



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – THIRD SESSION**

**THE NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**TUESDAY, MARCH 19, 2019**

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Honourable Speaker
4. **MESSAGES**

The Speaker conveyed the following Message –

**Message from the President on Nominee for Appointment as Inspector General of the National Police Service**

“Honourable Members,

Pursuant to the provisions of Standing Order No. 42 of the National Assembly Standing Orders, I wish to convey the following Message from His Excellency the President regarding nomination of a person for appointment as the Inspector - General of the National Police Service. The Message states that, in the exercise of the powers conferred on him by Article 245(2)(a) of the Constitution and section 12(2) of the National Police Service Act, 2011, His Excellency the President nominates Mr. Hilary Nzioki Mutyambai for appointment as the Inspector-General of the National Police Service.

Honourable Members, Article 245 (2) (a) of the Constitution states and I quote:-

*"The Inspector-General is appointed by the President with the approval of Parliament".*

Further, section 12(2) of the National Police Service Act, 2011 as amended by section 11 of the National Police Service (Amendment) Act, 2014 and further as amended by Security Laws (Amendment) Act, 2014 reads, and I quote:-

*"12(1) pursuant to Article 245(2) (a) of the Constitution, the Inspector- General of the Service shall be appointed by the President with the approval of Parliament.*

*(2) The President shall, within fourteen days after a vacancy occurs in the office of the Inspector-General, nominate a person for appointment as an Inspector-General and submit the name of the nominee to Parliament"*

Honourable Members, In order for Parliament to effectively conduct the vetting process, the Speaker of the Senate and I have consulted on the most judicious manner of facilitating Parliament to discharge this important task. In the interest of of time and resources, the requirements of the Public Appointments (Parliamentary Approval) Act, 2011, the Standing Orders of both Houses and the practices of Parliament, we have agreed as follows:-

- (i) THAT, the vetting of the nominee for appointment as Inspector -General of Police shall be conducted jointly by the Committees of the two Houses mandated to deal with matters of national security. The vetting process will therefore be jointly conducted by the Departmental Committee on Administration and National Security of the National Assembly and the Standing Committee on National Security, Defiance and Foreign Relations of the Senate;
- (ii) THAT, the Chairpersons of the two respective committees will Co-Chair the joint sittings and the Secretariat will comprise officers of the two Houses;
- (iii) THAT, the quorum of the joint sittings will be the respective quorums of each of the committees as stipulated by the respective Standing Orders;
- (iv) THAT, as contemplated under rule 9(6) of the Joint Rules, unless a decision is reached by the consensus, any vote to be taken in the joint sitting of the committees shall be by separate Houses. This will ensure that the numerical difference of the individual members representing the Houses in the joint sittings has no effect on the decisions of the joint sittings of the Committees; and,
- (v) THAT, the Committees shall, having conducted the vetting hearings, submit a Joint Report to the respective Houses in the manner contemplated by paragraph (7) of Joint Rule 9.

Honourable Members, section 8(1) of the Public Appointments (Parliamentary Approval) Act, 2011 states, and I quote-

*"Unless otherwise provided in any law, a Committee shall consider a nomination and table its report in the relevant House for debate and decision within fourteen days from the date on which the notification of the nomination was given in accordance with section 5".*

Further, section 9 of the said law states that-

*"If after the expiry of the period for consideration specified in section 8, Parliament has neither approved nor rejected a nomination of a candidate, the candidate shall be deemed to have been approved."*

Honourable Members, In order to facilitate the commencement of the deliberations, the counting of time with respect to the fourteen days will commence when the public is notified in the usual manner, preferably on or before Thursday, March 21<sup>st</sup>, 2019. It is also advisable that the concerned Committees expeditiously commence the process of the consideration of approval of the nominee to enable speedy conclusion within the set timelines. The Joint Committees should, having undertaken the necessary approval hearings, table their report in the Houses by Tuesday, April 2<sup>nd</sup>, 2019. Considering that the House is scheduled to proceed on short a recess on Thursday, March 28, 2019, the period set by the law for approval hearings will lapse while the House is on recess. I will be asking the House Business Committee to propose a way forward with respect to the calendar of the House to ensure that the process is concluded within the statutory timelines.

