



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – FOURTH SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, AUGUST 12, 2020

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

The Speaker conveyed the following Communications –

- (i) **Concerns raised regarding the County Roads, Walkways and Parking Bays Bill (Senate Bill No.18 of 2018)**

“Honourable Members,

As you will recall, **Honourable Members**, during Second Reading of the County Roads, Walkways and Parking Bays Bill (Senate Bill No. 18 of 2018) on 27th February 2020, several Members of this House, including the Chairperson of the Departmental Committee on Transport, Public Works and Housing, Hon. David Pkosing, MP, whose Committee is in charge of the Bill, raised various concerns regarding the said Bill. Specifically, the Chairperson informed the House that the Committee was opposed to Second Reading of the Bill based on various considerations, as reflected in the Report of the Committee on the Bill.

For the information of the House, **Honourable Members**, the County Roads, Walkways and Parking Bays Bill (Senate Bill No. 18 of 2018) was published under Gazette Notice No. 81/2018 on 26th June 2018 in the name of Senator Ledama OleKina, MP (Narok County) and was read a First Time in the National Assembly on 30th July 2019.

A technical review of the Bill was undertaken and concluded on 26th September 2019, following which the Bill was granted a go ahead for Second Reading. The Second Reading of the Bill commenced on Thursday, 27th February 2020, but I

thereafter suspended the debate on the Bill pending my determination on the various concerns raised by Members on the floor of this House that day.

Honourable Members, the Bill's initial title was *'The County Planning (Roads, Pavements and Parking Bays) Bill'* but was renamed *'The County Roads, Walkways and Parking Bays Bill'* through an amendment in the Senate. As regards its objectives, the Bill seeks to

provide for the planning, construction and maintenance of county roads, streets, lanes, alleys, parking bays, drainage systems and walkways. It also seeks to provide for proper planning of access-ways to commercial buildings along major roads, and further provides an outline of duties of the Member of County Executive Committee responsible for matters relating to roads in each county.

Honourable Members, following the concerns raised regarding the Bill, and following my analysis of the proposed piece of legislation, I have made the following observations:-

- a) The Bill provides for matters already provided for in law, specifically in the following Statutes -
 - a) The Physical Planning and Land Use Act (No. 13 of 2019);
 - b) The Kenya Roads Act, 2007;
 - c) The Traffic Act (Cap. 403);
 - d) The Public Roads and Roads of Access Act (Cap. 399);
 - e) The Streets Adoption Act (Cap. 406);
 - f) The Persons with Disabilities Act, 2003; and
 - g) The Urban Areas and Cities Act (No. 13 of 201).
- b) The Bill does not propose to amend or repeal to any of the aforementioned Acts of Parliament.
- c) There is already in law at the national level the element of spatial planning before a road is constructed or a market centre is established, and hence there is no need to re-legislate.
- d) The Bill seeks to set standards for the construction of roadways, parkways and other public amenities, which is contrary to Paragraph 18 of Part 1 of the Fourth Schedule of the Constitution which places the following areas under the mandate of the National Government:
 - (i) road traffic;
 - (ii) the construction and operation of national trunk roads; and
 - (iii) standards for the construction and maintenance of other roads by counties.
- e) The Bill purports to address construction and maintenance, both of which are under the purview of the National Government.
- f) The Bill is more administrative than legislative in its approach; and
- g) The Bill is materially defective on both constitutional and legal aspects.

It is on the basis of these observations, **Honourable Members**, that I hereby rule that further consideration of the County Roads, Walkways and Parking Bays Bill (Senate Bill No. 18 of 2018) by this House be halted with immediate effect.

Thank you”.

(ii) Consideration of the Kenya Medical Supplies Authority (Amendment) Bill (Senate Bill No.38 of 2018), The Pandemic Response and Management (Senate Bill No. 6 of 2020) and The Cancer Prevention and Control (Amendment) Bill (Senate Bill No.9 of 2019)

“Honourable Members,

As you may recall that on 15th July 2020, I conveyed to the House Messages from the Senate regarding the passage of the following Bills-

- (i) The Kenya Medical Supplies Authority (Amendment) Bill (Senate Bill No.38 of 2018);
- (ii) The Pandemic Response and Management (Senate Bill No. 6 of 2020); and
- (iii) The Cancer Prevention and Control (Amendment) Bill (Senate Bill No.9 of 2019).

