



**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – THIRD SESSION**

**NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**TUESDAY, JULY 07, 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**

**(i) THE MESSAGE FROM THE SENATE ON THE PUBLIC PROCUREMENT AND ASSET DISPOSAL BILL, 2014 AND RELATED MATTERS**

The Speaker conveyed the following Communication -

“Honourable Members,

As you are aware, on June 18, 2015, the National Assembly considered the Presidential Memorandum on the *Public Procurement and Asset Disposal Bill, 2014* and passed it fully accommodating the President’s reservations. Subsequently and in accordance with the Constitution and our Standing Orders, I conveyed the decision of the House to the Senate. However, the Senate, by way of a Message dated June 24, 2015, invoked the provisions of Senate Standing Order 158 and returned the Memorandum to the National Assembly proposing the formation of a Joint Committee of the Houses of Parliament to examine the Memorandum.

Hon. Members, you will recall that in an earlier Communication, I had observed that some provisions of our Standing Orders are not in tandem with the expectations of the Constitution. Specifically, the provisions of Standing Order 155, which is also replicated in Standing Order 158 of the Senate Standing Orders and which commits Presidential Memoranda on a Bill considered by both Houses to a Joint Committee, partially offend the provisions of Article 115 of the Constitution. While Standing Order 155 foresees the adoption of a report of a Joint Committee of the two Houses, Article 115 of the Constitution requires that any amendment to the President’s reservations or indeed a total rejection of the reservations should be supported by a vote of at least two-thirds of the Members of the National Assembly and two-thirds of the delegations in the Senate.

Similarly, my colleague, the Hon. Speaker of the Senate in a Communication seems to have also observed that part of the Senate Standing Order 158 relating to the manner of considering the President’s Memorandum does not accord with the requirements of Article 115 of the Constitution. My colleague, the Hon. Speaker of the Senate therefore requests that the two Houses form a joint committee in the manner provided for in the Standing

Orders relating to formation of joint committees so as to give the two Houses an opportunity to “*jointly consider the President’s reservations*”. He also observed that, and I quote “*this however does not take away the prerogative of each House to make a separate decision on Presidential Memorandum*”.

Hon. Members, I find the request contained in the Message to be fair and reasonable, even though it is coming rather late as far as the Presidential Memoranda on the *Public Procurement and Asset Disposal Bill, 2014* and indeed the *Public Audit Bill, 2014* are concerned. You know too well that the National Assembly has already considered the two Memoranda and the matter has since become ***functus officio***. Nevertheless, the character of bicameralism requires all of us to be accommodative and supportive of its complexities. In this regard, I hereby direct that, pursuant to the provisions of Standing Order 213(3) and Rule 9 of the Houses of Parliament (Joint sittings) Rules, the Committee on Selection embarks on the process of nominating five (5) Members for appointment by the House as Members of the Joint Committee for the purposes of considering the Presidential Memoranda on the *Public Procurement and Asset Disposal Bill, 2014* and indeed the *Public Audit Bill, 2014*. Due to the urgency of this matter, the Committee on Selection should conclude that business before 2.30 pm tomorrow, Wednesday, July 8, 2015 so as to accord the House an opportunity to consider the Motion to approve the names during the afternoon sitting of the following day.

Hon. Members, let me also confirm that, in accordance with the provisions of Standing Order 213(6) and Rule 9(6) of the Joint Rules, unless a decision is reached by consensus any vote to be taken in the Joint Committee shall be by separate Houses. In view of the fact that National Assembly has already deliberated on and made a decision on the Presidential Memoranda on the *Public Procurement and Asset Disposal Bill, 2014* and the *Public Audit Bill, 2014*, the Membership of the National Assembly in the Joint Committee will be expected to convey and uphold the decisions made by National Assembly on June 18<sup>th</sup>, 2015 and June 23<sup>rd</sup>, 2015 on the two items.

Thank you”.

## (ii) CONSIDERATION OF THE SUBJECT OF THE NATIONAL YOUTH SERVICE

“Hon. Members,

You will recall that in June 2014, we resolved as a House to amend parts of our Standing Orders. Among the issues agreed on was that in fulfilment of Article 156 of the Constitution, Cabinet Secretaries (CSs) would be appearing before Committees of the House to respond to matters under their dockets. To this end, CSs have been appearing before Committees every Tuesday from 10.00 a.m. to 1.00 p.m.

Hon. Members, the process, which I believe is understood by each one of us, involves Members drafting Questions through the Clerk’s Office which are thereafter directed to the relevant Ministry for a response. Subsequently, the Clerk’s Office in consultation with the Office of the Leader of Majority Party schedules the Questions to be answered on any given Tuesday when the House is in session.

