



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – THIRD SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, APRIL 23, 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. **ADMINISTRATION OF OATH**

The Speaker administered the Oath of Office to the following newly elected Members: –

- (i) Mr. Mawathe Julius Musili (Embakasi South); and
- (ii) Mr. Ochieng, David Ouma (Ugenya)

5. **MESSAGE**

The Speaker conveyed the following Message from the Senate –

ON PASSAGE OF NATIONAL ASSEMBLY AMENDMENTS TO THE ASSUMPTION OF OFFICE OF THE COUNTY GOVERNOR BILL (SENATE BILL NO. 1 OF 2018); AND THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILL NO.13 OF 2018)

Honourable Members, pursuant to the provisions of Standing Order 41, I wish to report to the House that I have received two (2) Messages from the Senate regarding its decision on the following Bills:-

- (i) The Assumption of Office of the County Governor Bill (Senate Bill No.1 of 2018); and
- (ii) The County Governments (Amendment) Bill (Senate Bill No. 13 of 2018).

Honourable Members, you may recall that the Assumption of Office of the County Governor Bill (Senate Bill No.1 of 2018) was **passed** by the National Assembly on Thursday, 6th December 2018, **with amendments**.

Honourable Members, the Message in respect to the Assumption of Office of the County Governor Bill (Senate Bill No.1 of 2018) conveys that the Senate agreed to all amendments made by the National Assembly to the Bill. This therefore signifies the completion of the

bicameral passage of the said Bill. This being a Senate Bill, it follows that the Speaker of the Senate will refer the Bill to H.E. the President for assent in accordance with the provisions of Article 112(2)(a) of the Constitution.

Honourable Members, The second Message is in respect of the County Governments (Amendment) Bill (Senate Bill No.13 of 2018). The Bill seeks to amend the County Governments Act to provide for additional qualifications of the chairperson of the County Public Service Board and other relevant amendments.

Honourable Members, Standing Order 143(1)(a) requires the Speaker to cause a Bill received from the Senate to be read a First Time upon conveyance of a Message from the Senate. Accordingly, I direct that the County Governments (Amendment) Bill (Senate Bill No.13 of 2018) be read a First Time during the next sitting.

Honourable Members, Paragraph (2) of Standing Order 143 provides that –

“Following First Reading, the Speaker shall, within reasonable time, pronounce his or her opinion contemplated under Article 114(2) of the Constitution”.

The opinion envisioned under Standing Order 143(2) is a pronouncement, by the Speaker, as to whether a Bill originating in the Senate is a ‘*Money Bill*’ in the terms of Article 114 of the Constitution. In this regard, I direct that, after First Reading, the Bill be referred to the Parliamentary Budget Office to offer advice that will enable the Speaker to form the opinion contemplated under Standing Order 143(2). Thereafter, I shall guide the House accordingly on how to proceed with the consideration of the said Bill.

I thank you!”

6. PETITION

The Member for Suna West (Hon. Francis Masara) presented a petition regarding salary arrears owed to part-time lecturers of Kisii University, Migori Campus;

Petition referred to the relevant Departmental Committee pursuant to Standing Order 227(2).

7. PAPERS LAID

The following Papers were laid on the Table –

- a) Speech by His Excellency the President during the State of the Nation Address of April 4, 2019, pursuant to Standing Order 24(5);
- b) 6th Annual Report on the Measures taken and Progress Achieved in the Realization of National Values and Principles of Governance;
- c) Annual Report to Parliament on the State of National Security;

- d) 6th Annual Report on the Progress made in fulfillment of the International Obligations of the Republic;
- e) The Crops (Irish Potato) Regulations, 2019 and the Explanatory Memorandum pursuant to section 40 of the Crops Act 2013 (*to be referred to the Departmental Committee on Delegated Legislation*);
- f) Draft Law Society of Kenya (General) Regulations, 2019 and the Explanatory Memorandum, pursuant to section 41 of the Law Society of Kenya Act, 2014 (*to be referred to the Departmental Committee on Delegated Legislation*); and
- g) Special Audit Report of the Auditor-General on the proceeds and utilization of Eurobond from the Office of the Auditor-General.

(The Leader of the Majority Party, Hon. Aden Duale)

- h) Report of the Public Accounts Committee on the examination of the Financial Statements for the National Government for the FY 2015/2016.