Honourable Members, following the First Reading of the said Bills on 28th July 2020, I did undertake to pronounce my opinion with respect to the Money Bill effects of the said Bills pursuant to the provisions of Standing Order 143(2), which provides as follows-

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

Honourable Members, Now therefore, having received the advice on the matter, I have made a determination that the Kenya Medical Supplies Authority (Amendment) Bill (Senate Bill No.38 of 2018) does not fall within the meaning of “Money Bills,” and therefore, may proceed for Second Reading in the same manner as a Bill originating in the National Assembly as provided for under Standing Order 143(3).

Honourable Members, the Bill shall stand referred to the Departmental Committee on Health for consideration pursuant to the provisions of Standing Order 127(1) (a) which states a Bill having been read a First Time shall stand committed to the relevant Departmental Committee without question put.

With regard to the other two Bills, i.e. the Pandemic Response and Management (Senate Bill No. 6 of 2020) and the Cancer Prevention and Control (Amendment) Bill (Senate Bill No.9 of 2019), I have made a determination that the said two Bills are “Money Bills” within the meaning of Article 114 of the Constitution. I therefore refer the two Bills to the Budget and Appropriations Committee.

The Budget and Appropriations Committee is required to consider the two Bills and report its recommendation to the House guiding on how to proceed in light of the provisions of Articles 109(5) and 114 of the Constitution, as read together with Standing order 143(6).

Honourable Members, the House is accordingly guided.

Thank you”.

5. **MESSAGES**

The Speaker conveyed the following Message from the Senate –

Senate Membership to the Mediation Committee on the Public Private Partnerships (Amendment) Bill (National Assembly Bill No. 52 of 2017)

“Honourable Members,

Pursuant to the provisions of Standing Order 41, I wish to report to the House that I have received a Message communicating the Senate’s membership to the Mediation Committee on the Public Private Partnerships (Amendment) Bill (National Assembly Bill No. 52 of 2017).

You may recall, Honourable Members, that this House passed the said Bill on 31st July 2018 and thereafter submitted it to the Senate for its consideration. The Senate on its part proposed various amendments to the Bill, which were rejected by this Assembly on 31st July 2019, thereby necessitating the formation of a Mediation Committee Bill whose National Assembly membership was communicated to the Senate on 2nd October 2019 as comprising:

- a) The Hon. Joseph Kirui Limo, MP
- b) The Hon. George Murugara Gitonga, MP
- c) The Hon. David Mboni Mwalika, MP
- d) The Hon. Peter Kaluma, MP, and
- e) The Hon. Edith Nyenze, MP

In their Message to this House dated 7th August 2020, Senate has communicated its nomination of the following Senators to the said Mediation Committee:-

- (i) Sen. (Eng.) Mohamed M. Mahamud, CBS, MP
- (ii) Sen. Aaron Cheruiyot, MP
- (iii) Sen. Kimani Wamatangi, MP
- (iv) Sen. Mutula Kilonzo Jnr, MP, and
- (v) Sen. Rose Nyamunga, MP

With this development, the Mediation Committee on the Public Private Partnerships (Amendment) Bill (National Assembly Bill No. 52 of 2017) can now commence its eagerly awaited mediation work.

Thank you”.

5. **PETITIONS**

The Speaker conveyed the following Petition

(i) **Regarding Mitigation of Perennial Flooding by River Sondu Miriu in Homa Bay and Kisumu counties**

Hon. Members, Standing Order 225(2)(b) requires the Speaker to report to the House any Petition other than those presented by a Member. I, therefore, wish to report to the House that my office has received a Petition from a cross-section of residents from Osando Kobala, Kobuya, West Koguta and West Nyakach areas of Rachuonyo North and Nyakach sub-counties of Homa Bay and Kisumu counties led by Mr. Fredrick Gaya regarding mitigation of perennial flooding by River Sondu-Miriu.

Honourable Members, In their Petition, the petitioners decry what they term as failure by successive governments since Independence to permanently address the far-reaching effects, anguish and havoc occasioned by regular flooding of River Sondu-Miriu and have interpreted this failure as constituting an abdication of responsibility by the authorities. The petitioners are convinced that failure by the Government to permanently address the flooding adversely affects the livelihoods of thousands of residents along the river and occasions the eruption of water-borne and vector-borne diseases.

Honourable Members, It is on this premise that the petitioners seek the intervention of this august House in securing mitigation of the aforementioned flooding through various Government measures including dredging of River Sondu-Miriu, opening up of its blocked deltas, construction of standard dykes, reclamation of sand mines, construction of strategic bridges and roads, and compensation of affected households.