Hon. Members, Standing Order No. 216 as read together with the Second Schedule to the Standing Orders provides for the appointment, membership, mandate and functions of the Departmental Committees. In this regard and considering the matter at hand, the Second Schedule specifically provides that the National Youth Service (NYS) is a subject that falls under the Departmental Committee on Labour and Social Welfare. It is, therefore, regrettable that during the forwarding of the schedule for appearance, it was erroneously

indicated that the matter which was raised by Hon. Were, the Chair of the Departmental Committee on Labour and Social Welfare would be handled by the Departmental Committee on Finance, Planning and Trade. Consequently, the matter as well as the concerns of the Chair of the Departmental Committee on Labour and Social Welfare have been duly noted and will be rectified accordingly.

Hon. Members, it is noted that the new dispensation has created several overlaps among Government Ministries in relation to the Departmental Committees which may have caused the error. However, be it as it may, all concerned officers and offices are required to undertake the necessary due diligence in processing of the relevant business so as to avoid the kind of confusion that the Hon. Chair of the Departmental Committee on Labour and Social Welfare has mentioned, and the necessary corrective action should be taken.

Thank you, Hon. Members.”

5. **MESSAGE FROM THE SENATE ON THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILL NO. 34 OF 2014)**

The Speaker conveyed the following Message -

“Honourable Members,

I wish to convey that I received a Message from the Senate on Wednesday 2<sup>nd</sup> July, 2015, regarding the *Natural Resources (Benefit Sharing) Bill (Senate Bill No. 34 of 2014)*.

The Message states and I quote -

*“the Natural Resources (Benefit Sharing) Bill (Senate Bill No. 34 of 2014), which was published in the Kenya Gazette Supplement No. 137 of 12<sup>th</sup> September 2014 as a Bill originating from the Senate was passed with amendments by the Senate on Wednesday, 24<sup>th</sup> June February, 2015. The Senate now seeks the concurrence of the National Assembly on the said Bill.”*

I am aware that the Clerk has since circulated copies of the Bill. After being read a *First Time* pursuant to Standing Order 143, the Bill will stand committed to the Departmental Committee on Environment and Natural Resources for consideration. The Committee is expected to submit a report before the Bill is considered by the House for Second Reading.

Honourable Members, I also direct that, before the Bill is scheduled for First Reading, the Budget and Appropriations Committee should submit to the House its recommendations pursuant to Article 114 of the Constitution relating to money Bills.

For the benefit of Members, the House Business Committee has since been informed by the Kenya Law Reform Commission that Parliament should enact legislation dealing with “Agreements for the exploitation of Natural resources” before August 27, 2015 to actualize the provisions of Article 71 of the Constitution. I will expect the Committee to confirm whether, by passing this Bill, Parliament will have fulfilled that obligation.

Thank you”.

**6. PETITION – ESTABLISHMENT OF SPECIAL PRISONS AND REVIEW OF PENAL CODE**

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 from three inmates from the Naivasha Maximum Prison, namely Nicolas Okoth, Nicholas Ouma and Richard Chememzo regarding radicalization of inmates, review of the Penal Code and amnesty of inmates who have served for more than seven (7) years.

The Petitioners are praying that the National Assembly –

- (a) considers providing for establishment of a special prison unit for terrorists and pirate to curb the alarming rate of radicalization in prisons;
- (b) reviews the Penal Code to align it with the Constitution;
- (c) recommends for blanket amnesty for inmates who have served more than seven (7) years; and
- (d) advocates for immediate relocation of the motor vehicle number plates production industry from Kamiti Maximum Prison to National Youth Service Headquarters, amongst other prayers.

Honourable Members,

This Petition therefore shall stand committed to the Departmental Committee on Administration and National Security. The Committee is requested to consider the petition and report its findings in accordance with Standing Order 227(2) and to also give this Petition due attention since this is the second time the National Assembly is receiving a Petition from persons under incarceration. The first Petition of this kind was received on 23<sup>rd</sup> February, 2015 and conveyed to the House on 10<sup>th</sup> March, 2015.

Thank you”.