Honourable Members, This Message therefore, together with the resume of the nominee, stands committed to the Departmental Committee on Administration and National Security of the National Assembly sitting jointly with the Standing Committee on National Security, Defence and Foreign Relations of the Senate for consideration.

I thank you!"

5. **PETITIONS**

The Member for Konoin (Hon. Brighton Yegon) being absent at the call of the order, the Speaker directed that the Petition by the Member regarding exploitation of small-holder tea farmers by the Kenya Tea Development Agency be rescheduled.

6. **PAPERS LAID**

The following Papers were laid on the Table: –

- (i) Reports of the Auditor General on the financial statements in respect of the following institutions for the year ending 30<sup>th</sup> June, 2018 and the certificates therein: -
  - (a) State Department for Fisheries, Aquaculture and the Blue Economy;
  - (b) University of Eldoret;
  - (c) National Environment Complaints Committee;
  - (d) The Judiciary;
  - (e) State Department for Sports Development;
- (ii) Reports of the Auditor General on the financial statements in respect of the following institutions for the year ending 30<sup>th</sup> June, 2017 and the certificates therein: -
  - (a) Rongo University;
  - (b) Masinde Muliro University of Science and Technology;
  - (c) National Government Constituencies Development Fund for Mumias East

Constituency.

*(The Hon. Benjamin Washiali, M.P. - Majority Party Whip)*

- (iii) The Third Report of the Committee on Appointments on the Vetting of the Nominee for approval as the Cabinet Secretary for the Ministry of Education.

*(The Hon. John Mbadi, EGH, MP - Leader of the Minority Party)*

- (iv) The Fifth Report of the Committee on Members' Services and Facilities on a study visit to the National Assembly of Zambia – October 6-13, 2018.

- (v) The Sixth report of the Committee on Members' Services and Facilities on Improvement of Services and Facilities

*(The Hon. Ombaki Machogu, M.P. - Chairperson, Committee on Members' Services and Facilities)*

- (vi) The Report of the Budget and Appropriations Committee on its consideration of the Division of Revenue Bill, 2019.

*(The Hon. Kimani Ichung'wa, M.P. - Chairperson, Budget & Appropriations Committee)*

- (vii) The Report of the Departmental Committee on Transport, Public Works and Housing delegation to the 9<sup>th</sup> World Urban Forum (WUF9), held in Kuala Lumpur, Malaysia between 7<sup>th</sup> and 13<sup>th</sup> February, 2018.

*(Hon. Kipkoech Koskei, M.P. - Member of the Departmental Committee on Transport, Public Works and Housing)*

## 7. **NOTICES OF MOTION**

The following Notices of Motions were given -

- (i) **Special Motion - Report on the Vetting of the Nominee for Approval as the Cabinet Secretary for the Ministry of Education**

**THAT**, taking into account the findings of the Committee on Appointments in its Report on the *Vetting of the Nominee for Approval as the Cabinet Secretary for the Ministry of Education, laid on the Table of the House on Tuesday, March 19, 2019*, and pursuant to Article 152(2) of the Constitution and Sections 3 and 5 of the Public Appointments (Parliamentary Approval) Act, 2011, this House approves the appointment of **Prof. George Albert Omoro Magoha** as the Cabinet Secretary for the Ministry of Education.

*(The Hon. John Mbadi, EGH, MP - Leader of the Minority Party)*

- (ii) **Motion - The Sixth Report of the Select Committee on Members' Services and Facilities on Improvement of Members' Services and Facilities**

**THAT**, this House adopts the Sixth Report of the Select Committee on Members' Services and Facilities on Improvement of Members' Services and Facilities, *laid on the Table of the House on Tuesday, March 19, 2019.*

*(The Hon. Ombaki Machogu, M.P. - Chairperson, Committee on Members' Services and Facilities)*

(iii) **Motion - Adjournment on a Definite Matter of Urgent National Importance**

**THAT**, this House adjourns pursuant to Standing Order 33 to discuss a Definite Matter of Urgent National Importance regarding the drought currently affecting the country.

*(The Hon. Martin Owino, Member for Ndhiwa)*

And not less than twenty other Members rising in their places in support of the Adjournment Motion;

The Speaker thus approved the Adjournment Motion and directed the House to adjourn at 17.30hrs to discuss the substance of the Motion as approved.

