

REPUBLIC OF SOUTH AFRICA

MINUTES OF PROCEEDINGS

OF

NATIONAL ASSEMBLY

TUESDAY, 5 APRIL 2016

1. The House met at 14:02.
2. The Speaker took the Chair and requested members to observe a moment of silence for prayer or meditation.
3. [14:03] The Speaker announced the appointment, with effect from 21 March 2016, of Mr J M Mthembu as the Chief Whip of the Majority Party.
4. [14:04] Mr N F Shivambu raised a point of order, urging the Speaker to recuse herself from presiding over the debate on the draft resolution proposing the removal of the President of the Republic in terms of section 89(1)(a) of the Constitution. The Speaker gave parties an opportunity to express themselves on the matter and thereafter requested party whips to consult on the way forward.

BUSINESS SUSPENDED AT 14:32 AND RESUMED AT 15:55.

[15:56] The Speaker gave a ruling on a number of points of order urging her to recuse herself from presiding over the debate on the draft resolution proposing the removal of the President of the Republic in terms of section 89(1)(a) of the Constitution.

5. [16:07] The Deputy Chief Whip of the Majority Party, on behalf of the Chief Whip of the Majority Party, moved: That the House, notwithstanding Rule 29 which provides for the sequence of proceedings, deal with motions on the Order Paper before notices of motion and motions without notice.

Agreed to.

6. [16:07] The Leader of the Opposition moved: That the House -
- (1) notes the Constitutional Court judgment in *Economic Freedom Fighters and Others v the Speaker of the National Assembly and Others* (CCT 143/15) and *Democratic Alliance and Others v the Speaker of the National Assembly and Others* (CCT 171/15) –
 - (a) confirming the legal principle that, absent a judicial review, the Public Protector’s findings and remedial actions are binding and must be implemented, as held by the Supreme Court of Appeal in *South African Broadcasting Corporation SOC Limited and Others v the Democratic Alliance and Others* (393/20015) [2015] ZASCA 156;
 - (b) finding that President Zuma’s failure to comply with the remedial action taken by the Public Protector as set out in her report “Secure in Comfort” dated 19 March 2014 is unlawful and inconsistent with the Constitution of the Republic of South Africa, 1996 (“the Constitution”); and
 - (c) finding that President Zuma’s actions in requesting the Police Minister Nathi Nhleko to determine the amount he should repay for the costs of upgrading his private home in Nkandla to be inconsistent with the remedial action as directed by the Public Protector and therefore inconsistent with the Constitution;
 - (2) acknowledges that President Zuma thus seriously violated the Constitution when he undermined the Public Protector’s findings by instituting parallel investigative processes and when he failed to implement the Public Protector’s remedial action;
 - (3) further notes –
 - (a) the Constitutional Court judgment in *Democratic Alliance v President of the Republic of South Africa and Others* (CCT122/11) [2012] ZACC that the President of the Republic of South Africa’s action to appoint Mr Menzi Simelane as the National Director of Public Prosecutions is inconsistent with the Constitution and invalid;
 - (b) the Constitutional Court judgment in *Justice Alliance of South Africa v President of Republic of South Africa and Others, Freedom Under Law v President of Republic of South Africa and Others, Centre for Applied Legal Studies and Another v President of Republic of South Africa and*

Others (CCT 53/11, CCT 54/11, CCT 62/11) [2011] ZACC 23 that the decision of the President of the Republic of South Africa to request the Chief Justice of South Africa to continue performing active service as Chief Justice in terms of section 8(a) of the Judges Remuneration and Conditions of Employment Act, 2001 (Act No 47 of 2001) is inconsistent with the Constitution and invalid; and

- (c) the Supreme Court of Appeal Judgment in *President of the Republic of South Africa v M & G Media Limited* (998/13) [2014] ZACSA 124 where it was held that the President's conduct amounted to an abuse of process which cannot be tolerated; and

- (4) condemns the actions of the President and resolves to remove President Zuma from office in terms of section 89(1)(a) of the Constitution.

Debate concluded.

Question put: That the motion by The Leader of the Opposition be agreed to.

Division demanded.

The House divided.

