



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – SECOND SESSION**

**THE SENATE**

**VOTES AND PROCEEDINGS**

**THURSDAY, NOVEMBER 15, 2018 AT 2.30 P.M.**

1. The Senate assembled at thirty minutes past Two O'clock.
2. The proceedings were opened with prayer said by the Deputy Speaker.
3. **COMMUNICATION FROM THE CHAIR**

The Deputy Speaker conveyed the following communication from the Chair:-

**Visiting delegation from the Parliament of Malawi**

“Honourable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, of a delegation visiting us from the Parliament of Malawi.

The delegation is comprised of a Commissioner of the Parliamentary Service Commission of Malawi, Members, staff and representatives of some of their development partners.

I request each member of the delegation to stand when their name is called out, so that they may be acknowledged in the Senate tradition.

They are:-

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|--------------------------------|--|
| 1. Hon. Ralph Jooma            | -Member of the Parliamentary Service Commission of Malawi (Leader of the Delegation) |
| 2. Hon. Maxwell Thyolera       | -Chairperson of Legal Affairs Committee;   |
| 3. Hon. Lingison Belekanyama   | -Chairperson of Public Appointments Committee and member of Legal Affairs Committee  |
| 4. Hon. Dr. Allan Chiyembekeza | -Member of Legal Affairs Committee   |

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| 5. Hon. Patricia Mkanda     | -Chairperson of Privileges Committee  |
| 6. Hon. Martha Lunji        | -Member of Legal Affairs Committee  |
| 7. Hon. Bonface Kadzamira   | -Member of Legal Affairs Committee  |
| 8. Mr. Jefferey Mwenyeheli  | -Assistant Clerk of Parliament, Table Office and Clerk to Legal Affairs Committee |
| 9. Mrs. Tilly Likomwa       | -Assistant Clerk of Parliament, Legal Services Division                           |
| 10. Mr. Lovemore Nyongo     | -Controller of Planning   |
| 11. Mr. Frederick Kamwani   | -Clerk to Privileges Committee  |
| 12. Mr. Martin Phiri        | -Programme Manager for Africa Institute for Development policy (AFIDEP)           |
| 13. Mr. Lucius Chipendo     | -Ministry of Finance  |
| 14. Mr. Richard Santhe      | -Ministry of Justice  |
| 15. Dr. Ronald Managani     | -Consultant   |
| 16. Mr. Chikondi Kachinjika | -Financial Controller.  |

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and, on behalf of the Senate and on my own behalf, wish them a fruitful stay in the country.

I thank you.”

#### 4. **PAPERS LAID**

The following Papers were laid on the Table of the Senate: -

- a) Report of the Standing Committee on Finance and Budget on the Public Private Partnerships (Amendment) Bill (National Assembly Bills No. 52 of 2017).

*(Chairperson of the Standing Committee on Finance and Budget)*

- b) Report of the Standing Committee on Land, Environment and Natural Resources on the Land Value Index Laws (Amendment) Bill (National Assembly Bills No. 3 of 2018).

*(Sen. George Khaniri on behalf of the Chairperson of the Standing Committee on Land, Environment and Natural Resources)*

- c) Report of the Committee of Powers and Privileges on allegations of impropriety in relation to the Senate County Public Accounts and Investments Committee inquiry into possible loss of funds through the acquisition of Land Lr. No. 7879/4 (Part) by the National Land Commission.

*(Sen. (Arch.) Sylvia Kasanga on behalf of the Chairperson of the Committee of Powers and Privileges)*

- d) Statement on the Business of the Senate for the week commencing Tuesday, 20<sup>th</sup> November, 2018.

