



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – THIRD SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

THURSDAY, MAY 09, 2019

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Hon. Speaker
4. **COMMUNICATION FROM THE CHAIR**

The Speaker made the following Communication -

ON DECLARATION OF MEMBERS' INTERESTS

“Honourable Members,

You will recall that during the afternoon sitting of Thursday 28th March 2019 the Chairperson of the Departmental Committee on Education and Research, the Hon. Julius Melly, MP, rose on a point of order seeking the guidance of the Speaker on the very important question of declaration of interest during a committee sitting in compliance with Standing Order No.90 (*providing for declaration of interest*). The Hon. Melly noted that, during a meeting of the Departmental Committee on Education and Research with officials from the Kenya National Union of Teachers (KNUT) and the Kenya Union of Post Primary Education Teachers (KUPPET) on 26th March 2019 three honourable Members of the Committee declared that they had interest in the matters before the Committee by virtue of being members of KNUT and KUPPET. The Hon. Melly further reported that, during the course of the meeting, he had to severally interrupt two of the three Members and remind them of their cardinal role as Members of the Committee, apart from being representatives of the unions where they held membership or office positions. He therefore sought the guidance of the Speaker regarding the following issues —

1. *the need for a clear interpretation of Standing Order 90 and what it entails and how it can be reinforced;*
2. *whether a Member who declares possible conflict of interest should be allowed to participate fully in the ensuing discussion of the Committee or whether the Member should excuse himself or herself from the Committee deliberations; and,*
3. *whether a Member who declares a possible conflict of interest should take part in the vetting of a nominee for appointment to a public office.*

Hon. Members, you will also recall that the Leader of the Majority Party rose in support of the point raised by the Hon. Melly and noted that the issue of conflict of interest in Committees is still prevalent despite previous guidance from the Speaker of 26th July 2018

cautioning that *failure to disclose an interest before the commencement of deliberations creates a presumption that any contribution made to a matter under consideration by the House or a committee, however relevant, advances one's personal interest as a Member.* The Leader of the Majority Party further noted that, on account of the continued breach of Standing Order 90 by the Member, the House may have to reconsider the effectiveness of the Order. He gave an example of the unique circumstances relating to the Hon. Wilson Sossion, MP who is a Member of the Departmental Committees on Education and Research and Labour and Social Services while still serving as the Secretary General of KNUT, a trade union. He further noted that the Hon. Omboko Milemba, a former Chairperson of KUPPET, and a trade unionist in his own right, is also a member of both committees. The Leader of the Majority Party sought the guidance of the Speaker as to—

1. *The interpretation of Standing Order 90, including the manner in which Members are to declare interest and in what form the declaration should be made, and,*
2. *Whether a Member who declares conflict of interest should be allowed to participate fully in the ensuing proceedings of the committee or whether the said Member should recuse himself or herself from the committee deliberations.*

Hon. Members, you will also recall that, the Leader of the Minority Party, the Hon. John Mbadi, the Hon. Millie Odhiambo, the Hon. Kimani Ichung'wah, the Hon. (Dr.) Chris Wamalwa, the Hon. David Pkosing, Hon. Vincent Kemosi, the Hon. Jeremiah Kioni, the Hon. Omboko Milemba and the Hon. T. J. Kajwang' had all, and at length, weighed in on the ensuing debate wherefore, I undertook to give a considered ruling on the matter.

Hon. Members, From the Point of Order raised by the Hon. Melly and the debate that followed, I have isolated for determination the import of Standing Order 90 and the obligations it places on the conduct of Members of Parliament.

Standing Order 90 on declaration of interest, provides the following, and I quote—

- 1) *A Member who wishes to speak on any matter in which the Member has a personal interest shall first declare that interest.*
- 2) *Personal interests include pecuniary interest, proprietary interest, personal relationships and business relationships.*

From the outset, I must note that the Standing Order reminds this House and its Members of the unique responsibilities delegated by the people in the exercise of their sovereignty. Article 73 of the Constitution under Chapter Six on Leadership and Integrity states the following in paragraph (2), and quote—

“(2) The guiding principles of leadership and integrity include—

- (a) *..;*
- (b) objectivity and impartiality in decision making, and in ensuring that decisions are not influenced by nepotism, favouritism, other improper motives or corrupt practices;**
- (c) *selfless service based solely on the public interest, demonstrated by—*
 - (i) *honesty in the execution of public duties; and*
 - (ii) the declaration of any personal interest that may conflict with public duties;**
- (d) *accountability to the public for decisions and actions; and*
- (e) *discipline and commitment in service to the people”*

Hon. Members, Chapter Six of the Constitution provides clear guidance on and prescribes principles of leadership and integrity which apply to the conduct of Members as State Officers. Article 73 (2)(c) outlines the declaration of any personal interest that may conflict

with public duties as a key principle of leadership and integrity. The practice of declaring and registering interests held by Members is not unique to the Kenyan Parliament and it is couched on the rationale that the public expects to know whether, in making decisions on their behalf, the actions of their elected representatives are motivated by personal or private influence.