AYES - 143: Alberts, A; America, D; Atkinson, P G; Bagraim, M; Balindlela, Z B N; Basson, L J; Bergman, D; Bhanga, B M; Boshoff, H S; Bozzoli, B; Brauteseth, T J; Breytenbach, G; Cardo, M J; Carter, D; Cassim, Y; Cebekhulu, R N; Chance, R W T; Chewane, H C; Davis, G R; De Freitas, M S F; De Kock, K; Dlamini, M M; Dreyer, A M; Dudley, C; Edwards, J; Esau, S; Esterhuizen, J A; Figg, M J; Figlan, A M; Filtane, M L W; Gana, S M; Gardee, G A; Gqada, T; Groenewald, P J; Groenewald, H B; Grootboom, G A; Hadebe, T Z; Hill-Lewis, G G; Hlengwa, M; Hlophe, H O; Holomisa, B H; Hoosen, M H; Horn, W; Hunsinger, C H H; Jafta, S M; James, W G; James, L V; Jongbloed, Z; Kalyan, S V; Ketabahle, V; Khawula, M S; Khoza, N P; Khubisa, N M; Kohler, D; Kopane, S P; Kruger, H C C; Krumbock, G R; Kwankwa, N L S; Lees, R A; Lekota, M G P; Lorimer, J R B; Lotriet, A; Louw, E N; Mabika, M S; Mackay, G; Mackenzie, C; Macpherson, D W; Mahumapelo, J M K; Maimane, M A; Majeke, C N; Majola, T R; Malatsi, M S; Malema, J S; Marais, S J F; Marais, E J; Masango, B S; Mashabela, N R; Matiase, N S; Matlhoko, A M; Matsepe, C D; Maynier, D J; Mazzone, N W A; Mbatha, M S; Mbhele, Z N; Mbinda, L R; Mcloughlin, A R; Mente, N V; Meshoe, K R J; Mhlongo, S P; Mhlongo, T W; Mileham, K J; Mncwabe, S C; Mncwango, M A; Mokause, M O; Mokgalapa, S; Motau, S C; Moteka, P G; Msimang, C T; Mulaudzi, T E; Mulder, C P; Mulder, P W A; Ndlozi, M Q; Nkomo, S J; Ntobongwana, P; Ntshayisa, L M; Ollis, I M; Paulsen, M N; Plouamma, M A; Rabotapi, M W; Rawula, T; Redelinghuys, M H; Robertson, K P; Robinson, D; Ross, D C; Schmidt, H C; Selfe, J; Shaik

Emam, A M; Shelembe, M L; Shinn, M R; Shivambu, N F; Singh, N; Sithole, K P; Sonti, N P; Stander, T; Steenhuisen, J H; Steyn, A; Stubbe, D J; Swart, S N; Tarabella Marchesi, N I; Terblanche, J F; Topham, B R; Van Dalen, P; Van Damme, P T; Van Der Merwe, L L; Van Der Walt, D; Van Der Westhuizen, A P; Van Dyk, V; Volmink, H C; Vos, J; Walters, T C R; Waters, M; Whitfield, A G; Wilson, E R.