5. **COMMUNICATION FROM THE CHAIR**

The Deputy Speaker conveyed the following communication from the Chair:-

**Report of the Committee of Powers and Privileges on the allegations of impropriety in relation to the Senate County Public Accounts and Investment Committee inquiry into possible loss of public funds through the acquisition of Land LR. No. 7879/4 (Part) by the National Land Commission**

“Honourable Senators,

As you are aware, the matter of the report of the County Public Accounts and Investments Committee on the Ruaraka land inquiry and the allegations during the exercise has been pending before the House. You will also recall that the Chair put on hold debate on the County Public Accounts and Investments Committee report on 20<sup>th</sup> September, 2018, pending the conclusion of the proceedings by the Powers and Privileges Committee. The Committee of Powers and Privileges considered the issues raised and has today tabled its report.

The Committee has determined, in the report, that the allegations made against some members of the County Public Accounts and Investments Committee were not substantiated and therefore could not form the basis of an inquiry by the Powers and Privileges Committee.

The Powers and Privileges Act provides the manner of conducting an inquiry and in dealing with a report of the Powers and Privileges Committee as follows- Section 15 (5), (6) and (7) states, and I quote-

*“(5) The Committee of Powers and Privileges shall, either of its own motion or as a result of a complaint made by any person, inquire into the conduct of a Member whose conduct is alleged to constitute breach of privilege in terms of section 16, within fourteen days of receipt of complaint.*

*(6) The Committee of Powers of Privileges shall, within fourteen days of the conclusion of an enquiry, table its findings in the relevant House of Parliament together with such recommendations as it considers appropriate.*

*(7) Each House of Parliament shall consider the report and recommendations by the Committee of Privileges in the manner set out in the Third Schedule.”*

Further, paragraphs 1 and 2 of the Third Schedule of the Act provides as follows-

*“1. Every Report of the Committee of Powers and Privileges concerning any inquiry into the conduct of a Member shall, as soon as possible after it has been completed, be laid by a member of the Committee on the Table of the House.*

*2. If the Report does not recommend any disciplinary action there shall be no further proceedings whatsoever in respect thereof, other than (where necessary) further inquiry and Report by the Committee of Powers and Privileges.”*

Consequently, I wish to inform the House that previously, we have had reports of this nature, where allegations made are not substantiated. In the case of the proposed removal of the Governor for Kericho County, the allegations were not substantiated. As such, the Report was tabled by the Special Committee and the Speaker gave a communication stating that further to the County Governments Act, and the Senate Standing Orders, no further proceedings could be taken in respect of the allegations but owing to the importance that the House vested in the Special Committee and the overwhelming public interest in the matter, the Speaker allowed remarks by the Chairperson of the Committee in respect of the assignment the Committee undertook on the instructions of the House. The Speaker further permitted a few interventions of a general nature on the report without going to the merits or demerits of the findings of the Special Committee.

Honourable Senators,

In the same breadth and in accordance with paragraph 2 of the Third Schedule of the Parliamentary Powers and Privileges Act, I direct that there shall be no further proceedings whatsoever in respect of the matter.

I will however allow interventions of a general nature on the report which comments should not go to the merits or demerits of the observations and conclusions of the Committee.

I thank you.”

## 6. **STATEMENTS**

### **(i) Statements Pursuant to Standing Order No. 48 (1)**

- a) The Senator for Taita Taveta County (Sen. Johnes Mwaruma, MP) requested for a statement from the Standing Committee on Roads and Transportation on the Corporate Social Responsibility projects and programmes under the Standard Gauge Railway by the Kenya Railways.
- b) The Senator for Taita Taveta County (Sen. Johnes Mwaruma, MP) requested for a statement from the Standing Committee on Land, Environment and Natural Resources on the division of royalties obtained from mining in Taita Taveta County between the County and National Government.

**(ii) Statement Pursuant to Standing Order No. 52 (1)**

The Senate Majority Leader issued a statement on the business of the Senate for the week commencing Tuesday, 20<sup>th</sup> November, 2018.

