the said Petition was tabled by the Chairperson of the Departmental Committee on Lands, just before the May recess. In accordance with Standing Order 226 and in honour of our fallen colleague, I will allow thirty minutes **during the afternoon sitting of tomorrow, Wednesday**, under the Order "Petitions" for Members to make comments on the report on the Committee on the Petition. This will also present an opportunity for Members to send sympathy messages to his family, relatives and constituents. .

Honourable Members, the finality that death comes with is a constant reminder that, even as leaders, we are just but ordinary mortals. Such a sad occurrence reminds us, as leaders, to do good and virtuous deeds at all times, for the benefit of those who have

bestowed on us the responsibility of representing them. We will surely miss the intellect and humility of our late colleague and his demonstrated zeal to do that what is good.

I take this chance to sincerely appreciate the Members of Parliament and staff who were part of the funeral planning committee for ensuring our late colleague and friend was accorded a dignified send-off. May the Almighty God grant comfort to his wife, children, relatives and friends and give them strength to bear the profound loss. In tribute to our departed colleague, I request that we all stand to observe a minute of silence.

May his soul rest in eternal peace".

5. **MESSAGES**

The Speaker conveyed the following Messages –

(i) **Division of Revenue Bill, 2014**

"Honourable Members,

Standing Order 41(5) relating to **Messages from the Senate** provides that ***"if a Message is received from the Senate, at a time when the House is not in Session, the Speaker shall forthwith cause the message to be transmitted to every Member and shall report the message to the House on the day the House next sits"***. In this regard Hon. Members, I wish to report that I received a Message from the Senate on 21st May, 2014, conveying the decision of the Senate on the Division of Revenue Bill, 2014, which we referred to the Senate after passage by this House, just before proceeding for the May recess.

The Message states **'THAT, the Division of Revenue Bill (National Assembly Bill No. 15 of 2014), which was published in the Kenya Gazette Supplement No. 36 of 26th March, 2014 as a Bill originating in the National Assembly and passed by the National Assembly on 23rd April, 2014, was passed by the Senate, with**

amendments, on Thursday, 15th May, 2014.' The Message continues, that **"The Senate now seeks the concurrence of the National Assembly to the amendments made by the Senate to the said Bill.**

I am aware that the Clerk has since circulated these amendments to all Members and the relevant Committee, in accordance with Standing Order 145. As A matter of Procedure, I wish to guide the House that, what will be considered by the National Assembly is not the entire Bill, but the Senate amendments on the Bill, which I am guided, are on Clause 4 and the Schedule. So that this process is done in a neat manner, I now formally refer the said amendments to the Budget and Appropriations Committee. Due to the urgency of the passage of the Bill, the Committee is expected to submit a report to the House on or before June 10th, 2014, which is Tuesday next week. I will guide you further on the procedure to be followed during the debate and actual consideration of the said amendments in the House.

Thank you".

(ii) **Referral by H.E. the President of the National Flag, Emblems and Names (Amendment) Bill, 2014**

"Honorable Members,

You may recall that during the month of March 2014, the National Assembly passed the National Flag, Emblems and Names (Amendment) Bill, 2013. Thereafter, I presented the Bill for Assent to H.E. the President, in accordance with the provisions of the Constitution and our Standing Orders. However, on 12th May 2014, H.E. the President, by way of Memorandum, referred the Bill back to the National Assembly for reconsideration, pursuant to the provisions of Article 115(1)(b) of the Constitution.

I have on previous two occasions guided this House on the manner of reconsidering a Bill which has been referred back to the National Assembly by H.E. the President. In this regard, I will not revisit the procedure, save to indicate that, any amendment to the President's recommendations or indeed a total refusal of the recommendations, must be supported by at least two-thirds of all Members of the National Assembly. In addition, Standing Order 154 requires the House to consider the President's recommendations on a Bill within twenty one (21) days when the House next meets. In this regard, I direct the Clerk to circulate copies of the Memorandum from H.E. the President to all Members. In the meantime the Memorandum by H.E. the President is referred to the Departmental Committee on Justice and Legal Affairs, which should present its recommendations in good time to enable the House prioritize the reconsideration of the Bill in accordance with the requirements of Standing Order 154.

Thank you".

6. **PETITIONS**

The Speaker conveyed the following Petitions –

(i) **Amendments to the Pharmacy and Poisons (Amendment) Bill, 2014**

"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 amendments to the Pharmacy and Poisons (Amendment) Bill, 2014.

The Petition is signed by Mr. Abdulatif Ali, the Registrar of the Kenya Medical Laboratory Technicians and Technologists Board on behalf of the Board. Among other prayers, the Petitioner are praying that Parliament refrains from passing into law, the Pharmacy and Poisons (Amendment) Bill, 2014 until adequate consultations are made with key stakeholders in the pharmaceutical and medical professions.

Honorable Members, as you are aware, public participation in the legislative process is now a requirement of our constitution under Article 118(1)(b). Indeed, the said Bill was Read a First Time on 12th March, 2014, and referred to the Departmental Committee on Health. Among other requirements, the Committee is expected to facilitate public participation including involving all relevant stakeholders before the Bill is committed for Second Reading.

This Petition shall therefore stand committed to the Departmental Committee on Health for consideration. The Committee is requested to consider the Petition alongside the Bill and report its findings to the House in accordance with Standing Order 127(3). I therefore direct that the Committee must undertake to hear the Petitions with a view to taking into account their views on the said Bill.

Thank you".