Hon. Members, to put the requirement for declaration of interests into further context, the Constitution, the Leadership and Integrity Act, 2012 and the Parliamentary Powers and Privileges Act, 2017 prescribe instances where the failure to appreciate the obligations imposed on a State Officer and to serve in the interests of the public may lead to adverse action, including removal from office. Article 75 (1) of the Constitution requires the conduct of a State Officer to always accord to the office which an officer holds. It states, and I quote—

75(1) A State officer, shall behave, whether in public and official life, in private life, or in association with other persons, in a manner that avoids—

(a) any conflict between personal interests and public or official duties;

The requirements of Article 75 of the Constitution on a State Officer highlight the primacy that the Constitution attributes to the non-advancement of **private or personal interest** while holding a public office.

Hon. Members, as ably noted by the Leader of the Majority Party, Article 122 (3) precludes a Member of Parliament from voting on a matter in which the Member has a pecuniary interest. This express prohibition is qualified by Article 116 of the Constitution in two ways. First, Article 116(3) allows Members of Parliament to enact a legislation which grants them a collective pecuniary benefit but defers the coming into force of such a legislation until the term of the Members comes to an end. On its part, Article 116(4) allows Members to enact a legislation which grants them a general pecuniary benefit that may accrue to them as members of the public.

Hon. Members, taking a leaf from the example provided in the Constitution under Article 116(3) and (4), one will note that having a personal or private interest in a particular matter is not, in itself, prohibited. Indeed, as mentioned by the Hon. Millie Odhiambo, her interest in matters relating to the welfare of children having previously worked with a child welfare organization ranks equal with the personal interest of Members of this House who are also parents. On face value, it may therefore be argued that one needs to have a personal interest in a matter for it to be properly prosecuted. However, what is prohibited is the failure to declare interest and the consequent influence of the declared or undeclared interest on debate and decision of the House or its Committees.

Hon. Members, as you are aware, this House enacted the **Leadership and Integrity Act, 2012** and the **Parliamentary Powers and Privileges Act, 2017** to implement Chapter Six and Article 117 of the Constitution.

Section 12 of the Public Officer Ethics Act, 2003, which was enacted before the promulgation of the new Constitution provides guidance as to what constitutes a conflict of interest and the various obligations imposed on public officers generally, and I quote -

12. (1) A public officer shall use his best to efforts to avoid being in a position in which his personal interests conflict with his official duties.

(2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership of other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.

(3) A public officer whose personal interests conflict with his official duties shall-

(a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and

(b) refrain from participating in any deliberations with respect to the matter. (I put emphasis on this paragraph)

(4)

(6) In this section, “personal interest” includes the interest of a spouse, relative or business associate.

Quite similarly, **Hon. Members**, section 16 of the Leadership and Integrity Act, 2012 provides particular guidance as to what circumstances constitute a conflict of interest and the various obligations that the House saw fit to impose upon its Members and other State Officers. It states, and I quote—

(1)

(2) Without limiting the generality of subsection (1), a State officer or a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in a conflict of the State officer’s or public officer’s personal interests and the officer’s official duties.

(3) A State officer or a public officer whose personal interests conflict with their official duties shall declare the personal interests to the public entity or the Commission.

(4) The Commission or a public entity may give direction on the appropriate action to be taken by the State officer or public officer to avoid the conflict of interest and the State officer or public officer shall—

(a) comply with the directions; and

(b) refrain from participating in any deliberations with respect to the matter. (Again, I put emphasis on this paragraph)

(5)

(6) In this section, “personal interest” includes the interest of a spouse, child, business associate or agent or any other matter in which the State officer or public officer has a direct or indirect pecuniary or non-pecuniary interest.

(7) Where a State officer or a public officer is present at a meeting, where an issue which is likely to result in a conflict of interest is to be discussed, the State officer or public officer shall declare the interest at the beginning of the meeting or before the issue is deliberated upon.

(8) A declaration of a conflict of interest under subsection (7) shall be recorded in the minutes of that meeting.

(9) Subject to Article 116(3) and (4) of the Constitution, a member of Parliament or a member of a county assembly shall declare any direct pecuniary interest or benefit of whatever nature in any—

(a) debate or proceeding of the body of which he or she is a member;

(b) debate or proceeding in any committee of that body; and

(c) transaction or communication which the State officer may have with other members of the body, State officers, public officers or government officers.