8. **QUESTIONS**

(a) The following Questions were asked –

- (i) Question No.120/2019 by the Member for North Imenti (Hon. Abdul Rahim Dawood) to the Cabinet Secretary for Labour and Social Protection regarding inaccessibility of the Older Persons Cash Transfer programme by older citizens with Identity Cards numbers of seven-digits or less. Question referred for response before the Departmental Committee on Labour and Social Welfare.
- (ii) Question No.121/2019 by the Member for Mwala (Hon. (Eng.) Vincent Musau) to the Cabinet Secretary for Public Service, Youth and Gender Affairs concerning non-payment of youths engaged under the National Youth Service Programme in Mwala Constituency. Question referred for response before the Departmental Committee on Labour and Social Welfare.
- (iii) Question No.123/2019 by the Member for Bomachoge Chache (Hon. Alfah Ondieki) to the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development regarding the stalled construction of various roads in Bomachoge Chache Constituency. Question referred for response before the Departmental Committee on Transport, Public Works and Housing.
- (iv) Question No.124/2019 by the Member for Butula (Hon. Joseph Oyula Maero) to the Cabinet Secretary for Interior and Coordination of National Government concerning the stalled construction of the administration block for the Butula Sub-County. Question referred for response before the Departmental on Administration and National Security.

(b) The following Question was deferred at the request of the Member –

Question No.122/2019 by the Member for Vihiga County (Hon. Beatrice Adagala) to the Cabinet Secretary for Energy regarding high rate of taxation on purchases of electricity tokens and frequent power outages in Vihiga County. Question deferred.

9. **MOTION - REPORT ON ALLEGED IRREGULAR SPECIALIST RECOGNITION OF DR. SAMIRA SONI BY THE KENYA MEDICAL PRACTITIONERS AND DENTISTS BOARD**

Motion made and Question proposed-

**THAT**, this House **adopts** the Report of the Departmental Committee on Health on Alleged Irregular Specialist Recognition of Dr. Samira Soni by the Kenya Medical Practitioners and Dentists Board, *laid on the Table of the House on Wednesday, October 17, 2018.*

*(Chairperson, Departmental Committee on Health – 12.03.2019)*

Debate on the Motion having been concluded on 14.03.2019;

Question put and agreed to.

10. **MOTION - REPORT ON INQUIRY INTO THE KENYA-SOMALIA BORDER SECURITIZATION PROJECT**

Motion made and Question proposed-

**THAT**, this House **adopts** the Report of the Departmental Committee on Defence and Foreign Relations on the Inquiry into the Kenya-Somalia Border Securitization Project, *laid on the Table of the House on Tuesday, November 20, 2018.*

*(The Chairperson, Departmental Committee on Defence and Foreign Relations - 12.03.2019)*

**Amendments proposed –**

**THAT**, the Motion be amended as follows –

- (i) by deleting the word **“adopts”** and substituting therefor the word **“notes”**;
- (ii) by deleting the words **"Inquiry into"** and substituting therefor the words **“Status of”**; and
- (iii) by deleting the title to the Report and substituting therefor the following-

**“Report on the Status of the Kenya-Somalia Border Securitization Project”**

*(Hon. Richard Tongi, M.P. -14.03.2019)*

Question on the amendment put and agreed to.

Resolved accordingly.

**THAT**, this House **notes** the Report of the Departmental Committee on Defence and Foreign Relations on the Status of the Kenya-Somalia Border Securitization Project, *laid on the Table of the House on Tuesday, November 20, 2018.*

Debate on the Motion as amended to resume.

11. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

**IN THE COMMITTEE**

The Deputy Speaker in the Chair

**The County Governments (Amendment)(No. 2) Bill (Senate Bill No. 7 of 2017)**

Clause 2 - amendment proposed

**THAT**, clause 2 be amended in the proposed amendments to section 123 —

- (a) by deleting the proposed subsection (8) and substituting therefore following new subsection—
  - “(8) Where the Commission does not recommend the suspension of a county government, the President shall, within fourteen days of receipt of the report of the Commission under subsection (7), notify the Speaker of the Senate and the apex intergovernmental body the recommendation of the Commission.”
- (b) in the proposed sub-section (9) by deleting the words “whether or not” appearing in paragraph (a) and substituting therefor the word “that”.
- (c) by inserting a new subsection immediately after the proposed subsection (9)—
  - “(9a) Where the President is not satisfied that justifiable grounds exist for suspension of a county government the President shall, within fourteen days of receipt of the report of the Commission under subsection (7), notify the Speaker of the Senate and the apex intergovernmental body of his dissatisfaction.”
- (d) in the proposed subsection (13) by—
  - i) deleting the word “authorization” immediately after the word “upon” and substituting therefor the word “approval”; and
  - ii) inserting the words “within fourteen days or receipt of the Senate resolution” immediately after the words “the President shall”.
- (e) by deleting the in the proposed subsection (14).