NOES - 235: Abrahams, B L; Adams, P E; Adams, F; Bam-Mugwanya, V; Bapela, K O; Basson, J V; Bekwa, S D; Beukman, F; Bhengu, P; Bhengu, N R; Bhengu, F; Bilankulu, N K; Bogopane-Zulu, H I; Bongo, B T; Booii, M S; Boroto, M G; Brown, L; Buthelezi, N S; Capa, R N; Capa, N; Carrim, Y I; Cele, M A; Chauke, H P; Chikunga, L S; Chiloane, T D; Chohan, F I; Chueu, M P; Coleman, E M; Cronin, J P; Cwele, S C; Didiza, A T; Dirks, M A; Dlakude, D E; Dlamini, B O; Dlamini-Dubazana, Z S; Dlodlo, A; Dlomo, B J; Dlulane, B N; Dunjwa, M L; Ebrahim, E I; Faku, Z C; Frolick, C T; Fubbs, J L; Gamede, D D; Gwabaza, N E; Gigaba, K M N; Godi, N T; Goqwana, M B; Gordhan, P J; Gumede, D M; Hanekom, D A; Holomisa, S P; Jeffery, J H; Joemat-Pettersson, T M; Johnson, M; Jonas, M H; Kalako, M U; Kekana, H B; Kekana, P S; Kekana, C D; Kekana, M D; Kekana, E; Kenye, T E; Khoarai, L P; Khosa, D H; Khoza, T Z M; Khoza, M B; Khunou, N P; Kilian, J D; Koornhof, G W; Kota-Fredricks, Z A; Kubayi, M T; Landers, L T; Lesoma, R M M; Letsatsi-Duba, D B; Loliwe, F S; Luyenge, Z; Luzipo, S; Maake, J J; Mabasa, X; Mabe, B P; Mabe, P P; Mabija, L; Mabilo, S P; Mabudafhasi, T R; Madella, A F; Madlopha, C Q; Maesela, P; Mafolo, M V; Mafu, N N; Magadla, N W; Magadzi, D P; Magwanishe, G; Mahambehlala, T; Mahlalela, A F; Mahlangu, D G; Mahlangu, J L; Mahlobo, M D; Maila, M S A; Majola, F Z; Makhubela-Mashele, L S; Makhubele, Z S; Makondo, T; Makwetla, S P; Malgas, H H; Maluleke, J M; Maluleke, B J; Manamela, K B; Manana, M C; Manana, M N S; Manana, D P; Mandela, Z M D; Mantashe, P T; Maphatsoe, E R K; Mapisa-Nqakula, N N; Mapulane, M P; Martins, B A D; Masango, M S A; Masehela, E K M; Maseko, L M; Mashego-Dlamini, K C; Mashile, B L; Masina, M C; Masondo, N A; Masuku, M B; Masutha, T M; Maswanganyi, M J; Mathale, C C; Mathebe, D H; Matlala, M H; Matshoba, M O; Matsimbi, C; Mavunda, R T; Maxegwana, C H M; Mbalula, F A; Mbete, B; Mchunu, S; Mdakane, M R; Memela, T C; Mfeketo, N C; Mjobo, L N; Mkhize, H B; Mkongi, B M; Mmemezi, H M Z; Mmola, M P; Mmusi, S G; Mnganga - Gcabashe, L A; Mnguni, P J; Mnguni, D; Mnisi, N A; Mogotsi, V P; Mokoto, N R; Molebatsi, M A; Molewa, B E E; Morutoa, M R; Mothapo, M R M; Motimele, M S; Motshekga, M S; Motsoaledi, P A; Mpumlwana, L K B; Mthembu, J M; Mthembu, N; Mthethwa, E N; Mthethwa, E M; Mudau, A M; Muthambi, A F; Nchabeleng, M E; Ndaba, C N; Ndongeni, N; Nel, A C; Ngcobo, B T; Ngwenya-Mabila, P C; Nkadimeng, M F; Nkoana-Mashabane, M E; Nkwinti, G E; Nobanda, G N; Nqakula, C; Ntombela, M L D; Nxesi, T W; Nyambi, H V; Nzimande, B E; Oliphant, M N; Oliphant, G G; Oosthuizen, G C; Pandor, G N M; Patel, E; Peters, E D; Phaahla, M J; Phosa, Y N; Pikinini, I A; Pilane-Majake, M C C; Qikani, A D N; Radebe, B A; Radebe, J T; Radebe, G S; Ralegoma, S M; Ramaphosa, M C; Ramatlakane, L; Ramatlhodi, N A; Rantho, D Z; Raphuti, D D; Semenya, M R; Senokoanyane, D Z; September, C C; Shabangu, S; Shope-Sithole,

S C N; Sibande, M P; Sisulu, L N; Siwela, E K; Skosana, J J; Skwatsha, M; Smith, V G; Soty, M M; Surty, M E; Thomson, B; Tleane, S A; Tobias, T V; Tom, X S; Tongwane, T M A; Tseke, G K; Tseli, R M; Tshwete, P; Tsoleli, S P; Tsetetsi, D R; Tuck, A; v R Koornhof, N J J; Van Rooyen, D D D; Van Schalkwyk, S R; Williams, A J; Xasa, T; Xego, S T; Yengeni, L E; Zokwana, S; Zulu, L D; Zwane, M J.

Question not agreed to.

Motion accordingly negatived.

7. [18:19] The Chief Whip of the Majority Party moved: That, notwithstanding the hours of sitting of the House as provided for in Rule 23(2), the House may sit in plenary or extended public committees, at times agreed to by the National Assembly Programme Committee for the period 19 April to 19 May 2016.

Agreed to.