7. **MOTION – ADOPTION OF THE REPORT OF THE SESSIONAL COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS ON THE INQUIRY INTO POSSIBLE LOSS OF PUBLIC FUNDS THROUGH ACQUISITION OF LAND FOR PUBLIC USE**

Motion made and Question proposed:-

THAT, this House adopts the Report of the Sessional Committee on County Public Accounts and Investments on the inquiry into possible loss of funds through the acquisition of Land LR. No.7879/4 (part) by the National Land Commission, for use by two public schools (Ruaraka High School and Drive-In Primary School), Nairobi City County, laid on the Table of the House on Wednesday, 8<sup>th</sup> August, 2018.

*(Chairperson, Sessional Committee on County Public Accounts and Investments)*

**LIMITATION OF DEBATE ON THE MOTION**

Raising a Point of Order, the Senate Majority Leader claimed to move a Motion of limitation of debate;

Motion made and question proposed:

THAT, pursuant to Standing order 106(3) of the Senate Standing Orders, the debate on the Motion be limited in the following manner;

- (i) A maximum of 10 minutes each for the Senate Majority Leader and the Senate Minority Leader; and
- (ii) A maximum of 5 minutes for all Senators.

*(The Senate Majority Leader)*

There being no Senator wishing to contribute;

Question put and agreed to.

Debate on the Motion resumed;

And there being no other Senator wishing to contribute;

Mover replied;

Before the Question was put and pursuant to Standing Order 79 (1) the Deputy Speaker informed the House that the Motion affects counties.

Raising a Point of Order the Mover requested that the putting of the Question be deferred to a later date, pursuant to Standing Order 61 (3).

And the Deputy Speaker, acceding to the request, deferred the putting of the Question to a later date.

8. **THE COUNTY ALLOCATION OF REVENUE (AMENDMENT) BILL (SENATE BILLS NO. 29 OF 2018)**

Order for Second Reading read;

Motion made and Question proposed: -

THAT, the County Allocation of Revenue (Amendment) Bill (Senate Bills No. 29 of 2018) be now read a Second Time.

*(Chairperson, Standing Committee on Finance and Budget)*

Debate arising;

There being no other Senator wishing to contribute;

Mover replied;

Raising a Point of Order the Mover requested that the putting of the Question be deferred to a later date, pursuant to Standing Order 61 (3).

And the Temporary Speaker (Sen. (Dr.) Steve Lelegwe), acceding to the request, nominated Wednesday, 21<sup>st</sup> November, 2018 as the day when the Question shall be put.

9. **MOTION – REHABILITATION OF STREET FAMILIES**

THAT, AWARE THAT the Street Families Rehabilitation Trust Fund (SFRTF) was established on 11th March, 2003 by the then Ministry of Local Government to address the concerns of all homeless, destitute and vulnerable persons in urban areas, and was registered as a body Corporate in August, 2010 under the Trustees (Perpetual Succession) Act, Cap 164, Laws of Kenya;

FURTHER AWARE THAT the mandate of SFRTF includes coordinating rehabilitation activities for street families; conducting public education on street families issues; mobilizing resources and fundraising as well as receiving donations and funding street families rehabilitation programmes; managing donations for the rehabilitation of street families through a trust fund; monitoring expenditure and disbursement of donations; and advising the government and other relevant agencies on matters relating to rehabilitation of street families;

NOTING THAT Article 43 (1) of the Constitution of Kenya provides for the right to every person to the highest attainable standard of health, accessible and adequate housing, adequate food of acceptable quality, clean and safe water in adequate quantities, education, and social security;

CONCERNED THAT the street family phenomenon has persisted despite the existence of the SFRTF and street families do not enjoy the rights enshrined in the Constitution due to lack of a national policy on the rehabilitation of street families, with women and children being the primary victims;

COGNIZANT THAT the Ministry of Devolution and ASAL Areas through the SFRTF supports children and youth through charitable and community based organizations which are vetted and approved for funding under the rescue, rehabilitation and reintegration of street families programme;

NOTING THAT both the National and County Governments have a role to play in addressing the plight of street families across the Country;

NOW THEREFORE the Senate resolves that the Ministry of Devolution and ASAL Areas in collaboration with the Council of Governors-

1. conducts a census of street families in all urban centres in the country to determine their numbers and demographics;
2. develops a clear policy on street families rehabilitation and reintegration at county level; and
3. tables an audit report of how funds allocated to the SFRTF have been utilized since the Fund was established, indicating the impact of the rehabilitation exercise.