(i) **Removal of Chairperson and Commissioners of the IEBC**

"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 since received a Petition regarding the removal of the Chairperson and eight members of the Independent Electoral and Boundaries Commission (IEBC).

The Petition is signed by one Robert BukeWafula, stating that the Chairperson and eight members of the Independent Electoral and Boundaries Commission (IEBC) are in serious violation of the Constitution and have shown gross misconduct in performance of their functions and duties as Commissioners. The Petitioner also contends that the nine Commissioners are incompetent in the management of elections.

In this regard, the Petitioner prays that-

- a. This House resolves that this Petition discloses grounds for removal of the named commissioners under Article 251(a) (b) and (d) of the Constitution; and
- b. The National Assembly recommends to H.E. the President to appoint a tribunal to investigate the named Commissioners 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.

For avoidance of doubt, once the Committee tables its report, the House will have ten days to decide whether or not the Petition contains a valid ground for removal of the members.

I thank you".

7. PAPERS LAID

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

- (i) The National Land Commission Progress Report, March 2013 – January 2014;
- (ii) Economic Survey 2014 from the Kenya National Bureau of Statistics'
- (iii) Quarterly Economic and Budgetary Review – Third Quarter 2013/2014 from the National Treasury;
- (iv) The Draft Environmental Management and Coordination (Waste Tyre Management) Regulations, 2014 from the Ministry of Environment, Water & Natural Resources;
- (v) 2013 Annual Report and Financial Statements for Kenya Reinsurance Corporation Limited; and

- (vi) Report of the Auditor General on the Financial Statements of National Environment Trust Fund for the year ended 30th June, 2013 and the Certificate thereon.

(The Leader of the Majority Party)

8. **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 Nominated Member (Hon. Isaac Mwaura) from the Chairperson, Departmental Committee on Transport, Public Works and Housing regarding compensation of individuals whose land has been compulsorily acquired by the Government towards the construction of the LAPSSET;
- (ii) the Member for Embakasi North (Hon. James Gakuya) from the Chairperson of the Departmental Committee on Health regarding the recent Global Fund Conference held in late 2013;
- (iii) the Member for Kaloleni (Hon. GungaMwinga) from the Chairperson of the Departmental Committee on Administration and National Security regarding the alleged alteration of administrative units and National Identification Cards entries in Kaloleni Constituency;
- (iv) the Member for Homa Bay (Hon. Peter Kaluma) from the Chairperson of the Departmental Committee on Education, Research and Technology regarding the various matters including students unrests and related issues at Kenyatta University;
- (v) the Member for Nakuru Town (Hon. David Gikaria) from the Chairperson of the Departmental Committee on Education, Research and Technology regarding failure by the management of M/s Victoriel Academy in Nakuru to register one Beth NdutaKarani for the 2014 Kenya Certificate of Primary Education;
- (vi) the Nominated Member (Hon. Sunjeev Birdi) from the Chairperson of the Departmental Committee on Transport, Public Works and Housing regarding rising cases of road carnage in the country; and
- (vii) Mbungewaeneo Bunge la Kisauni (Mheshimiwa Bedzimba) aliulizataarifakutokakwaMwenyekitiwaKamatiyaArdhikuhusutatizo la ardhinautoziwamakazikwaMaskwatanchini.

9. **NOTICE OF MOTION - ADJOURNMENT OF THE HOUSE UNDER STANDING ORDER 33 TO DISCUSS A MATTER OF DEFINITE NATIONAL IMPORTANCE**

Rising in his place on a Point of Order, the Member for Matungulu (Mr. Stephen Mule) 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 ongoing killings in Wajir County.

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.

10. **THE CHILDREN (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 18 OF 2014)**
(The Hon. Peter Kaluma)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)
First Reading

11. **THE DIABETES MANAGEMENT BILL (NATIONAL ASSEMBLY BILL NO. 19 OF 2014)**
(The Chairperson, Departmental Committee on Health)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

12. **THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 20 OF 2014)**
(The Leader of the Majority Party)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

13. **THE SECURITIES AND INVESTMENT ANALYSTS BILL (NATIONAL ASSEMBLY BILL NO. 21 OF 2014)**
(The Chairperson, Departmental Committee on Finance, Planning & Trade)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

14. **THE TRADITIONAL HEALTH PRACTITIONERS BILL (NATIONAL ASSEMBLY BILL NO. 22 OF 2014)**
(The Chairperson, Departmental Committee on Health)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

15. **THE MENTAL HEALTH BILL (NATIONAL ASSEMBLY BILL NO. 23 OF 2014)**
(The Hon. Joseph Lekuton)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

16. THE PROTECTION AGAINST DOMESTIC VIOLENCE BILL (NATIONAL ASSEMBLY BILL NO. 28 OF 2013)

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

By Leave of the House, Order deferred

17. THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO.2) BILL (NATIONAL ASSEMBLY BILL NO. 33 OF 2013)

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly bill No.33 of 2013) be now read a Second Time

(Leader of the Majority Party)

Debate arising;

18. ADJOURNMENT OF THE HOUSE UNDER STANDING ORDER 33 TO DISCUSS A MATTER OF DEFINITE NATIONAL IMPORTANCE TO REGARDING THE RECENT KILLINGS IN WAJIR COUNTY

Motion made and Question proposed –

THAT, the House do now adjourn

(Hon. Stephen Mule)

Debate arising;

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

19. HOUSE ROSE - at thirty-five minutes past Six O'clock.

M E M O R A N D U M

The Speaker will take the Chair on
Wednesday, June 04, 2014 at 9.00 a.m.

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