8. [18:19] The Chief Whip of the Majority Party moved: That the House –
- (1) notes that on 29 March 2007, the National Assembly and the National Council of Provinces, respectively, adopted the First Report of Joint Rules Committee, 2007, tabled in the *Announcements, Tablings and Committee Reports* on 27 March 2007, which contained the Governance Model for Parliament;
 - (2) further notes that the Financial Management of Parliament and Provincial Legislatures Act (Act No 10 of 2009) (previously the Financial Management of Parliament Act 10 of 2009) provides that an oversight mechanism of Parliament must maintain oversight of the financial management of Parliament;
 - (3) recalls that on 26 November 2015 the National Assembly and the National Council of Provinces, respectively, adopted the First Report of the Joint Rules Committee, 2015, tabled in the *Announcements, Tablings and Committee Reports* on 20 November 2015, which included new joint rules for a Joint Standing Committee on the Financial Management of Parliament (the Oversight Mechanism);
 - (4) recognises that the Governance Model of Parliament adopted by the National Assembly and the National Council of Provinces on 29 March 2007 is inconsistent with the Financial Management of Parliament and Provincial Legislatures Act; and
 - (5) resolves, subject to concurrence of the National Council of Provinces, to abolish the Governance Model of Parliament.

Agreed to.

9. [18:22] Notices of motion.

10. [18:25] Ms D Z Rantho moved without notice: That the House –

- (1) welcomes the Easter Weekend 2016 Road Safety Report released by the Minister of Transport, Dipuo Peters, on Tuesday, 29 March 2016;
- (2) notes that the report shows a 46% decline on road fatalities this year, 2016, compared to the year 2015;
- (3) attributes a decline in road accidents fatalities to the success in the Department of Transport's rigorous road safety awareness initiatives, the law enforcements officers high visibility, which together with increasing accountability by road users;
- (4) commends the law enforcement officers, men and women, who worked tirelessly, day and night, to make sure that our people are safe on our roads and arrive safely at their various destinations over the weekend; and
- (5) further commends all motorists, particularly the public transport drivers for exercising precaution on the road and ensuring that their passengers are safe.

Agreed to.

11. Mr N E Gcwabaza moved without notice: That the House -

- (1) notes with sadness the horrific terrorists attacks which killed 34 innocent civilians and injured more than 100 in Brussels, on Tuesday, 22 March 2016;
- (2) further notes that in the first incident a suicide bomber blew himself up at Brussels Airport killing at least 14 people; and a further blast tore through a rush-hour metro train in the capital shortly afterwards, claiming 20 lives;
- (3) believes that terrorism, in whatever form and from whichever quarter it comes from, can never be justified as a means to solve problems;
- (4) further believes that it is only through peaceful negotiations and dialogue that amicable solutions to the problems and challenges facing the world can be resolved;

- (5) condemns with contempt it deserves, these acts of cowardice targeting unarmed and defenseless citizens; and
- (6) conveys its heartfelt condolence to Prime Minister Charles Michel and the people of the Kingdom of Belgium, particularly the families of the victims; and wishes those injured a speedy recovery.

Agreed to.

12. Ms D Z Rantho moved without notice: That the House -

- (1) notes that two Cape Town young entrepreneurs will be spending the next year rubbing shoulders with other 11 social entrepreneurs from around the world at the World Economic Forum events;
- (2) further notes that Luvuyo Rani of Silulo Ulutho Technologies, and Tracey Chambers of The Clothing Bank, were last week named among the Schwab Foundation for Social Entrepreneurship group who will benefit from meeting leaders in business, government, civil society and the media;
- (3) recalls that Luvuyo Rani saw an opportunity where others saw junk, when he started refurbishing personal computers and selling them out of his car boot in Khayelitsha about 12 years ago;
- (4) further recalls that his business now runs 36 stores and training centres in the Western Cape and Eastern Cape, providing IT-related products and services in under-served areas such as townships and rural areas, where it is needed the most;
- (5) acknowledges that Tracey Chambers of The Clothing Bank started in 2010 and that she takes surplus clothing, toys and electronics from major retailers and gives 1 000 hours of training to unemployed mothers, after which they buy the products to sell;
- (6) understands that these awardees are experimenting with business models and changing society for the better in the process; and
- (7) congratulates Luvuyo Rani and Tracey Chambers for their commitment and hard work and for their nomination by Schwab Foundation to represent South Africa at the World Economic Forum.

Agreed to.

13. Mr N E Gcwabaza moved without notice: That the House -

- (1) welcomes Deputy President Cyril Ramaphosa's appointment as the first Chancellor of the new University of Mpumalanga on Saturday, 2 April 2016;
- (2) further notes that the ceremony took place at the Ingwenyama Conference and Sport Resort in White River Mpumalanga, and it was attended by high profile guests including some Ministers and Deputy Ministers;
- (3) recalls that the University, formerly Mpumalanga Agricultural College, currently provides for three faculties of Commerce and Management, Agriculture and Natural Sciences and Education; and that the faculties of Humanities, Health Science and Engineering will be established in the near future;
- (4) acknowledges that the university council's decision to appoint Ramaphosa to the chancellorship was taken in April last year;
- (5) believes that Ramaphosa's appointment will boost the image of the fledging university which, since its formal launch in 2013, had made strides in ensuring that it meets the mandate for which it was established;
- (6) further believes that this appointment would lend political weight and leadership gravitas to the University of Mpumalanga given the profile of the Deputy President; and
- (7) congratulates Deputy President on his appointment as the first Chancellor of this institution of higher learning.