Hon. Members, Section 16 of the Leadership and Integrity Act further requires every public entity, and for the avoidance of doubt that includes this House, to maintain a *public* register of interests in which State Officers are to register the particulars of various interests that are outlined in the Second Schedule to the Act. These include directorships of companies, ownerships of shares, contracts for supply of goods or services, funded trips, future expectations of employment, land and property, sponsorships, direct and indirect gifts, benefits or hospitality, pending civil and criminal cases touching on a State Officer,

business associate or firm and the possession of dual citizenship. **Under the Act, each State Officer is obliged to update any change in the status of the interests registered with a public entity within one month of such change.**

Hon. Members, in addition, this House went a step further and enacted the Parliamentary Powers and Privileges Act, 2017. Section 16(c) of the Act provides that the Committee of Powers and Privilege may find a Member to be in breach of privilege if the Member willfully fails or refuses to obey any rule of Parliament.

A member who therefore decides to willfully disregard the provisions of Standing Order 90 on declaration of interests may therefore be in breach of privilege and subject to disciplinary action as envisaged under section 17(3) of the same Act. It is also noteworthy that the Act also incorporates in the Third Schedule to the Act a Code of Conduct applicable to Members of Parliament.

As **Hon. Members** will recall, the Code of Conduct, which each Member in this House undertook to abide by upon taking oath of office, paragraph 4 of the Code provides that Members **shall** in the conduct of their parliamentary duties, act in the public interest, and resolve any conflict between their personal interest and the public interest in favour of the public interest. Paragraph 6 of the Code further provides, and allow me to quote—

(1) Members of the House shall—

(a) register with the relevant Speaker all financial and non-financial interests that may reasonably influence their parliamentary actions;

(b) before contributing to debate in the House or its Committees, or communicating with State Officers or other public servants, declare any relevant interest in the context of parliamentary debate or the matter under discussion; and,

(c) observe any rules agreed of the House in respect of financial support for Members or the facilities of the House.

(2) A relevant interest is an interest that may be seen by a reasonable member of the public to influence the way in which a Member discharges his or her parliamentary duties.

(3) Members shall ensure that registered interests are accurate and updated within one month of any change in particulars.

Hon. Members, Standing Order 90 does not preclude a Member who has procedurally declared their interest in a matter from participating in the debate on the matter in the Committee or the House. The only express prohibition to the exercise of a Member's constitutional role is with regard to voting on a matter in which the Member has a direct pecuniary interest under Article 122 of the Constitution as qualified by Article 116 (3) of the Constitution as I have noted. The obligations that the Constitution, the Leadership and Integrity Act and the Parliamentary Powers and Privileges Act outlines are placed on each member individually. The responsibilities relate to the discipline of each Member and the House the Committee of Powers and Privileges, and other the Committees. It is expected that, the respective Chairpersons of Committees should always protect the dignity of the House in Committees and the Privileges enjoyed by Members.

Honourable Members, permit me to refer the House to the ruling made by the Speaker on Wednesday 23rd July 2014. Then, as now, the question arose, in similar framing, as to what is the effect of failure to declare interest in a matter under consideration and what ensues after a member declares a possible conflict of interest on a matter. The Speaker then guided that, **it is the responsibility of members to declare any interest that they may have in any matter before the House or a Committee.**

Honourable Members, let me now turn to comparative jurisdictions. In the Parliament of the United Kingdom, the regime for declaration of interests is wider than registration of members' interests. It covers not just direct and current interests but indirect interests, past interests and expected future interests. In the same jurisdiction, interests must be declared not only when speaking but when giving written notices, including when filing questions. It also extends to correspondences and meetings with Ministers, public officials and other members. Paid advocacy is prohibited. Members are not allowed to engage in any parliamentary proceedings or to seek to influence others in such a way as to benefit exclusively a body outside Parliament in which they have pecuniary interest. Formal lobbying is also attracting the attention of the UK Houses of Parliament.

Erskine May's *Parliamentary Practice*, an authority on parliamentary practice and procedure notes in the 24th Edition with regard to the House of Commons that, and I quote—

“The House has two distinct but related methods for the disclosure of the personal financial interests of its Members: registration of interests in a Register which is publicly available; and declaration of interest in the course of debate in the course of debate and in other contexts. The main purpose of the register is to give public notification on a continuous basis of those financial interests held by Members which might be thought to influence their parliamentary conduct or actions. The main purpose of declaration is to ensure that fellow Members of the House and the public are made aware, at the appropriate time when a Member is participating in the proceedings of the House, of any past, present or expected future financial interest which might reasonably be thought to be relevant to those proceedings. (p.76)

In addition, in the interests of transparency, in certain circumstances Members are encouraged to declare non-financial interests as well. (p.80)”