*(Sen. Beatrice Kwamboka, MP)*

Order deferred.

10. **MOTION - REMEDIES FOR CLOSURE OF SCHOOLS DUE TO FLOODS AND INSTANCES OF INSECURITY**

THAT, AWARE that Article 43(1)(f) of the Constitution of Kenya provides that every person has a right to education and Article 53(1)(b) of the Constitution states that every child has the right to free and compulsory basic education;

COGNIZANT that on 5<sup>th</sup> January, 2018 during the flagging off of national delivery of core course books for schools at Cemastea Karen, His Excellency the President Uhuru Kenyatta stated that his administration has focused on initiatives that ensure every Kenyan has access to quality education, so they can acquire appropriate skills and knowledge that make our country globally competitive;

FURTHER AWARE that recently the country has suffered floods in many parts of the country leading to deaths and people being displaced and rendered homeless;

DEEPLY CONCERNED that some schools have also remained closed even after other schools reopened while others have been closed as a result of floods and instances of insecurity;

FURTHER NOTING that closure of schools due to the said floods as well as insecurity places students and pupils in those schools at a disadvantage as they are unable to access education which is their right, while some of the students

in those schools are expected to sit for their national exams at the end of the year and their performance risks being negatively affected by the lost time out of school;

NOW THEREFORE, the Senate resolves that the Committee on Education, investigates this matter with a view to: -

1. identifying strategies to ensure that the affected students are able to access education as soon as possible;
2. outlining preventative measures to ensure that more students are not affected by the floods and insecurity; and
3. Submitting a Report to the Senate within sixty (60) days outlining the short and long term strategies, that are being put in place to ensure that schools in flood and insecurity prone areas are not affected in the future.

*(Sen. (Arch.) Sylvia Kasanga, MP)*

Order deferred.

10. **MOTION - REPORT OF THE SIXTH ORDINARY SESSION OF THE FOURTH PAN-AFRICAN PARLIAMENT.**

THAT, this House notes the Report of the Sixth Ordinary Session of the Fourth Pan- African Parliament held in Midrand, South Africa, from 7<sup>th</sup> to 18<sup>th</sup> May, 2018, laid on the Table of the House on Tuesday, 24<sup>th</sup> July, 2018.

*(Sen. (Dr.) Abdullahi Ali, MP)*

Order deferred.

11. **MOTION – REPORT OF THE SENATE DELEGATION TO THE INAUGURAL COMMONWEALTH PARLIAMENTARIANS’ FORUM**

THAT, this House notes the Report of the Senate Delegation to the Inaugural Commonwealth Parliamentarians’ Forum held at the Westminster Palace, London, United Kingdom from 26<sup>th</sup> February to 1<sup>st</sup> March, 2018 laid on the Table of the House on Thursday, 10<sup>th</sup> May, 2018.

*(Sen. Moses Kajwang’, MP)*

Order deferred.

12. **MOTION - REPORT OF THE 138<sup>TH</sup> ASSEMBLY OF THE INTER PARLIAMENTARY UNION (IPU)**

THAT, this House notes the Report of the 138<sup>th</sup> Assembly of the Inter – Parliamentary Union (IPU) and related meetings held in Geneva, Switzerland from 22<sup>nd</sup> – 28<sup>th</sup> March, 2018 laid on the Table of the Senate on Thursday, 21<sup>st</sup> June, 2018.

*(Sen. Susan Kihika, MP)*

Order deferred.



