



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – FIFTH SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, APRIL 28, 2021 – SPECIAL SITTING

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

4. **MESSAGES**

The Speaker conveyed the following Message from H. E the President –

ON THE NOMINATION OF A PERSON FOR APPOINTMENT AS CHIEF JUSTICE OF THE REPUBLIC OF KENYA

“Honourable Members, Standing Order 42(1) relating to Messages from the President provides that *“the Speaker shall read to the House any message from the President delivered to the Speaker for communication to the House.”*

In this regard therefore, I wish to inform the House that I have, today, 28th April 2021 received a Message from the His Excellency the President conveying the nomination of the **Hon. Lady Justice Martha Karambu Koome** for appointment as the **Chief Justice of the Republic of Kenya and President of the Supreme Court**. The Message also includes the Certificate of Presidential Nomination, the Judge’s Curriculum Vitae, testimonial and recommendation of the Judicial Service Commission on the recruitment and selection process for the Chief Justice. This was submitted in line with the provisions of Article 166 (1) of the Constitution which provide, and I quote:

“The President shall appoint the Chief Justice and the Deputy Chief Justice, in accordance with the recommendation of the Judicial Service Commission, and subject to the approval of the National Assembly.”

The President therefore seeks the approval of the National Assembly on the said nomination.

Honourable Members, Section 5 of the Public Appointments (Parliamentary Approval) Act, 2011, provides that an appointing authority shall, upon nominating a person for an

appointment to which this Act applies, notify the relevant House of Parliament accordingly. Consequently, a proper notification in line with the above provision has been received.

Honourable Members, Section 8 of the Public Appointments (Parliamentary Approval) Act, 2011 further provides that the relevant Committee should table its Report for debate and decision within twenty-eight (28) days from when the notification of nomination is given.

Honourable Members, Pursuant to the provisions of Standing Order 42(3)(c), I now refer the Message, including the *curriculum vitae* of the nominee, to the Departmental Committee on Justice and Legal Affairs to undertake the necessary approval hearings. I wish to guide the Committee and the House as follows:-

- (i) The Committee should notify the nominee and the general public of the time and place for holding the approval hearings expeditiously. The notification should therefore be made immediately; and,
- (ii) The Committee should thereafter commence the necessary approval hearings and table its Report on or before **Tuesday, 25th May, 2021** for debate and decision in the House.

Although the Committee and the House have twenty-eight days to consider and make a decision on the nomination, in view of the compelling public interest and the unique place of the office of the Chief Justice within our constitutional and legal order, the Committee is requested to consider the nomination on a priority basis.

I thank you!"

5. PAPERS LAID

The following Paper was laid on the Table –

- Estimates of Recurrent and Development Expenditure of the Parliamentary Service Commission for the year ending 30th June, 2022 and Projections for 2022/2023 – 2024.

(Hon. Adan Keynan – Member of the Parliamentary Service Commission)

6. POINT OF ORDER

Rising in his place on a Point of Order, pursuant to the provisions of Standing Order 83, the Chairperson of the Departmental Committee on Environment & Natural Resources (Hon. Kareke Mbiuki) sought guidance on the implication of Section 34(2)(a) of the Forest Conservation and Management Act, 2016 on the authority of the House to consider petitions for the variation of boundaries or revocation of public forest in terms of Article 119 of the Constitution.

The Speaker undertook to issue a comprehensive ruling on the matter.

7. SPECIAL MOTION - CONSIDERATION OF A NOMINEE FOR APPOINTMENT AS PRINCIPAL SECRETARY IN THE STATE DEPARTMENT FOR IMPLEMENTATION OF CURRICULUM REFORMS

Motion made and Question proposed –

THAT, taking into consideration the findings of the Departmental Committee on Education & Research in its report on *the Vetting of a Nominee for Appointment as Principal Secretary in the State Department for Implementation of Curriculum Reforms, laid on the Table of the House on Wednesday, April 28, 2021*, and pursuant to the provisions of Article 155(3)(b) of the Constitution and sections 3 & 8 of the Public Appointments (Parliamentary Approval) Act, 2011, this House approves the appointment of **Prof. Fatuma N. Chege, PhD**, as Principal Secretary, State Department for Implementation of Curriculum Reforms.

(The Chairperson, Departmental Committee on Education & Research)

Debate arising;

Rising in his place on a Point of Order pursuant to Standing Order 96, the Leader of the Majority Party claimed to move, "That, the debate be now adjourned".

And the Speaker having acceded to the claim;

Thereupon the debate on the Motion was adjourned.

8. SPECIAL MOTION - CONSIDERATION OF NOMINEES FOR APPOINTMENT AS CHAIRPERSON AND MEMBER TO THE TEACHERS SERVICE COMMISSION

Motion made and question proposed –

THAT, taking into consideration the findings of the Departmental Committee on Education and Research in its Report on the Vetting of Nominees for appointment to the Teachers Service Commission, laid on the Table of the House on Wednesday, April 28, 2021, and pursuant to the provisions of Article 250(2)(b) of the Constitution, Section 8(8) of the Teachers Service Commission Act, 2012 and Sections 3 and 8 of the Public Appointments (Parliamentary Approval) Act, 2011, this House now approves the appointment of the following persons to the Teachers Service Commission:-

- (i) Dr. Jamleck Muturi John, PhD - Chairperson; and,**
(ii) Mr. Timon Alfred Otieno Oyicho - Member

(The Chairperson, Departmental Committee on Education & Research)

And there being no debate arising;

Question put and agreed to.

9. THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2020

(Introduced pursuant to the provisions of Article 257(7) of the Constitution)

Order for Second Reading read;

Motion made and question proposed –

THAT, the Constitution of Kenya (Amendment) Bill, 2020 be now read a Second Time.

(The Leader of the Majority Party – Nominated by the Promoters of the Bill)

Rising in his place on a Point of Order, pursuant to Standing Order 83, the Member for Garrisa Township (Hon. Aden Duale) sought guidance from the Speaker on various issues relating to the Bill including the value of public participation conducted on the Bill, the weight to be placed on the submissions received by the Departmental Committee on Justice & Legal Affairs, amongst other issues.

Thereafter, several other Members, speaking on Points of Order, raised constitutional and procedural concerns generally revolving around the form and nature of the Bill; the processing of the Bill in the county assemblies and Parliament; the attendant thresholds; the effect of the pending court cases on the consideration of the Bill; and the measures put in place to facilitate Members to participate in the consideration of the Bill given the Covid-19 pandemic.

The Speaker undertook to issue guidance on the matters raised, and any other that may arise in the course of debate on the Bill;
Debate on the Second Reading of the Bill to proceed as scheduled;

And the time being three minutes past Seven O'clock, the Honourable Speaker interrupted the proceedings and adjourned the House without question put pursuant to the Standing Orders.

10. HOUSE ROSE – at three minutes past Seven O'clock

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M E M O R A N D U M

The Speaker will take the Chair on,
Thursday, April 29, 2021 at 10.00 a.m.

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