Agreed to.

14. Ms D Z Rantho moved without notice: That the House -

- (1) notes that on Sunday, 27 March 2016, President Zuma was given the First Order, which is the highest award the King of Saudi Arabia bestows on a foreign national;
- (2) further notes that the order is awarded to citizens of Saudi Arabia and foreigners for meritorious service to the kingdom;
- (3) recalls that the award has also been given to David Cameron, the Prime Minister of the United Kingdom, President Barrack Obama of the United States and President Vladimir Putin, amongst others;

- (4) believes that the award will go a long way towards strengthening the bilateral relations between South Africa and Saudi Arabia;
- (5) further believes that it will also ensure closer bilateral intelligence cooperation in relation to the regional terrorism threat to domestic and regional security and stability; and
- (6) congratulates President Zuma on receiving the rare award from His Majesty King Salman Bin Abdul Aziz on behalf of the people of South Africa.

Agreed to.

15. [18:36] Members' statements.

16. FIRST ORDER [18:50]

Second Reading debate – **Unemployment Insurance Amendment Bill** [B 25B – 2015] (National Assembly – sec 75)

There was no debate.

The Deputy Chief Whip of the Majority Party moved: That, notwithstanding the provisions of the National Assembly Rule 254(5)(a), the Bill and the proposed amendments on the Order Paper be recommitted to the Portfolio Committee on Labour for further consideration and report.

Motion agreed to.

Bill and the proposed amendments accordingly recommitted to the Portfolio Committee on Labour.

17. SECOND ORDER [18:53]

Consideration of **Report of Ad Hoc Joint Committee on Appointment of Board Members to National Youth Development Agency** (Announcements, Tablings and Committee Reports, 30 March 2016, p 1).

There was no debate.

The Deputy Chief Whip of the Majority Party moved: That the House refer the Report of the Ad Hoc Joint Committee on the Appointment of Board Members to National Youth Development Agency back to the committee which originally considered it for further consideration and report.

Motion agreed to.

Report of Ad Hoc Joint Committee on Appointment of Board Members to National Youth Development Agency referred back to the ad hoc joint committee which originally considered it.

18. [18:55] The Chief Whip of the Majority Party moved, with leave: That the House –
- (1) note the resolution to refer the Report of the Ad Hoc Joint Committee on the Appointment of Board Members to National Youth Development Agency back to the committee which originally considered it for further consideration and report;
 - (2) therefore, subject to the concurrence of the National Council of Provinces, re-establishes the Ad Hoc Joint Committee on Appointment of Board Members to National Youth Development Agency with the same composition, membership, chairperson and powers as its predecessor (Minutes of Proceedings, 23 February 2016, p 27); and
 - (3) sets the deadline by which the Ad Hoc Joint Committee must report at 19 May 2016.

Agreed to.

19. THIRD ORDER [18:58]

Consideration of Report of Standing Committee on Appropriations on **Strategic Planning Session** (Announcements, Tablings and Committee Reports, 15 March 2016, p 20).

Mr N E Gwabaza, as Acting Chairperson of the Committee, introduced the Report.

There was no debate.

The Deputy Chief Whip of the Majority Party moved: That the Report be adopted.

Motion agreed to.

Report accordingly adopted.

20. FOURTH ORDER [19:03]

Consideration of Report of Portfolio Committee on Justice and Correctional Services on **Provisional suspension of aspirant magistrate Mr L Zantsi** (Announcements, Tablings and Committee Reports, 8 March 2016, p 28).

Ms M C C Pilane-Majake, as a Member of the Committee, introduced the Report.

There was no debate.

Question put: That the Report of the Committee be adopted, including the recommendation that the provisional suspension from office of aspirant magistrate Mr L Zantsi be confirmed.

Question agreed to.

Report adopted and provisional suspension from office of aspirant magistrate Mr L Zantsi confirmed.

21. The House adjourned at 19:10.

G MGIDLANA
Secretary to Parliament