



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – THIRD SESSION**

**THE NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**THURSDAY, MARCH 07, 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. **COMMUNICATION FROM THE CHAIR**

The Speaker conveyed the following Communication –

**Withdrawal of amendments to three (3) Statutes in the Statute Law (Miscellaneous Amendments) (No.2) Bill, 2018**

"Honourable Members, as you may be aware, the Statute Law (Miscellaneous Amendments) (No. 2) Bill (National Assembly Bill No. 13 of 2018) was published on 10<sup>th</sup> April, 2018 and is currently undergoing Second Reading. The Bill, which is sponsored by the Leader of the Majority Party, contains various amendments to fifteen (15) different statutes.

Honourable Members, I wish to inform the House that, I have received a letter from the Leader of the Majority Party, requesting to withdraw proposed amendments to the Cooperative Societies Act, Cap. 490, the Sacco Societies Act, No. 14 of 2008 and the Statistics Act, No. 4 of 2006.

Honourable Members I have acceded to this request, which implies that the Bill will now undergo Second Reading and other stages without making reference to the withdrawn statutes. In this regard, Honourable Members, I direct that amendments relating to the said statutes be withdrawn from the Bill forthwith. The House is accordingly informed.

I thank you."

5. **PETITION**  
**Amendment to various Articles of the Constitution of Kenya to remove typographical errors**

The Speaker conveyed the following Petition –

"Honourable Members, Standing Order 225(2) (b) requires the Speaker to report 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 submitted by Mr. Dominic Nga'ng'a Mburu requesting that Parliament, pursuant to Articles 94(3) and (5), and 95(2) and (3) considers amending various Articles of the Constitution of Kenya to remove errors appearing therein.

Honourable Members, the citizen has submitted the public petition in exercise of his "right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation". The Petitioner, Mr. Dominic Nga'ng'a Mburu avers that the errors, which are so glaring and too obvious, could as well be corrected by Parliament via a single legislative instrument.

Honourable Members, the Petitioner therefore, prays that, and I quote: –

- a) THAT the typographical errors as identified and any other errors therein be considered and amended at the appropriate time pursuant to Article 94(3) of the Constitution, and in the spirit of Articles 256 and 259(8) of the Constitution to standardize, sanctify and enhance clarity to the text and content layout of the country's supreme law; and
- b) makes any such other consideration that it shall deem just.

Honourable Members, pursuant to the provisions of Standing Order 227, this petition therefore stands committed to the Departmental Committee on Justice and Legal Affairs. The Committee is requested to consider the petition and report its findings to the House and petitioner in accordance with Standing Order 227(2).

I thank you."

6. **PAPERS LAID**

The following Papers were laid on the Table –

- a) 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: -
  - i) Women Enterprise Fund;
  - ii) Office of the Registrar of Political Parties;
  - iii) Political Parties Fund;
  - iv) The Tana and Athi Rivers Development Authority;
  - v) Dedan Kimathi University of Technology;
  - vi) State Department for Broadcasting and Telecommunications;
  - vii) Kisii University;
  - viii) Rongo University;
  - ix) South Nyanza Sugar Company Limited; and
  - x) Imarisha Naivasha Trust.

*(The Leader of the Majority Party)*

7. **QUESTIONS**

The following Questions were asked –

- (i) Question by Private Notice No.009/2019 by the Member for Kilome (Hon. (Eng.) Thuddeus Kithua Nzambia) regarding delays in processing of birth certificates;
- (ii) *Supplementary Question under Question by Private Notice No.009/2019* by the Member for Kathiani (Hon. Robert Mbui):

"Could the Cabinet Secretary and urgently extend the deadline or drop this requirement and registries issuing birth certificates be enhanced in order to hasten the issuance of the same so as not to lock out many pupils and students from registering with the Kenya National Examination Council?"

Questions referred to the Departmental Committee on Administration and National Security.

