



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – SECOND SESSION

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

TUESDSAY, JUNE 10, 2014

1. The House assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with Prayer.
3. **PRESIDING** – the Speaker
4. **COMMUNICATION FROM THE CHAIR ON SPECIAL MOTIONS FILED UNDER ARTICLE 152(6) OF THE CONSTITUTION**

The Speaker conveyed the following Communication from the Chair –

“Honourable Members,

“This relates to special Motions filed under Article 152(6) of the Constitution of Kenya. Every Member has a right under Article 152(6) of the Constitution to move the House to remove a Cabinet Secretary. Before giving notice of such a Motion under Article 152(6) of the Constitution, the Member must, however, deliver to the Clerk a copy of the proposed Motion in writing stating the grounds and particulars in terms of the said Article, upon which the proposed Motion is made. The Notice must be signed by the Member and signed in support by at least, one quarter of all the Members of the Assembly.

I wish to notify the House that pursuant to the aforementioned provisions, I have received a Notice of Motion from Hon. Mithika Linturi of his intention to move a Motion for the removal of the Cabinet Secretary for Devolution and Planning, Ms. Ann Waiguru, in accordance with the provisions of the said Article of the Constitution.

The Mover of the proposed Motion has satisfied all the requirements and the Motion has been forwarded to the House Business Committee, which sits this evening at the rise of the House to allocate time. Once they have allocated time, the Order Paper on which the Motion is listed, must set all the grounds and particulars upon which the proposed Motion is made, the name of the Member sponsoring the Motion and the names of the Members in support of the Motion.

Holding the Executive to account is an alienable right of Parliament, which while performing its oversight role under the Constitution, exercises the powers delegated to it by the people of Kenya under Article 1 of the Constitution, thus Members bringing Motions as per the provisions of Article 152(6) of the Constitution are indeed, exercising that role of oversight.

Hon. Members, in a 1999 Report prepared by at the request of the Speaker of the National Assembly in South Africa, by one Hakkoder Saras Jaguath and Fred Shelter of the Faculty of Law, University of Cape Town entitled, Report on Parliamentary Oversight and Accountability, the authors stated as follows:-

*"Oversight is the function of the Legislature, which flows from the separation of powers and the concept of responsible Government like law making, which entails certain powers. Foremost amongst these is the power to hold the Executive accountable, monitoring the implementation of laws goes to the heart of the oversight tool. The Legislature is in this way able to keep control over the law it passes and to promote constitutional values of accountability and good governance, thus oversight must be seen as one of the central tenets of democracy--".*

Thus, oversight must be seen as one of the central tenets of democracy. Accountability is also designed to encourage open Government. It serves the function of enhancing public confidence in Government."

In brief, this oversight role of Parliament entails overseeing the effective management of Government departments in order to improve service delivery and the rule of law. Hon. Members, this cardinal role of Parliament must, however, be exercised responsibly and with decorum. Whereas Members are at liberty, upon stating the grounds and particulars in terms of Article 152(6) of the Constitution, the proposed Motion such as the one I have referred to for removal of Cabinet Secretaries, the entire process should be structured and should uphold the integrity of the House.

The Chair is dismayed to learn through other means of intention by certain Members to exercise this right under the provisions of Article 152(6) of the Constitution without those Members first having the courtesy to make the proposals known to the Office of the Clerk. I wish to remind Members that provisions of Standing Order No.85 prohibit Members from anticipating the debate on matters that are likely to be brought before the House within reasonable time. Special Motions include the Motion for removal of Cabinet Secretaries as they are given priority in the House. Prosecuting matters relating to these Motions outside the Chamber compromises the sanctity of the Floor of the House as a forum for debate among the people's representatives.

Hon. Members, Special Motions, as I have already stated, require that they should be dealt with without delay. Indeed, Standing Order No.64 (2) (a) and (b) give timelines on actions to be taken by the Speaker and the House when a Motion of this nature is delivered to the Clerk of the National Assembly. However, there is no time limit given to the proposer of the Motion to give notice once the House Business Committee (HBC) has allocated time for its debate. A reading of the relevant Standing Orders presupposes that the entire process should be resolved either way within a reasonable time. The intention to move the Motion and the processes preceding the hearing itself must not be allowed to hang like a sword of Damocles on the head of any State Officer nor be allowed to drag on indefinitely. The Damocles must either fall or be removed and the Speaker will demand justice and fairness for public officers for which the House has a

right to remove when Members are exercising this oversight role. Obviously, the Speaker will not countenance endless fishing expeditions.

Accordingly and using Standing Order No.1(1) which reads as follows: "In all cases where matters are not expressly provided for by these Standing Orders, or by other Orders of the House, any procedural question shall be decided on by the Speaker". I, therefore, order that whenever a Special Motion is filed and having been approved by the Speaker and time for its debate has been allocated the Member who intends to move the Motion must give notice of the Motion within three sitting days a failure to which the Motion shall be deemed to have been withdrawn and shall not be moved again in the same session except with the leave of the Speaker.