**7. PAPERS LAID**

The following Papers were laid on the Table –

- (i) The Report of the Auditor General on the Financial Statements of the National Hospital Insurance Fund for the year ended 30<sup>th</sup> June, 2014 and the certificate therein;
- (ii) The Report of the Auditor General on the Financial Statements of the Youth Enterprise Development Fund Board for the year ended 30<sup>th</sup> June, 2014 and the certificate therein;
- (iii) The Report of the Auditor General on the Financial Statements of the Kenya Literature Bureau for the year ended 30<sup>th</sup> June, 2014 and the certificate therein;

- (iv) The Report of the Auditor General on the Financial Statements of the Micro and Small Enterprises Authority for the year ended 30<sup>th</sup> June, 2014 and the certificate therein;
- (v) The Report of the Auditor General on the Financial Statements of the Kenya Dairy Board for the year ended 30<sup>th</sup> June, 2014 and the certificate therein;and,
- (vi) The Report of the Auditor General on the Financial Statements of the Constituencies Development Fund (Bumula Constituency) for the year ended 30<sup>th</sup> June, 2014 and the certificate therein;

*(The Leader of the Majority Party)*

- (vii) Report of the Departmental Committee on Health on the Consideration of the Diabetes Management Bill, 2014

*(The Chairperson, Departmental Committee on Health)*

- (viii) The Report of the Public Accounts Committee on The Judicial Service Commission (JSC) and the Judiciary Special Audit Report of May, 2014

*(The Chairperson, Public Accounts Committee)*

- (ix) Report of the Departmental Committee on Defence and Foreign Relations on -

- (a) the East African Community Protocol on Co-operation in Defence Affairs;
- (b) the Mutual Defence Pact Between the Republic Of Kenya, Uganda and Rwanda; and
- (c) the Agreement on the Establishment of the Eastern Africa Standby Force.

*(The Chairperson, Committee on Defence and Foreign Relations)*

- (x) Reports of the Departmental Committee on Labour and Social Welfare on:

- (a) Sessional Paper No.3 of 2013 on the National Productivity Policy; and
- (b) Sessional Paper No.4 of 2013 on the National Employment Policy and Strategy for Kenya

*(The Chairperson, Committee on Labour and Social Welfare)*

- (xi) The Report of the Departmental Committee on Justice and Legal Affairs on its Consideration of -

- (a) the Vetting of Judges and Magistrates (Amendment) Bill, 2015; and
- (b) the Ethics and Anti-Corruption Commission (Amendment) Bill, 2015

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

## **8. NOTICES OF MOTION**

- (i) THAT, this House adopts the Report of the Public Accounts Committee on the Judicial Service Commission (JSC) and the Judiciary Special Audit Report of May, 2014, laid on the Table of the House on Tuesday, July 7, 2015

*(The Chairperson, Public Accounts Committee)*

(ii) THAT, this House adopts the Report of the Departmental Committee on Defence and Foreign Relations on –

- the East African Community Protocol on Co-operation in Defence Affairs;
- the Mutual Defence Pact Between the Republic of Kenya, Uganda and Rwanda; and
- the Agreement on the Establishment of the Eastern Africa Standby Force,

laid on the Table of the House on Tuesday, July 7, 2015

*(The Chairperson, Committee on Defence and Foreign Relations)*

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

Rising in his place on a Point of Order, the Member for (Hon. Wanjiku Muhia) 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 crackdown on illicit drinks in the country;

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 WATER BILL (NATIONAL ASSEMBLY BILL NO.8 OF 2014)**

Motion made and Question proposed -

THAT, the Water Bill (National Assembly Bill No.8 of 2014) be now read a Third Time

Question put and agreed to.

Bill read a Third Time and **passed**.

11. **THE SECURITIES AND INVESTMENT ANALYSTS BILL (NATIONAL ASSEMBLY BILL NO.21 OF 2014)**

Motion made and Question proposed -

THAT, the Securities and Investment Analysts Bill (National Assembly Bill No.21 of 2014) be now read a Third Time

Question put and agreed to;

Bill read a Third Time and **passed**.

12. **THE ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 33 OF 2015)**

Motion made and Question proposed -

THAT, the Ethics and Anti-Corruption Commission (Amendment) Bill (National Assembly Bill No.33 of 2015) be now read a Second Time

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

Debate arising;

13. **ADJOURNMENT OF THE HOUSE UNDER STANDING ORDER 33 TO DISCUSS A MATTER OF DEFINITE NATIONAL IMPORTANCE ON THE ONGOING CRACKDOWN ON ILLICIT DRINKS**

Motion made and Question proposed -

THAT, the House do now adjourn

*(Hon. Wanjiku Muhia)*

Debate arising;

*Change of Chair from the Speaker to Fourth Chairperson*

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

14. **HOUSE ROSE** - at twenty-six minutes to Seven O'clock

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

The Speaker will take the Chair on  
Wednesday, July 08, 2015 at 9.30 a.m.

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