- (iii) Question No.055/2019 by the Member for Molo (Hon. Francis Kuria Kimani) regarding deplorable state of Nakuru-Njoro-Molo Road; Question referred to the Departmental Committee on Transport, Public Works and Housing.
- (iv) Question No.056/2019 by the Member for Kamukunji (Hon. Yusuf Hassan) regarding attack on officers of the Ethics and Anti- Corruption Commission in Kabete area of Nairobi City County; Question referred to the Departmental Committee on Administration and National Security.
- (v) Question No.089/2019 by the Member for Mumias East (Hon. Benjamin Washiali) regarding personalities alleged to be engaged in international drug trafficking; Question referred to the Departmental Committee on Administration and National Security.
- (vi) Question No.091/2019 by the Member for Isiolo County (Hon. Rehema Jaldesa) regarding the loss of livestock due to severe drought; Question referred to the Departmental Committee on Agriculture and Livestock.
- (vii) Question No.092/2019 by the Member for Starehe (Hon. Charles Njagua Kanyi) regarding arbitrary arrest, falsified touting charges, extortion and harassment of members of public by Police Officers in Starehe Constituency; Question referred to the Departmental Committee on Administration and National Security.
- (viii) Question No.093/2019 by the Member for Igembe Central (Hon. Charles Kubai Iringo) regarding maintenance of Meru – Maua Road up to Kangeta by KeNHA; Question deferred.
- (ix) Question No.094/2019 by the Member for Matayos (Hon. Geoffrey Makokha Odanga) regarding the status of the Government funded building projects at the National Commission on Science, Technology and Innovation (NACOSTI); Question referred to the Departmental Committee on Education and Research.

8. **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, March 12, 2019.

9. **STATEMENT PURSUANT TO STANDING ORDER 43**

Pursuant to the provision of Standing Order 43, the Hon. Dennitah Ghati, MP issued a general statement regarding the International Women's Day to be celebrated on 8<sup>th</sup> March, 2019.

10. **SPECIAL MOTION - APPROVAL OF NOMINEES FOR APPOINTMENT TO THE NATIONAL POLICE SERVICE COMMISSION**

Motion made and Question proposed –

**THAT**, this House adopts the Report of the Departmental Committee on Administration and National Security on the Vetting of Nominees for Appointment as Chairperson and Members to the National Police Service Commission, laid on the Table of House on Tuesday, March 5, 2019, and pursuant to the provisions of Article 250(2)(b) of the Constitution and section 6(6) of the National Police Service Commission Act, **approves** the appointment of the following persons to the National Police Service Commission:-

- |                                    |   |              |
|------------------------------------|---|--------------|
| (i) Mr. Eliud Ndung'u Kinuthia     | - | Chairperson; |
| (ii) Ms. Lilian Mutio Kiamba       | - | Member;      |
| (iii) Mr. Eusebius Karuti Laibuta  | - | Member;      |
| (iv) Mr. Naphtaly Kipchirchir Rono | - | Member;      |
| (v) Dr. Alice Atieno Otswala       | - | Member; and, |
| (vi) Mr. John Tentemo Ole Moyaki   | - | Member.      |

*(Chairperson, Departmental Committee on Administration & National Security – 06.03.2019)*

Debate interrupted on Wednesday, March 06, 2019 (Afternoon Sitting) resumed;

Rising in his place on a point of order under Standing Order 95, the Member for Ugunja (Hon. Opiyo Wandayi) claimed to move “that the Mover be now called upon to reply”;

And the Speaker acceding to his request;

Question put and agreed to;

Thereupon, Mover replied;

Question put and agreed to.

11. **MOTION – SENATE AMENDMENTS TO THE PHYSICAL PLANNING BILL (NATIONAL ASSEMBLY BILL NO. 34 OF 2017)**

Order deferred to another day.

12. **MOTION – SENATE AMENDMENTS TO THE LAND VALUE INDEX LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 3 OF 2018)**

Order deferred to another day.

