



**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – THIRD SESSION**

**NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**WEDNESDAY, APRIL 01, 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) **Global Parliamentary Caucus on Tuberculosis**

“Honourable Members,

You will recall that on Tuesday, 24<sup>th</sup> March 2015, the Hon. Stephen Mutinda Mule, MP drew the attention of the House to the International Tuberculosis Day, which is marked on the 24<sup>th</sup> day of March every year. In his Statement, the Hon. Mule not only informed Members of the Barcelona Declaration that established a new Global Parliamentary Caucus on Tuberculosis but also urged them to sign the Declaration as a demonstration their support to the global agenda of eliminating Tuberculosis. To this end, **one hundred and thirty three** (133) honourable members have signed the declaration and expressed the desire to be part of the combined commitment in lowering and ultimately eliminating Tuberculosis in Kenya, Africa region and world over.

These Members will be engaged in pressing for a more effective response to the Tuberculosis epidemic and partner with inter-governmental and non-governmental health organizations such as the World Health Organization and the Stop TB Partnership in combating the disease. In addition, the Members shall also endeavour to mobilize both local and global support against Tuberculosis and advocate for enhancement of budgetary allocation towards securing an end to the Tuberculosis epidemic.

While lauding this noble move, I wish the Members who have agreed to be part of the Global Parliamentary Caucus on Tuberculosis success in the compassionate journey of turning the tide against this devastating disease, which accounts for approximately 1.5 million deaths annually.

ii. **Alleged Breach of Privileges/Contempt by Members of the Departmental Committee on Agriculture, Livestock and Cooperatives**

“Honorable Members

You will recall that yesterday during the afternoon sitting, the Member for Mbita Hon. Millie Odhiambo-Mabona rose on a point of Order seeking the direction of the Chair as to whether it is prudent to condemn a whole membership of a Committee merely on account of an allegation that is directed or is connected to a particular individual in a Committee. In particular, Hon. Mabona sought direction on whether constitutionally, the Hon. Member can individually be held accountable on issues of ethics and integrity for the breach of privilege alleged to have been generally committed by members of the Departmental Committee on Agriculture, Livestock and Cooperatives even when the Members of the Committee had absolved her from any blame.

From the outset, allow me to re-emphasize the point that the motion before the House is a motion that “the thanks of the House be recorded for the exposition the public policy contained in the Address of the President delivered on Thursday March 26 2015.”

The House is not in any way seeking to perform any of the roles bestowed on other constitutional bodies and in particular the role of the Ethics and Anti-Corruption Commission.

The issue on whether criminal culpability accrues to a group of persons or to an individual person and whether it is prudent to condemn a whole membership of a Committee, merely on account of an allegation that is directed or is connected to a particular individual has been raised as regards the allegations against the Committee on Agriculture, Livestock and Cooperatives about money that was allegedly given to the Members of the Committee in order to influence the Committee in the discharge of its mandate. It is important to note that one cannot examine the issue of individual and corporate responsibility without analyzing the facts of a particular case and only then would one be in a position to rule on whether the principle of individual or corporate responsibility should be invoked. This raises two main challenges in respect to the issue raised by Hon. Millie Odhiambo.

First, the allegations against the Committee have not been brought to the attention of the Chair on the floor of the House and there is no Report pending before the House on the allegations against the Members of the Committee. Consequently, it would be improper for me to make any ruling on an issue that has not been brought to the attention of this House. Indeed, matters of alleged breach of privileges/contempt can be dealt with in two main ways. First, matters could be raised in a Committee which might resolve the issues raised without the need for intervention by the Speaker. Secondly, a Member may raise the issues of privileges on the floor of the House.

Secondly, the address by the President on 26<sup>th</sup> March, 2015 in which the President also forwarded the Report of the Ethics and Anti-Corruption Commission are matters that the Commission while performing its investigative role compiled and

submitted to the President. The House cannot attempt to play this investigative role as the functions of this House are well stipulated in Article 95 of the Constitution which I need not dwell on. Indeed, the allegations against the Committee on Agriculture, Livestock and Cooperatives are contained in the Report by the Ethics and Anti-Corruption Commission and as such if I was to make a ruling on individual vis-à-vis corporate responsibility on matters in the Report, I would be wearing the hat of an investigator against the provisions of the Constitution and in relation to matters that are not within my knowledge. Suffice to say, if the matter had been raised in the House, or if indeed the Committee having dealt with the matter itself and arrived at a decision and the House informed accordingly, the matter would have been addressed within the parameters provided for in the Powers and Privileges Act and the Leadership and Integrity Act.