In the case of the Motion by Hon. Linturi, the three days period will start counting from tomorrow morning's sitting. I also wish to direct that Members should refrain from commenting on the substance of the Motions intended to be filed under the provisions of Article 152(6) of the Constitution and Standing Order No.66. Any Member wishing to introduce such Motions should, a matter of courtesy, first discuss with the Clerk so that proper procedures are followed. Thereafter they need to approach the Clerk of the National Assembly who will advise on the process and, in particular the need to have a clearly stated heading of the Motion with the grounds and particulars upon which the proposal is made and stated in general terms. This will enable Members who are in support of such a Motion to understand the contents and vote for what they are signing. This is more important as Standing Order No.64 (5) provides that any signature appended to the list accompanying the Motion cannot be withdrawn.

I thank you,"

## 5. PAPERS LAID

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

- (i) The First Report of the performance of the Ministry of Health for 2013;
- (ii) The Eleventh Bi-Annual Report of the Monetary Policy Committee of the Central Bank of Kenya for the period May-October, 2013;
- (iii) The Monetary Policy Statement of the Central Bank of Kenya for period July-December, 2013;
- (iv) The Report of the Auditor General on the Financial Statement of the Kenya Literature Bureau for the year ended 30<sup>th</sup> June, 2013 and the Certificate thereon;
- (v) The Kenya National Human Right Commission Annual Report and Financial statements for 2013/2014;
- (vi) The Transition Authority Progress Report for the month of April, 2014; and
- (vii) The Performance Report of the Independent Policing Oversight Authority for the period July-December, 2013

*(The Leader of the Majority Party)*

- (viii) Report of the Budget and Appropriations Committee on the Senate Amendments to the Division of Revenue Bill, 2014

*(Chairperson, Budget and Appropriations Committee)*

6. **NOTICE OF MOTION** - Chairperson, Budget and Appropriations Committee

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Senate Amendments to the Division of Revenue Bill 2014, laid on the Table of the House today, Tuesday, June 10, 2014

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 Endebess (Dr. Robert Pukose) from the Leader of the Majority Party on the status of land in Chepchonia under the Anti-stock Theft Unit and General Service Unit;
- (ii) The Member for Makueni (Hon. Daniel Maanzo) from the Chairperson of the Departmental Committee on Transport, Public Works and Housing regarding stalled Government housing project for Civil Servants;
- (iii) the Member for North Horr (Hon. Chachu Ganya) from the Chairperson of the Departmental Committee on Finance, Planning and Trade regarding the operationalization of the Equalization Fund as set out in Article 204 of the Constitution;
- (iv) the Member for Laisamis (Hon. Joseph Lekuton) from the Chairperson of the Departmental Committee on Environment and Natural Resources regarding the measures the government is taking to mitigate the effects of climate change;
- (v) the Member for Naivasha (Hon. John Kihagi) from the Chairperson of the Departmental Committee on Environment and Natural Resources concerning the appointment and gazettelement of members of the Imarisha Lake Naivasha Management Board; and
- (vi) the Member Lamu East (Hon. Sharif Athman) from the Chairperson of the Departmental Committee Defence and Foreign Relations concerning the closure of Kenya-Somalia border at Kiunga.

Statement by the Member for Ndaragwa (Hon. Francis Waweru) from the Chairperson of the Departmental Committee on Agriculture, Livestock and Co-operatives regarding non-payment of severance package to the former employees of the defunct Kenya Co-operative Creameries was deferred to another day.

8. **ADOPTION OF THE BUDGET AND APPROPRIATIONS COMMITTEE REPORT ON THE ESTIMATES OF REVENUE AND EXPENDITURE FOR 2014/2015**

Motion made and Question proposed –

THAT, this House adopts the Budget and Appropriations Committee Report on the Estimates of Revenue and Expenditure for 2014/2015, laid on the Table of the House on Wednesday June 04, 2014 subject to:-

- (i) deletion of the words *"Kshs200 million for geo-spatial mapping under the Ministry of Lands, Housing and Urban Development"* appearing under recommendations, part (b, paragraph 47(ii) on page 19 of the report and substituting thereof with the words *"Kshs850 million for geo-spatial mapping under the Ministry of Lands, Housing and Urban Development"*;

- (ii) deletion of the figure "1.779" appearing under the Recommendations, part (b)(iii) of paragraph 47(ii) on page 21 and substituting thereof with the figure "1.780"; and
- (iii) the schedule be amended accordingly;

*(Chairperson, Budget and Appropriations Committee – 05.06.2014)*

Debate interrupted on Thursday, June 05, 2014 resumed;

Mover replied;

Question of the Second Reading deferred to another day.

9. **ADOPTION OF THE PROCEDURE AND HOUSE RULES COMMITTEE REPORT ON REVIEW OF STANDING ORDER 44 ("STATEMENTS")**

Motion made and Question proposed –

THAT, this House adopts the Procedure and House Rules Committee Report on Review of Standing Order 44 ("Statements") and Actualization of Provisions of Article 153 of the Constitution of Kenya, laid on the Table of the House on Thursday, June 05, 2014

*(Hon. Tom Kajwang')*

Debate arising;

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

10. **HOUSE ROSE** - at fifty minutes past Six O'clock.

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**M E M O R A N D U M**

The Speaker will take the Chair on  
Wednesday, June 11, 2014 at 9.00 a.m.

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