*(Chairperson, Administration and National Security)*

Debate on the amendment arising;

Question on the amendment put and agreed to;

Clause 2 - as amended agreed to

Clause 3 - amendment proposed

**THAT**, clause 3 of the Bill to be amended by renumbering the last provision under the proposed New Section 129 as subsection (8).

*(Chairperson, Administration and National Security)*

Debate on the amendment arising;

Question on the amendment put and agreed to;

Clause 3 - as amended agreed to

Title - agreed to

Clause 1 - agreed to

Bill to be reported with amendments.

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

**The County Governments (Amendment)(No. 2) Bill (Senate Bill No. 7 of 2017)**

Bill reported with amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in its Report.

*(Chairperson, Departmental Committee on Administration and National Security)*

Question of the Motion deferred.

13. **MOTION - STATUS OF THE KENYA-SOMALIA BORDER SECURITIZATION PROJECT**

Motion made and Question proposed-



**THAT**, this House **notes** the Report of the Departmental Committee on Defence and Foreign Relations on the Status of the Kenya-Somalia Border Securization Project, *laid on the Table of the House on Tuesday, November 20, 2018.*

*(The Chairperson, Departmental Committee on Defence and Foreign Relations -12.03.2019 and as amended by Hon. Richard Tongi on 19.03.2019)*

Resumption of debate interrupted on Tuesday, March 19, 2019 (Motion as amended);

Rising in his place on a Point of Order pursuant to Standing Order 95, the Majority Whip (Hon. Benjamin Washiali) claimed to move that the Mover be called upon to Reply;

And the Second Chairperson acceded to the claim;

Question that, the Mover be called upon to Reply, put and agreed to.

Mover Replied;

Question on the Motion deferred.

14. **MOTION – RATIFICATION OF THE REVISED CONSTITUTION OF THE AFRICAN CIVIL AVIATION COMMISSION**

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

**THAT**, this House adopts the Report of Departmental Committee on Transport, Public Works and Housing on its consideration of the Revised Constitution of the African Civil Aviation Commission (AFCAC) for Ratification, *laid on the Table of House on Tuesday, March 12, 2019*, and pursuant to section 8 of the Treaty Making and Ratification Act, 2012 **approves** the Ratification of the Revised Constitution of the African Civil Aviation Commission.

Order deferred.

15. **MOTION – REPORT ON A MEETING TO PROMOTE AND POPULARIZE THE RATIFICATION OF THE PROTOCOL ON THE FREE MOVEMENT OF PERSONS AND ITS IMPLEMENTATION ROADMAP**

Motion made and Question proposed –

**THAT**, this House **notes** the Report of the Departmental Committee on Defence and Foreign Relations on a Meeting with the Member States and Secretaries of the Economic Community of West African States and East African Community to Promote and Popularize the Ratification of the Protocol on the Free Movement of Persons and its Implementation Roadmap, *laid on the Table of the House on Wednesday, November 21, 2018.*

*(The Hon. Katoole Metito, M.P. - Chairperson, Defence and Foreign Relations Committee)*

Debate arising;

Debate interrupted.

16. **ADJOURNMENT MOTION PURSUANT TO STANDING ORDER 33 TO DISCUSS A DEFINITE MATTER OF URGENT NATIONAL IMPORTANCE**

Pursuant to the Standing Order 33 and in line with the directive of the Honourable Speaker, the Second Chairperson interrupted proceedings of the House at 17.30hrs to allow Members to discuss the Adjournment Motion by the Member for Ndiwa (Hon. Martin Owino) regarding the severe drought currently affecting the Country.

Motion made -

THAT, the House now adjourns.

Debate arising;

And the time being Seven O'clock, the Second Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

17. **HOUSE ROSE** - at 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, March 20, 2019 at 9.30am.

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