Honourable Members, the US Congress has also very robust laws governing declaration of interests by Members of the US Congress. The rules of the House of Representative spell out a Code of Conduct for Members of the House of Representatives as contained in Rule XXIII of the 116th Congress. According to the Code, Members of the House of Representatives are required to adhere to the rules in performance of their duties as Members of the House of Representatives. It is noteworthy that the Ethics in Government Act of 1978 also contains rules on disclosure of financial interests by Members of the Congress. It is said that the late Senator John McCain who you would all recall was also a Presidential candidate was such a strict follower of rules of declaration of interests that he recused himself from voting on alcohol related legislation even though he ran no risk of being reprimanded by the Ethics Committee. In the 1980s and 1990s he is said to have recused himself from voting on bills requiring producers to provide government warning labels on bottles, because in his view, his wife having been one of the owners of the main alcohol distributing company in the country, posed potential conflict of his interests. On matters declaration of interest, it said his conscience led him.

Honourable Members, looking at the Parliament of Australia in particular the House of Representatives, matters of pecuniary interests of Members are governed by section 44 and 45 of their Constitution and Standing Orders 134 and 231 which prohibit Members of the House of Representatives from participating in matters in which they have pecuniary interests.

The consequences are so dire that, it can lead even to occurrence of a vacancy in the office of a Member of the House of Representatives. Further, it is noteworthy that, in terms of voting, Standing Order 134(a) of the House of Representatives of Australia Parliament provides that a Member may not vote on a question on a matter in which he or she has a particular direct pecuniary interest other than public policy. The rule allows other Members to challenge another Member's vote on the grounds of pecuniary interest.

Honourable Members, having established the general law and practice on the declaration of interests by members and examined comparative jurisdictions rules on conflict of interests, permit me to attempt to answer the Questions which I had earlier on isolated for guidance. I will start with the first issue, namely, **what is the scope of Standing Order 90 and how it can be enforced.** Standing Order 90 should be interpreted to mean that when a member who wishes to speak on any matter, be it in the House or before a Committee, for which he has a personal interest which includes pecuniary interest, proprietary interest, personal relationships and business relationships, **he or she should declare it first and failure to declare interest amounts to misconduct and abuse of privilege.** It therefore follows that any member or members with interest on a matter under consideration should declare the interest before the commencement of the meeting or at any other time during debate, whenever the particular matter arises, and recuse themselves from the ensuing deliberations as may be directed.

Honourable Members, this now takes me to the second matter requiring my determination, namely, **after declaring interest, what next?** Should a Member who has declared interest be allowed to participate fully in the ensuing deliberations before the Committee?

The answer to this Question lies in Article 122 (3) of the Constitution, which is that, **“a member shall not vote on any question in which the member has a pecuniary interest”** This does not however give a Member the lee way to simply declare interest, proceed to participate fully in the ensuing debate and only recuse himself or herself during voting. Each case ought to be considered on its own merit. In this regard, following a declaration of interest, the Chairperson of a Committee or the Speaker, as the case may be, may require the particular Member to recuse himself or herself during debate on the matter in addition to barring such member from actual voting on the matter in question.

Honourable Members, I will now turn to the third issue requiring my determination, which is; **whether a member who declares a conflict of interest that directly touches on a nominee for appointment into a public office could take part in the process of vetting before the relevant committee or the House.** **Honourable Members**, you may wish to note that one of the roles of the National Assembly is to exercise oversight over state organs. It is therefore my finding that such Member should rely on their conscience, and may participate during the vetting hearing but he or she should not take part in voting pursuant to the provisions of Article 122 (3) of the Constitution. **But what if the interest declared includes personal or business relationships with the candidate undergoing vetting in a Committee?** In such a case, it is my finding that, such a Member should not only be disallowed from voting in the Committee and the House, but should also recuse himself or herself during the vetting hearings and approval debate in the particular Committee and in the House.

Hon. Members, let me now address the issue of the Members of Parliament nominated under Article 97(1) of the Constitution- that is, those representing the special interests including the interests of the *youth, persons with disabilities and workers*. The framers of our Constitution consciously incorporated this provision in our Constitution, perhaps to

ensure that the special interest of the categories of those persons is taken into in the proceedings and decision-making aspects of the National Assembly. However, we must admit that, the Members nominated under the said provision are also **NOT** exempted from the application of the Article 122(3) of the Constitution regarding voting in the House and our Standing Order 90 on declaration of interest. Whereas as their expertise and experience in the particular special interests is expected to guide the proceedings in the Committee and the House so as to make informed decision, they must however navigate cautiously to ensure that, *“they are not seen by a reasonable member of the public to influence the way in which they discharge their parliamentary duties”*. In addition, even as they bring to the fore the issues of the categories of the said special interests, they do not offend the Code of Conduct under the Parliamentary Powers and Privileges Act (2017). It follows therefore that, it is **NOT** an offence to belong to a trade union - **But it is gross misconduct and out of order to wear the hat of a trade unionist or a workers’ representative and at the same time purport to also wear the hat of a Member of Parliament, in the same sitting of a Committee or the House!** Similarly, it would be gross misconduct on the part of such a Member to use the information obtained through the Committee to the advantage of or to advance the interests of those groups outside the Committee or Parliament before the matter under consideration is concluded.