Honourable Members, Pursuant to the provisions of Standing Order No.227 (1), this Petition stands committed to the Departmental Committee on Environment and Natural Resources. The Committee is requested to consider the Petition and report its findings to the House and the petitioners in accordance with Standing Order No.227 (2).

The following Petitions were presented –

- (ii) by the Member for Saku (Hon. Ali Raso) regarding Insecurity in the Saku Constituency and the larger Marsabit County;
- (iii) by the Member for Nakuru Town West (Hon. Samuel Arama) regarding the approval, application and use of New Build's Low Cost Construction Technology;

- (iv) by the Member for Busia (Hon. Florence Mutua) on behalf of Petitioners on Pension Services; and
- (v) by the Member for Kinango (Hon. Benjamin Dalu Tayari) regarding Irregular Transfer of Ownership of Chenze Ranch.

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

6. **PAPER LAID**

The following Paper was laid on the Table –

- List on fresh submission and re-submission of Nominees to the NG-CDF Committee for Lurambi and Tigania West Constituencies respectively.

(The Leader of the Majority Party)

7. **QUESTIONS**

The following Questions were asked –

- (i) Question No. 145/2020 by the Member for Maragua (Hon. Mary Wamaua) on why the Commission sanctions deductions for enrolment and membership of teachers into welfare societies and organizations such as Kenya Women Teachers Association and Kenya Union of Special Needs Education Teachers (KUSNET) without their consent

(For Written Reply by the Teachers Service Commission)

- (ii) Question No.161/2020 by the Member for Meru County (Hon. Bishop Kawira Mwangaza) on the provision of food,shelter and any oother humanitarian assistance for households affected bt the recent floods in Thagara, Jerusalem, Kiigene and Muguru villages in Meru Countyvists; and

(To be replied to by the Cabinet Secretary for Devolution and the Arid and Semi - Arid Lands before the Departmental Committee on Administration and National Security)

- (iii) Question No.162/2020 by the Member for Tetu (Hon. Ames Gichuhi) on the persistent delay in the processing of pension and gratuities for retirees and their dependents.

(To be replied to by the Cabinet Secretary for National Treasury and Planning before the Departmental Committee on Labour and Social Welfare)

- (iv) Question No.165/2020 by the Member for Mogotio (Hon. (Dr. Daniel Tuitoek) on the number of public universities in the country without University Councils, substantive Vice Chancellors and Deputies.

(To be replied to by the Cabinet Secretary for Education before the Departmental Committee on Education and Research)

- (v) Question No.166/2020 by the Member for Kuresoi South (Hon. Joseph Kipkosgey) on the measures put in place to ensure that person living in the three Internally Displaced Persons Camps, namely *Kipkongor*, *Kurbanyat* and *Itare* in Kuresoi South constituency who are living in deplorable conditions are compensated and permanently settled.

(To be replied to by the Cabinet Secretary for Devolution and Arid and Semi-Arid Lands before the Departmental Committee on Administration and National Security)

- (vi) Question No.172/2020 by the Member for Lamu East (Hon. Sharif Athman Ali) on plans by the Government to give special consideration to the residents of Lamu County, and in particular youth from Lamu East Constituency in the employment opportunities at the Lamu Port by the Kenya ports Authority.

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

- (vii) Question No.174/2020 by the Member for Kisauni (Hon. Menza Mbogo) on the current status of ownership of plot No.s224/2, 225/2 and 62/11/MN in Mtopanga Ward, Kisauni Constituency

(To be replied to by the Cabinet Secretary for Lands and Physical Planning before the Departmental Committee on Lands)

- (viii) The Member for Navakholo (Hon. Emmanuel Wangwe) on the amount of infrastructural funds that has been released to schools

(To be replied to by the Cabinet Secretary for Education before the Departmental Committee on Education and Research)

8. **STATEMENTS**

(i) **Requests for statements**

The Member for Narok North (Hon. Moitalel Ole Kenta), MP requested for a statement from the Chairperson Departmental Committee on Administration and National Security regarding the killing of two residents of Narok North Constituency and grievous injury of four others.

- 1) The Member for Garissa Township (Hon. Aden Duale), requested for a statement from the Chairperson of the Departmental Committee on Defense and Foreign Relations regarding detention of freelance journalist Yassin Juma in Ethiopia.
- 2) The Member for Kilifi North (Hon. Owen Baya), requested for a statement from the Chairperson of the Departmental Committee on Finance and National Planning regarding the disbursement of Equalization Fund.
- 3) The Member for Taita Taveta County (Hon. Lydia Nazighi), requested for a statement from the Chairperson of the Departmental Committee on Environment and Natural Resources regarding incessant fires incidences at National Parks; and
- 4) The Member for Ikolomani (Hon. Benard Shinali), requested for a statement from the Chairperson of the Departmental Committee on Environment and Natural Resources regarding Lirhan Corridor Gold Exploration.