13. **MOTION - REPORT OF THE SENATE DELEGATION TO THE AFRICAN PARLIAMENTARIANS' NETWORK AGAINST CORRUPTION (APNAC) CONFERENCE**

THAT, this House notes the Report of the Senate Delegation to the African Parliamentarians' Network Against Corruption (APNAC) Conference held in Ghana from 17<sup>th</sup> – 18<sup>th</sup> March, 2018, laid on the Table of the House on Tuesday, 19<sup>th</sup> June, 2018.

*(Sen. (Dr.) Isaac Mwaura, MP)*

Order deferred.

14. **MOTION – REPORT OF THE 62<sup>ND</sup> SESSION OF THE COMMISSION ON THE STATUS OF WOMEN**

THAT, this House notes the Report of the 62<sup>nd</sup> Session of the Commission on the Status of Women laid on the Table of the House on Tuesday, 17<sup>th</sup> July, 2018.

*(Sen. Abshiro Halake, MP)*

Order deferred.

15. **MOTION – REPORT OF THE 49<sup>TH</sup> SESSION OF THE AFRICAN CARIBBEAN PACIFIC PARLIAMENTARY ASSEMBLY AND INTER – SESSIONAL MEETING**

THAT, this House notes the Report of the 49<sup>th</sup> Session of the ACP Parliamentary Assembly and Inter- Sessional meeting of the ACP-EU Joint Parliamentary Assembly held on 20<sup>th</sup> – 22<sup>nd</sup> March, 2018 in Brussels, Belgium, laid on the Table of the House on Tuesday, 31<sup>st</sup> July, 2018.

*(Sen. (Prof.) Margaret Kamar, MP)*

Order deferred.

16. **MOTION –REPORT OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE ON THE 2018 COMMONWEALTH GAMES**

THAT, this House notes the Report of the Standing Committee on Labour and Social Welfare on the 2018 Commonwealth Games held in Gold-Coast, Australia from 4<sup>th</sup> to 15<sup>th</sup> April, 2018, laid on the Table of the Senate on Wednesday, 1<sup>st</sup> August, 2018.

*(Sen. (Dr.) Alice Milgo, MP)*

Order deferred.

17. **MOTION - REPORT OF THE SENATE DELEGATION TO THE CONFERENCE ON ENHANCING THE ROLE OF PARLIAMENTARIANS IN THE INTERLINKAGE BETWEEN POPULATION ISSUES AND THE 2030 AGENDA FOR SUSTAINABLE DEVELOPMENT**

THAT, this House notes the Report of the Senate Delegation to the Conference on Enhancing the Role of Parliamentarians in the Interlinkage between Population Issues and the 2030 Agenda for Sustainable Development, held in New Delhi, India from 13<sup>th</sup> – 15<sup>th</sup> September, 2017, laid on the Table of the House on Thursday, 2nd August, 2018.

*(Sen. Fredrick Outa, MP)*

Order deferred.

18. **MOTION - REPORT OF THE GLOBAL PARLIAMENTARY CONFERENCE (GPC) HELD AT THE WORLD BANK HEADQUARTERS**

THAT, this House notes the Report of the proceedings of the Global Parliamentary Conference (GPC), held at the World Bank Headquarters, in Washington DC, United States of America from 16<sup>th</sup> to 17<sup>th</sup> April, 2018, laid on the Table of the House on Thursday, 12<sup>th</sup> July, 2018.

*(Sen. (Dr.) Abdullahi Ali, MP)*

Order deferred.

And there being no other business on the Order Paper, the Temporary Speaker (Sen. (Dr.) Steve Lelegwe) adjourned the Senate at twenty-five minutes past Six O' clock without Question put, pursuant to the Standing Orders.

19. **SENATE ROSE** – at twenty-five minutes past Six O'clock.

**MEMORANDUM**

*The Speaker will take the Chair on  
Tuesday, November 20, 2018 at 2:30 p.m.*

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