Hon. Members, with respect to the matter touching on the Hon. Sossion, MP, I wish to remind the House that, Article 95 of the Constitution oblige this House, and its Committees, to deliberate on and resolve issues of concern to the public. Such issues are deliberated upon and resolved in the public interest, not to serve personal interests. Ideally, once a Member declares a personal interest in a matter, the Member has two options. That is- either contribute to deliberations in a manner that does not lead to their interest conflicting with the public interest; or , where the Member so elects or feels that they cannot resolve their conflict of interest in the appropriate manner, refrain from contributing to the deliberations or recuse oneself. Any other conduct, in my considered opinion, would amount to courting disorder in the House and its Committees and should attract the specified sanctions under the Standing Orders. In this regard, if as alleged, the Hon. Sossion declared his interest and thereafter conducted himself in a manner that exhibited a clear conflict, the Chairperson of the Committee was adequately empowered by the Standing Orders to take appropriate action.

Hon. Members, in conclusion, I must stress that to an extent, Standing Order 90 is deliberately crafted to require Members to **introspect** each time they seek to contribute to debate. As guided in the Communication issued on 26th July 2018 on *“The Investigatory Mandate of House Committees and the Conduct of Members in Committees, which I reiterate; “THAT, prior to the commencement of every meeting, every Chairperson must require that Members declare their interest in any matter under consideration”*. In this regard, it is incumbent upon every Chairperson to ensure, prior to the commencement of every meeting, Members declare their interest in any matter falling within the agenda items of that particular sitting. Any Member joining a meeting midstream ought to declare any interest before contributing on matters under consideration, and this should similarly apply to any matter proposed as additional business after the conclusion of the main agenda of the meeting. In summary, Hon. Members, I wish to guide as follows-

1. **THAT,** as required under our Standing Order 90, any Member desiring to speak on a matter **in the House,** for which he or she has interest, **MUST** declare that interest. Further, in accordance with Article 122(3) of the Constitution, such Member shall not take part in the decision-making on that matter, whether by voice vote or any other form of voting. Chairperson of Committees ought to enforce these provisions in their respective Committees;

2. **THAT**, as to whether a Member who has declared interest in a matter should continue to sit and take part in the ensuring deliberations before the particular Committee or the House, I will leave that aspect to the sincere **conscience** of the particular Member and the instantaneous **directive** of the Speaker or the Chairperson of the Committee, as they may deem appropriate, **on case by case basis**;
3. **THAT**, where the interest declared is of personal or business relationships with the **candidate undergoing vetting** before a Committee or the House, such a Member should not only be disallowed from voting on the approval process in the Committee and the House, but should also recuse himself or herself during the vetting hearings and approval debate in the particular Committee and in the House; and,
4. **THAT**, with respect to the Members of Parliament nominated under Article 97(1) of the Constitution, that is, those representing the special interests including the interests of the *youth, persons with disabilities and workers*, they are also **NOT** exempted from the application of the provisions of Article 122(3) and Standing Order 90. **Further, it is gross misconduct and out of order to wear the hat of a trade unionist or a workers' representative and at the same time purport to also wear the hat of a Member of Parliament, in the same sitting of a Committee or the House.**

I do hope that the House is now guided accordingly.

I thank you!"

5. **MESSAGE FROM H.E. THE PRESIDENT**

The Speaker conveyed the following Message –

Nomination of persons for appointment as Ambassadors and High Commissioners
“Honourable Members,

I wish to report to the House that I have received a Message from His Excellency the President conveying his nomination of persons for appointment as Ambassadors and High Commissioners. His Excellency the President, having exercised his powers under Article 132 (2) (e) of the Constitution, is now seeking the National Assembly’s approval of the following **persons** for appointment to the offices of Ambassadors/High Commissioners-

S/No.	Name of Nominee	Mission
(1)	Kariuki Mugwe	Abu Dhabi
(2)	Peter Katana Angore	Algiers
(3)	Michael Mubea	Dublin
(4)	Flora Karugu	Lusaka
(5)	Mwende Mwinzi	Seoul
(6)	Diana Kiambuthi	Stockholm
(7)	Njambi Kinyungu	UN-Habitat

Honourable Members, in accordance with the provision of Standing Order 45 (1) which requires that upon receipt of notification of nomination for appointments, such nominations shall stand committed to the relevant Departmental Committee for consideration, in this case being the Departmental Committee on Defence and Foreign Relations for vetting of the nominees proposed for appointment as High Commissioners and Ambassadors.