As matters stand now, a government agency is seized of the issue and hopefully the due process of law will prevail. Indeed, it is my belief that the investigative agencies will look at the specific allegations against the Members of the Committee and will hold each and every member individually accountable.

On this basis, I desist on making a ruling on matters that do not fall within the mandate of the House.

Thank you.”

## 5. **PAPERS LAID**

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

- (i) The Kenya Gazette – National Values and Principles;
- (ii) The Office of the Controller of Budget half year County Governments Budget Implementation Review Report for the Financial Year 2014/2015;
- (iii) Kenya National Housing Survey Basic Report for the year 2012/2013 by the Ministry of Lands, Housing and Urban Development;
- (iv) Performance Audit Report of the Auditor-General on the Implementation of National Optic Fibre Backbone Infrastructure Project (NOFBI);
- (v) The Report of the Auditor-General on the financial Statements of Kenya Cultural Centre for the year ended 30<sup>th</sup> June, 2014 and the certificate of the Auditor General therein;
- (vi) The Report of the Auditor-General on the financial Statements of Kenya Scouts Association for the Eighteen months period ended 30<sup>th</sup> June, 2014 and the certificate of the Auditor General therein;
- (vii) The Report of the Auditor-General on the financial Statements of Co-operative University College for the year ended 30<sup>th</sup> June, 2014 and the certificate of the Auditor General therein; and,

- (viii) The Report of the Auditor-General on the financial Statements of Kenya Film Commission for the year ended 30<sup>th</sup> June, 2014 and the certificate of the Auditor General therein.

*(The Leader of the Majority Party)*

- (ix) The Parliamentary Service Commission Annual Report for the Financial Year 2013/2014.

*(The Vice-Chairperson, Parliamentary Service Commission)*

- (x) Report of the Departmental Committee on Transport, Public Works and Housing on its consideration of Eight International Conventions and Protocols relating to the maritime industry.

*(The Chairperson, Departmental Committee on Transport, Public Works and Housing)*

6. **NOTICE OF MOTION** – (Chairperson, Departmental Committee on Transport, Public Works and Housing)

THAT, this House adopts the Report of the Departmental Committee on Transport, Public Works & Housing on its consideration of Eight International Conventions and Protocols relating to the Maritime Industry laid on the Table of the House on Wednesday, 1 April 2015; and pursuant to Section 8 of the Treaty Making and Ratification Act, 2012, **approves** the ratification of -

- (i) The 1988 Protocol to the Load Lines Convention, 1966;
- (ii) The 1978 Protocol to the 1974 Safety of Life At Sea (Solas) Convention (Solas 78 Protocol;
- (iii) The Protocol of 1988 Relating to the International Convention for the Safety of Life At Sea, 1974;
- (iv) The International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001;
- (v) Convention on the Limitation of Liability for Maritime Claims 1976 (LLMC 1976);
- (vi) The 1996 Protocol to the Convention on Limitation of Liability for Maritime Claims (LLMC), 1976;
- (vii) The Nairobi International Convention on Removal of Wrecks, 2007; and
- (viii) The International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001

7. **PROCEDURAL MOTION – APPROVAL OF A MORNING SITTING**

Motion made and Question proposed –

THAT, notwithstanding the provisions of Standing Order 30(3)(b), this House resolves to hold a Sitting on Thursday, April 02, 2015 between 9.30 a.m. and 1.00 p.m.

*(The Leader of the Majority Party)*

Question put and **agreed to.**

8. **MOTION – PRESIDENTIAL ADDRESS** - (3<sup>rd</sup> & Final Allotted day)

Motion made and Question proposed –

THAT, the thanks of the House be recorded for the Exposition of Public Policy contained in the Address of the President delivered on Thursday, March 26, 2015

*(The Leader of the Majority Party – 31-03.2015)*

Debate interrupted on Wednesday, April 01, 2015 - Morning Sitting - resumed;

9. **PROCEDURAL MOTION – EXTENSION OF SITTING TIME**

Motion made and Question proposed –

**THAT,** this House resolves to extend its Sitting today until 8.00 p.m.

*(The Leader of the Majority Party)*

There being no Member willing to debate;

Question put and agreed to

Debate interrupted resumed;

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

9. **HOUSE ROSE** - at ten minutes past Eight O'clock**M E M O R A N D U M**

The Speaker will take the Chair on  
Thursday, April 02, 2015 at 9.30 a.m.

--X--