13. **MOTION – SENATE AMENDMENTS TO THE KENYA ROADS BILL (NATIONAL ASSEMBLY BILL NO. 47 OF 2017)**

Order deferred to another day.

14. **MOTION – REPORT OF THE PUBLIC ACCOUNTS COMMITTEE ON THE EXAMINATION OF THE FINANCIAL STATEMENTS OF THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)**

Rising in his place on a point of order, the Leader of the Majority Party sought the guidance of the Speaker on the admissibility of this Motion. He stated that some recommendations contained in the Report of the Committee were in contravention of the Constitution, more specifically, on Article 251(2) regarding the removal of members of constitutional commissions and independent offices, as well as contrary to provisions of Standing Order 47(3).

Several other members also raised other points of order on the following issues regarding the Committee's Report:

- (i) Determine whether the recommendations in the Report are in contravention of Article 251 of the Constitution on removal of Commissioners from office;
- (ii) Clarify the role of the National Assembly in initiating the process of removal of State officers under Article of 95(5)(a) of the Constitution;
- (iii) State the reach of the oversight authority of the House on matters of financial and ethical misconduct;
- (iv) Clarify provisions of Article 73 of the Constitution on how public trust of State Officers can be measured;
- (v) The Speaker to address the import of provisions of Articles 47 and 50 of the Constitution, the Fair Administrative Action Act and section 11(a) of the IEBC Act, regarding the recommendations on removal of the IEBC Commissioners and the disciplinary process provided for the secretariat;
- (vi) State whether the Report in its current form is admissible and if the motion can still proceed for debate, and allow the House to make a determination on it, with the possibility of constitutional issues raised being cured through amendments, or expunged from the Report;
- (vii) Clarify the mandate of the Public Accounts Committee and the Departmental Committee on Justice & Legal Affairs on removal of IEBC commissioners, pursuant to provisions of Article 251 and Standing Orders 205 and 216;
- (viii) Limitation of mandate of the Public Accounts Committee pursuant to Standing Orders 197 and 205; and
- (ix) State whether the motion on the Report can be moved by the Chairperson so as to bring it properly before the House for adoption, amendment or rejection.

The Speaker concurred that the matters raised by Members were weighty. He therefore deferred debate on this motion and further undertook to issue a considered ruling the following week so as to guide the House on the manner of proceeding with this matter.

15. **MOTION – PROGRESS REPORT OF THE PUBLIC INVESTMENTS COMMITTEE ON THE INQUIRY INTO THE PROPOSED TAKEOVER OF JOMO KENYATTA INTERNATIONAL AIRPORT BY KENYA AIRWAYS**

Rising in his place on a point of order, the Leader of the Majority Party sought the guidance of the Speaker on the admissibility of this Motion as well, especially on the proposed recommendations. He raised concerns regarding whether a special audit can be conducted by the Auditor General on a government policy that is still in the formulation or implementation stage, and for which no public funds have been lost. He stated that it may be too early to investigate this matter as there was no audit query by the Auditor General raised in the regular examination of the accounts of Kenya Airports Authority.

Several Members contributed further to this point of order, seeking the Speaker’s guidance on the following issues:

- (i) Shouldn’t the Auditor-General only focus on funds appropriated and expended to establish value-for-money, not matters outside of his purview?
- (ii) Is there need for a progress report on this matter, especially as the Committee will prepare a full report once the issue has been canvassed fully?
- (iii) Should the proposal of a merger between Kenya Airways and Kenya Airports Authority have been introduced to the House vide a Sessional Paper?
- (iv) Should the Motion be proceeded with, noting that a proposal that Kenya Airways had written to Kenya Airports Authority was before the Departmental Committee on Transport, Public Works and Housing?

The Speaker undertook to issue a considered ruling the following week so as to guide the House on the manner of proceeding with this matter.

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

16. **HOUSE ROSE** - at Seven O’clock

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

The Speaker will take the Chair on  
Tuesday, March 12, 2019 at 2.30 p.m.

----x----