Honourable Members, section 8 of the Public Appointments (Parliamentary Approval) Act requires that a Committee shall consider a nomination and table a report for debate and decision in the House within fourteen (14) days from the date of notification. In this regard, and in accordance with the provisions of Article 259(5)(a) of the Constitution as read together with section 5 of the said Act, the seven (7) days' notification to the public shall start running on the day following the day when the notice is published in the dailies.

Honourable Members, given that the House is expected to proceed for recess today, it is advisable that the relevant Departmental Committee expeditiously proceeds to notify the respective nominees and the public, and commence the approval hearings after the seven day notification period.

The Committee is also welcome to seek an extension for the period of consideration of the nominees, so as to table its report upon return of the House from the recess. This Message, together with the Curriculum Vitae of the nominees therefore stands committed to the said Departmental Committee.

Thank you”.

6. **PETITIONS**

The following Members presented the following Petitions -

- (i) The Member for Mukurweini (Hon. Anthony Githiaka) regarding distribution of Text Books to Public Schools; and
- (ii) The Member for Mwingi Central (Hon. (Dr.) Gideon Mulyungi) regarding insecurity and displacement of communities as a result of invasion on private/community land by nomadic pastoralists in Ukasi, Imba and Wingemi locations in Mwingi East Sub-County, Kitui County.

Petitions referred to the relevant Departmental Committees pursuant to Standing Order 227(2).

7. **PAPERS LAID**

The following Papers were laid on the Table –

- a) The Reports of the Auditor-General and Financial Statements in respect of the following institutions for the year ended 30th June, 2018 and the certificates therein: -
 - i. The Office of the Attorney-General and Department of Justice;
 - ii. Revenue Accountability Statement of Kenya Revenue Authority; and,
 - iii. Kenya Revenue Authority.

- b) The Reports of the Auditor-General and Financial Statements in respect of the following **Constituencies** for the year ended 30th June, 2018 and the certificates therein: -
- i. Kitui South;
 - ii. Mwingi Central;
 - iii. Jomvu;
 - iv. Taveta;
 - v. Tigania West;
 - vi. Mwingi North;
 - vii. Mwingi West;
 - viii. Chuka Igambang'ombe;
 - ix. Igembe Central;
 - x. Maara; and,
 - xi. Pokot South.

- c) The Supplementary Estimates II for the year ending 30th June 2019

(The Leader of the Majority Party)

- d) Reports of the Departmental Committee on Education and Research on: -

- (i) Sessional Paper No.1 of 2019 on Policy Framework for Reforming Education and Training Sustainable Development in Kenya; and,
- (ii) A Petition on the Implementation of Delocalization Policy by Teachers Service Commission by Hon. Patrick Mariru, MP on behalf of Teachers from Laikipia West Constituency.

(Vice-Chairperson, Departmental Committee on Education & Research)

- e) Reports of the Departmental Committee on Justice and Legal Affairs on its consideration of: -

- i. The State of the Judiciary and the Administration of Justice Report for the Year 2016/2017; and,
- ii. The State of the Judiciary and the Administration of Justice Report for the Year 2017/2018.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

8. **NOTICE OF MOTION**

The following Notice of Motion was given -

THAT, this House adopts the report of the Departmental Committee on Education, Research on Sessional Paper No.1 of 2019 on Policy Framework for Reforming Education and Training for Sustainable Development in Kenya, laid on the Table of the House on Thursday, May 9, 2019.

(Vice Chairperson, Departmental Committee on Education and Research)

9. **QUESTIONS**

The following Questions were asked –

- a) Question by Private Notice No.027/2019 by the Member for Samburu West (Hon. Naisula Lesuuda) regarding alleged abduction of one, John Kiano, a minor of below 4 years on 5th April, 2019 at Tipuana Apartments of Brookside Gardens, in Westlands area of Nairobi City County by persons believed to be security personnel;
(To be replied by the Cabinet Secretary for Interior and Coordination of National Government before the Departmental Committee on Administration & National Security)
- b) Ordinary Question No.255/2019 by the Member for Borabu (Hon. Ben Momanyi) regarding stalled construction of *Kebirigo-Mosobeti Road* in Borabu Constituency despite the contract having been awarded in 2014;
(To be replied by the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development before the Departmental Committee on Transport, Public Works & Housing)
- c) Ordinary Question No. 230/2019 by the Member for Kirinyaga County (Hon. Purity W. Ngirici) regarding recent fire outbreak in Mt. Kenya Forest and its environs and measures taken to mitigate rampant cases of fires and destructive effects of fire on forests;
(To be replied by the Cabinet Secretary for Environment & Forestry before the Departmental Committee on Environment & Natural Resources)
- d) Ordinary Question No. 232/2019 by Member for Lugari (Hon. Ayub Savula) regarding the progress made in the de-gazettement of 1,577.86 hectares of Mautuma Settlement Scheme of Turbo Forest Reserve area in Lugari Constituency considering that the necessary procedures for degazettement of the settlement scheme were duly undertaken in 2016 and 2017;
(To be replied by the Cabinet Secretary for Environment & Forestry before the Departmental Committee on Environment & Natural Resources)
- e) Ordinary Question No. 233/2019 by the Member for Meru County (Hon. Bishop Kawira Mwangaza) regarding delay in issuance of birth certificates to over 370,000 students from Meru County and measures the Ministry has put in place to facilitate the students to register for their final examinations for year 2019.
(To be replied by the Cabinet Secretary for Education before the Departmental Committee on Education & Research)