(The Chairperson of the Public Accounts Committee, Hon. Opiyo Wandayi)

8. NOTICES OF MOTION

The following following Notices of Motion were given:-

A. Notice of Motion –H.E. the President’s Address to Parliament

THAT, pursuant to the provisions of Standing Order 24(6), the thanks of the House be recorded for the exposition of public policy contained in the Address of H.E. the President delivered to Parliament on Thursday, April 4, 2019 and further, the House notes the following Reports submitted by the President in fulfillment of the provisions of Article 132(1)(c) and 240(7) of the Constitution, laid on the Table of the House on Tuesday, April 23, 2019-

- a) 6th Annual Report on the Measures taken and Progress Achieved in the Realization of National Values and Principles of Governance;
- b) 6th Annual Report on the Progress made in fulfillment of the International Obligations of the Republic;
- c) Annual Report to Parliament on the State of National Security;

(The Leader of the Majority Party, Hon. Aden Duale)

B. Notice of Motion –Report of the Public Accounts Committee on examination of the Financial Statements for the National Government for the FY 2015/2016

THAT, this House adopts the Report of the Public Accounts Committee on the examination of the Financial Statements for the National Government for the FY 2015/2016 laid on the Table of the House on Tuesday, April 23, 2019/

(The Chairperson of the Public Accounts Committee, Hon. Opiyo Wandayi)

9. QUESTIONS AND STATEMENTS**a) Questions**

The following Questions were made to various Ministries/State Departments/Commissions –

- (i) Question No.170/2019 by the Member for Rabai (Hon. Kamoti Mwamkale) regarding irregular handling of imported containerized cargo between Mombasa and Nairobi Inland Container Depot.

(To be replied to by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development before the Departmental Committee on Transport, Public Works and Housing)

- (ii) Question No.175/2019 by the Member for Nambale (Hon. John Sakwa Bunyasi) regarding Administrative Coordination Unites in Nambale.

(To be replied to by the Cabinet Secretary for Interior and Coordination of National Government before the Departmental Committee on Administration and National Security)

- (iii) Question No.177/2019 by the Member for Belgut (Hon. Nelson Koech) regarding protection of the Kenyan tea from negative competition from multinationals.

(To be replied to by the Cabinet Secretary for Industry, Trade and Cooperatives before the Departmental Committee on Trade, Industry and Cooperatives)

The following Questions were deferred–

- (i) Question No.173/2019 by the Member for Nakuru Town East (Hon. David Gikaria) regarding abolishment of police patrol posts in Nakuru Town East Constituency.

- (ii) Question No.178/2019 by the Member for Nairobi City County (Hon. Esther Passaris) regarding the stateless status of the Pemba, the Shona, descendants of Burundians and descendants of Britain. *(Question deferred to April 24, 2019)*

- (iii) Question No.180/2019 by the Member for South Imenti (Hon. Kathuri Murungi) regarding the administrative status of Ukuu and Urulu locations of South Imenti Constituency.

The following Question was withdrawn by the member for re-drafting:-

- (i) Question No.174/2019 by the Member for Bondo (Hon. Gideon Ochanda) regarding construction status of the Goye-Usenge-Bondo-Wichlum-Misori road and Uhanya-Odongo road.

b) Statements

Pursuant to the provisions of Standing Order 43, the Nominated Member (Hon. Jacqueline Oduol) issued a statement on the rising cases of passion killings, adolescent suicides, sponsor syndrome, teenage pregnancies, absentee parents and parenting guidance.

10. COMMITTEE OF THE WHOLE HOUSE

The Statute Law (Miscellaneous Amendments) (No.2) Bill (National Assembly Bill No.13 of 2018)

Order deferred to another day.

11. MOTION - REPORT ON THE EXAMINATION OF THE FINANCIAL STATEMENTS OF THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

Motion made and Question proposed –

THAT, this House adopts the Report of the Public Accounts Committee on its examination of the Report of the Auditor General on the Financial Statements for the Independent Electoral and Boundaries Commission for the year ended 30th June 2017, *laid on the Table of House on Wednesday, February 27, 2019.*

(Chairperson, Public Accounts Committee – 02.04.2019)

(To be considered excluding the expunged parts of the Report – Notice II

Debate having been interrupted on Tuesday, April 2, 2019, the Member for Homa Bay Town (Hon. Peter Kaluma), moved an amendment to the Motion as follows;

THAT, the Motion be amended by inserting the following expression immediately after the expression “February 27, 2019” **subject to** -

- (i) deletion of Recommendation 1 under Chapter 33.0 (*Committee Recommendations*) on pages 4 and 127 of the Report and substituting therefor the following-
 “1. Parliament expedites the strengthening of IEBC by reviewing the legal framework and the general policy guidelines while taking into account the recommendations of the Kriegler Commission. Further, Parliament considers reviewing or repealing section 11A of the IEBC Act relating to the functions of the Commission and the secretariat, to bring clarity to the constitutional functions of the Commission vis-a-vis the administrative functions of the secretariat.”
- (ii) deletion of the words **“Commissioners failed to exercise oversight while the”** appearing in the first line of Recommendation 3 under Chapter 33.0 (*Committee Recommendations*) on page 4 and 127 of the Report;
- (iii) **Insertion of the following recommendations 9(a), (b), (c), (d) and (e) under Chapter 33.0 (*Committee Recommendations*) on page 128 of the Report -**
M/S. IDEMIA (formerly *Morpho, OT Morpho, SAFRAN Identity & Security*)