(ii) **Statements Responses**

The following statements were issued -

- a) by the Chairperson, Departmental Committee on Labour and Social Welfare, regarding the status of National Hygiene (*Kazi Mataani*) Program.
 - b) by the Chairperson, Select Committee on National Government Constituencies' Development Fund, regarding on re-allocation of funds from Education Bursary Scheme to other projects.
 - c) by the Chairperson of the Budget and Appropriation Committee on the status of Senate bills before the Budget and Appropriation Committee.; and
 - d) by the Leader of the Majority Party on the Business of the House for the week commencing September 08, 2020, pursuant to Standing Order 44(2)).
9. **PROCEDURAL MOTION - CONSIDERATION OF CERTAIN BUSINESS RECEIVED DURING THE AUGUST/SEPTEMBER 2020 RECESS**

Motion made and Question proposed -

THAT, notwithstanding the provisions of Standing Orders 41 and 42 relating to *conveying of Messages from the Senate and from the President or the National Executive* and Standing Orders 120, 122 and 126 relating to *Publication, Procedure upon Publication and First Reading of Bills*, this House orders that, during the period of the Long Recess of the Second Part of the Session (*August 14 - September 7, 2020*)-

- (a) upon receipt of any Message from the Senate, or upon receipt of any name of a person nominated for appointment to a state or public office from the President

- (b) or any other office in the National Executive, the Speaker shall forthwith refer such Message to the relevant Committee for consideration, without having to recall the House;
- (c) should a Bill be published during the period, or a published Bill become due for First Reading during the period, the Speaker shall, upon lapse of seven days following the publication of the Bill, forthwith refer such Bill to the relevant Committee for consideration pursuant to the provisions of Standing Order 127 (*Committal of Bills to Committees and public participation*) and, upon resumption of the House, cause the Bill to be read a First Time and the Second Reading may be taken forthwith, or on such other day as the House Business Committee may determine;
- (d) should the Speaker receive a Message relating to the Senate's amendments to a Bill originating in the National Assembly, the Speaker shall forthwith refer the Schedule of the Senate Amendments to the relevant Committee for consideration pursuant to the provisions of Standing Order 145 (*Senate amendments to Bills originating in the National Assembly*), and, upon resumption of the House, report such fact to the House; and,
- (e) should the Speaker receive a Message from the Senate in respect of any Special Bill concerning County Governments, or a Division of Revenue (Amendment) Bill, the Speaker shall forthwith refer such Bill and the accompanying Message to the relevant Committee for consideration pursuant to the provisions of Standing Order 143(3) (*Consideration of Bills originating in the Senate*), and, upon resumption of the House, cause the Bill to be read a First Time and the Second Reading may be taken forthwith, or on such other day as the House Business Committee may determine.

(The Leader of the Majority Party)

There being no debate arising;

Question put and agreed to.

10. **MOTION - REPORT ON ALLEGED INVASION OF LAND IN ROYSAMBU CONSTITUENCY BY THE KENYA DEFENCE FORCES**

Motion made and Question proposed –

THAT, this House adopts the Report of the Departmental Committee on Lands on its consideration of a Petition on the alleged invasion of LR 5875/2 in Roysambu Constituency by the Kenya Defence Forces, laid on the Table of the House on Thursday, July 2, 2020.

(Chairperson, Departmental Committee on Lands)

Debate interrupted on Wednesday, August 12, 2020 – Morning Sitting - resumed

Rising in his place on a Point of Order under Standing Order 95, the Member for Mathare Constituency (Hon. Anthony Oluoch) claimed to move “that the Mover be now called upon to reply”;

And the Speaker acceding to his request Question was put and agreed to

Thereupon, Mover replied;

Question on the Motion put and agreed to.

11. **THE HEALTH (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.64 OF 2019)**

Order for Second Reading Read;

Motion made and Question proposed;

THAT, the Health (Amendment) Bill (National Assembly Bill No.64 of 2019) be now read a Second Time

(Hon. Swarup Mishra)

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

Debate arising;

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

12. **HOUSE ROSE** - at One minute past Seven O'clock.

M E M O R A N D U M

The Speaker will take the Chair on
Tuesday, September 8, 2020 at 2.30 p.m.

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