10. **STATEMENT PURSUANT TO STANDING ORDER 44(2)(a)**

Pursuant to the provision of Standing Order 44(2)(a), the Leader of the Majority Party issued a Statement regarding the Business of the House for the week commencing Tuesday, June 04, 2019.

11. **PROCEDURAL MOTION - REDUCTION OF PUBLICATION PERIOD FOR A SPECIFIED BILL**

Motion made and Question proposed –

THAT, pursuant to the provisions of Standing Order 120, this House resolves to reduce the publication period of the Independent Electoral and Boundaries Commission (Amendment)(No.3) Bill (National Assembly Bill No. 35 of 2019) from **14 days to 1 day**.

(The Leader of the Majority Party)

Debate arising;

Question put and agreed to.

12. **MOTION - EXTENSION OF THE PERIOD FOR CONSIDERATION OF NOMINEES FOR APPOINTMENT TO DIPLOMATIC MISSIONS AND THE RESOLUTION RELATING CONVEYANCE OF NAMES OF NOMINEES DURING THE PERIOD OF RECESS**

Motion made in amended form and Question proposed –

THAT, this House resolves -

- (i) to extend the period for consideration of the nominees submitted by H.E. the President for appointment to the following Missions; Abu Dhabi, Algiers, Dublin, Lusaka, Seoul, Stockholm and UN-Habitat, by a period of fourteen (14) days from 25th May, 2019, pursuant to the provisions of Section 13 of the Public Appointments (Parliamentary Approval) Act, 2011 relating to *extension of period for consideration of nominees for appointment to a public office*; and,
- (ii) that, notwithstanding the provisions of Standing Order 42 relating to reading and laying of Messages from the President, during the period of the May/June 2019 recess in the Third Session of the Twelfth Parliament, upon receipt of names of persons nominated for appointment to any state office from the President, the Speaker shall forthwith refer the Messages containing the names to the relevant Committee for consideration, **without having to recall the House for that purpose.**

(The Leader of the Majority Party)

(Amendment in bold)

There being no debate arising;

Question put and agreed to.

13. **MOTION – APPROVAL OF NOMINEES TO EMBAKASI SOUTH CONSTITUENCY COMMITTEE OF THE NATIONAL GOVERNMENT CONSTITUENCY DEVELOPMENT FUND**

Motion having been made and Question proposed –

THAT, pursuant to the provisions of Section 43(4) of the National Government Constituency Development Fund Act, 2015 and paragraph 5 (9 & 10) of the National Government Constituency Development Fund Regulations, 2016, this House **approves** the following nominees for appointment to the Embakasi South Constituency Committee of the National Government Constituency Development Fund, *laid on the Table of the House on Wednesday, May 08, 2019 –*

- | | | | |
|-------|-------------------------|---|--|
| (i) | Stephen Omari Odera | - | Male Youth Representative |
| (ii) | Dancan Mulwa Nduva | - | Male Adult Representative |
| (iii) | Sabina Warukira Wanjohi | - | Female Youth Representative |
| (iv) | Linet Mugasiali Madete | - | Female Adult Representative |
| (v) | Vincent Odongo Bunde | - | Representative of Persons living with Disability |
| (vi) | Urbanus Mwikya Musau | - | Nominee of the Constituency Office (Male) |
| (vii) | Lydia Kwamboka Obwogi | - | Nominee of the Constituency Office (Female) |

(Chairperson, Select Committee on National Government Constituencies Development Fund)

Debate on the Motion having been concluded on Thursday, May 09, 2019 (Morning Sitting);

Question put and agreed to.

14. **MOTION – MEDIATED VERSION OF THE WAREHOUSE RECEIPT SYSTEM BILL (SENATE BILL NO. 10 OF 2017)**

Motion having been made and Question proposed –

THAT, pursuant to the provisions of Article 113 (2) of the Constitution and Standing Order 150, this House adopts the Report of the Mediation Committee on the Warehouse Receipt System Bill (Senate Bill No. 10 of 2017) *laid on the Table of the House on Wednesday, May 8, 2019*, and **approves** the Mediated Version of the Warehouse Receipt System Bill (Senate Bill No. 10 of 2017).