9. Noting the Committee’s Conclusions and Observations on pages 120 - 126, relating to IDEMIA regarding its engagements in Kenya, the House further recommends-

- (a) **THAT**, the Directorate of Criminal Investigations and the Director of Public Prosecutions undertakes investigations and institutes appropriate criminal action under section 974(3) of the Companies Act against M/S.. IDEMIA in its current name and in its former names of M/S. *Morpho, OT Morpho, SAFRAN Identity & Security*, its officers and local representatives for having purported to do business with the IEBC before being registered as a foreign company by the Registrar of Companies and noncompliance with the mandatory provisions of sections 974(1) as read together with sections 975 and 979 of the Companies Act, No. 17 of 2015;
- (b) **THAT**, pursuant to the provisions of section 41 of the Public Procurement and Asset Disposal Act, 2015, the Public Procurement Regulatory Authority Board investigates, within sixty (60) days, the conduct of M/S. IDEMIA (*formally operating as Morpho, OT Morpho, SAFRAN Identity & Security*) and if it finds the company culpable, enters the names of the company in the central repository of **debarred** firms and ensures that the firm is precluded from participating, award or entering into any kind of procurement contract payable using public funds under any state department or agency in the Republic of Kenya for a period of 10 years;
- (c) **THAT**, all contracts entered into between the company known as M/S. IDEMIA in its current name herein or in its former names of *Morpho, OT Morpho, SAFRAN Identity & Security* and the IEBC be investigated and if found to have contravened sections 974, 975, 979 or any other section of the Companies Act or any other law, be nullified;
- (d) **THAT**, the IEBC takes immediate legal action to recover all monies unlawfully paid under the contract(s) entered into between itself and M/S. IDEMIA in its current name herein or in its former names of *Morpho, OT Morpho, SAFRAN Identity & Security* or otherwise howsoever; as the contracts were entered into in contravention of the mandatory provisions of sections 974 as read together with sections 975 and 979 of the Companies Act; and,
- (e) **THAT**, the Attorney General and the Cabinet Secretary for the National Treasury ensures compliance with the resolution of the House under recommendation 9 (b) and any state of public offer who contravenes the said resolution be held personally liable.

Question on the Proposed Amendment proposed;

Question on the Proposed Amendment put and agreed to;

Debate on the Motion as Amended resumed;

[Change of Chair from the Speaker to the First Chairperson]

[Change of Chair from the First Chairperson to the Fourth Chairperson]

Mover replied;

Question on the Motion as Amended put and agreed to

12. **MOTION – REPORTS OF THE KENYA DELEGATION TO SESSIONS OF THE ACP-EU JOINT PARLIAMENTARY ASSEMBLY**

Motion made and Question proposed –

THAT, this House **notes** the Reports of the Kenya Delegation to the Sessions of the African Caribbean and Pacific Parliamentary Assembly and the African Caribbean, Pacific and European Union (ACP-EU) Joint Parliamentary Assembly, laid on the Table of the House on Wednesday 27th February 2019 as follows -

- (i) Report of the 50th Session of the ACP Parliamentary Assembly and the 35th Session of the ACP-EU Joint Parliamentary Assembly held in Brussels, Belgium from 13th to 20th June 2018;
- (ii) Report of the 51st Session of the ACP Parliamentary Assembly and the Intercessional Meetings of the ACP-EU Joint Parliamentary Assembly held in Brussels, Belgium from 9th to 11th October, 2018; and
- (iii) Report of the 52nd Session of the ACP Parliamentary Assembly and the 36th Session of the ACP-EU Joint Parliamentary Assembly held in Cotonou, Benin from 25th November 2018 to 5th December 2018.

(ACP-EU Leader of Delegation Hon Ali Raso)

Debate arising;

Pursuant to Standing Order 35, Member for Bumula, (Hon. Moses Mabongah, MP) rose on a point of order that there was no quorum in the House.

The Speaker, ordered for the bell to rung for ten minutes.

At the expiry of ten minutes, and there being no quorum, and the time being four minutes past Six O'clock, the Speaker adjourned the House without Question put pursuant to the Standing Orders.

13. **HOUSE ROSE** - at four minutes past Six O'clock

MEMORANDUM

The Speaker will take the Chair on
Wednesday, April 24, at 9.30 a.m.

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