*(Vice-Chairperson, Mediation Committee on the Warehouse Receipt System Bill
(Senate Bill No.10 of 2017)*

Debate on the Motion having been concluded on Thursday, May 9, 2019 (Morning Sitting);

Question put and agreed to.

15. **MOTION – REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE NATIONAL COHESION AND INTEGRATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 12 OF 2019)**

Motion having been made and Question proposed –

THAT, this House do agree with the Report of the Committee of the whole House on its consideration of the National Cohesion and Integration (Amendment) Bill (National Assembly Bill No. 12 of 2019).

(Chairperson, Select Committee on National Cohesion and Equal Opportunity)

Question put and agreed to;

Motion made and Question proposed –

THAT, the National Cohesion and Integration (Amendment) Bill (National Assembly Bill No. 12 of 2019) be now read a Third Time.

(Chairperson, Select Committee on National Cohesion and Equal Opportunity)

There being no debate arising;

Question put and agreed to;

Bill read a Third time and passed.

16. **THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (AMENDMENT) (No.3) BILL (NATIONAL ASSEMBLY BILL NO. 35 OF 2019)**

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Order for First Reading read;

Bill read a First Time and referred to the Departmental Committee on Justice and Legal Affairs pursuant to Standing Order 127(1)

17. **THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL (NATIONAL ASSEMBLY BILL NO. 21 OF 2019)**

Motion having made and Question proposed –

THAT, the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.21 of 2019) be now read a Second Time

(The Leader of the Majority Party – 09.05.2019)

Debate interrupted on Thursday, May 09, 2019 (Morning Sitting) resumed;

While contributing to the Bill, the Chairperson of the Public Investments Committee (Hon. Abdulswamad Sherrif Nassir) claimed to lay on the Table of the House a letter from the Kenya National Shipping Line Ltd. addressed to the Clerk of the National Assembly regarding appearance before the Public Accounts Committee. The letter contained details on shareholding of the Kenya National Shipping Line Ltd;

And the Speaker, being of the opinion that the letter relates to a matter currently under investigation by the Public Accounts Committee hence improperly before the House, ruled that the document was inadmissible;

Thereupon, the Paper was withdrawn;

Debate interrupted resumed;

(Change of Chair from the Speaker to the Third Chairperson)

Mover replied;

Question on the Motion deferred.

18. **MOTION - REPORT ON THE INQUIRY INTO PROCUREMENT AND IMPLEMENTATION OF THE EXCISABLE GOODS MANAGEMENT SYSTEM AND AN INTEGRATED PRODUCTION ACCOUNTING SYSTEM BY THE KENYA REVENUE AUTHORITY**

Motion made and Question proposed:-

THAT, this House **adopts** the Report of the Public Investments Committee on the Inquiry into Procurement and Implementation of the Excisable Goods Management System (EGMS) for Printing, Supply and Delivery of Security Revenue Stamps Complete with Track and Trace System and an Integrated Production Accounting System by the Kenya Revenue Authority, *laid on the Table of House on Tuesday, April 30, 2019.*

(The Chairperson, Public Investments Committee)

Debate interrupted on Wednesday, May 8, 2019 - Afternoon sitting resumed;

The Mover replied

Question on the Motion deferred.

19. **MOTION - REPORT ON THE EXAMINATION OF THE FINANCIAL STATEMENTS FOR THE NATIONAL GOVERNMENT FOR THE FINANCIAL YEAR 2015/2016**

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 National Government for the Financial Year 2015/2016, *laid on the Table of House on Tuesday, April 23, 2019.*

(The Chairperson, Public Accounts Committee)

Debate interrupted on Wednesday, May 8, 2019 - Morning sitting resumed;

The Mover replied

Question on the Motion deferred.

20. **THE LAW OF CONTRACT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 1 OF 2019)**

(The Hon. Francis Waititu, M.P.)

The Whip of the Majority Party requested the Chair to defer the Order as the Mover of the Bill was indisposed;

The Third Chairperson acceded to the request and deferred the Order.

21. **NOTIFICATION OF RECESS (MAY 10, 2019 – JUNE 3, 2019)**

Pursuant to the provisions of Standing Order 28(3) relating to *Calendar of the Assembly*, and the resolution of the House of Tuesday, March 26, 2019, the Third Chairperson notified the House that upon rise of the House, regular sittings would resume on Tuesday, June 4, 2019 at 2:30pm.

(No.42)

THURSDAY, MAY 9, 2019

(420)

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

22. **HOUSE ROSE** - at Seven O'clock

M E M O R A N D U M

The Speaker will take the Chair on
Tuesday, June 04, 2019 at 2.30 p.m.

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