



**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT – (THIRD SESSION)**

**THE SENATE**

**VOTES AND PROCEEDINGS**

**AFTERNOON SITTING**

**TUESDAY, OCTOBER 15, 2024 AT 2.30 PM**

1. The Senate assembled at thirty Minutes past Two O'clock.
2. The proceedings were opened with Prayer said by the Speaker.
3. **QUORUM OF THE SENATE**

The Speaker, having counted the Honourable Senators present at the commencement of the Sitting and confirming that there was no Quorum, directed that the Bell be rung for ten minutes, pursuant to Standing Order 40;

And there being a Quorum before the expiry of the ten minutes;

The Speaker invited the Clerk to call the Orders of the day.

4. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following Communications from the Chair –

**(a) Visiting delegation from the Parliament of Uganda**

“Honourable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, of a visiting delegation from the Parliament of Uganda. The Honourable Members also serve in the Network of African Women Ministers (NAWMP) Caucus under the Health and Budget Committee.

I request each Member of the delegation to stand when called out so that you may be acknowledged in the Senate tradition.

1. Hon. (Dr.) Bukenya Michael - Member of Parliament
2. Hon. Mukhaye Miriam - Member of Parliament

Honourable Senators,

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

I thank you.”

**(b) Issues raised by the Senator of Isiolo County on the non-appearance of the Governor of Isiolo County before various committees of the Senate.**

“Honourable Senators,

At the sitting of the Senate held on Wednesday 9<sup>th</sup> October, 2024, Sen. Fatuma Dullo, brought it to the attention of this House that the Governor of Isiolo, Hon. Abdi Ibrahim Hassan, had on several occasions failed to appear before various Committees of the Senate in response to either an invitation to appear or a summons. Indeed the following instances serve as an illustration of the instances where the Governor, without justifiable reason, has failed to appear-

- (a) invitation by the County Public Accounts Committee where the Governor had been invited severally but had declined to appear thus summons dated 12<sup>th</sup> April, 2024, were issued by the Committee;
- (b) invitation by the Standing Committee on Labour and Social Welfare where the Governor has been invited severally but has declined to appear thus a summons was issued;
- (c) invitation by the Standing Committee on Finance and Budget where the Governor had failed to respond to the Committee’s requests for information and thus summons dated 31<sup>st</sup> July, 2024 were issued by the Committee. The Governor failed to appear in response to the summons and the Committee issued further summons dated 30<sup>th</sup> September, 2024;
- (d) invitation by the County Public Investments and Special Funds Committee where the Governor appeared and used demeaning language and insulted members of the Committee;
- (e) the Governor failed to appear before the Standing Committee on Health pursuant to a summons dated 21<sup>st</sup> May, 2024. The Governor obtained conservatory orders prohibiting the Director of Public Prosecutions from implementing the resolution of the Committee to have the Governor prosecuted for breach of section 27(1)(a) of the Parliamentary Powers and Privileges;
- (f) invitation by the Standing Committee on National Cohesion, Equal Opportunity and Regional Integration where the Governor has declined to appear before the Committee; and

- (g) invitation by the Standing Committee on Devolution and Intergovernmental Relations where the Governor did not appear.

Honourable Senators it would be prudent to consider the issues raised by Senator Dullo in the context of the law and judicial pronouncements that govern the issuance of summons by Parliament or its Committees.

Article 125 of the Constitution provides that—

***Power to call for evidence.***

*(1) Either House of Parliament, and any of its committees, has power to summon any person to appear before it for the purpose of giving evidence or providing information.*

*(2) For the purposes of clause (1), a House of Parliament and any of its committees has the same powers as the High Court—*

*(a) to enforce the attendance of witnesses and examine them on oath, affirmation or otherwise;*

*(b) to compel the production of documents; and*

*(c) to issue a commission or request to examine witnesses abroad.*

To give further effect to the powers under Article 125 of the Constitution, section 18(1) of the Parliamentary Powers and Privileges Act provides that “*Parliament or its committees may invite or summon any person to appear before it for the purpose of giving evidence or providing any information, paper, book, record or document in the possession or under the control of that person and, in this respect, Parliament and its committees shall have the same powers as the High Court as specified under Article 125 of the Constitution*”.

Further, section 19 of the Act provides that—

*(1) Where a witness summoned does not appear, or appears but fails to satisfy the relevant House of Parliament or committee, the relevant House or Committee may impose upon the witness such fine, not exceeding five hundred thousand shillings, having regard to the witness’ condition in life and all the circumstances of the case.*

*(2) A person may pay the fine under subsection (1) to the Clerk of the relevant House.*

*(3) Parliament or its committee may order the arrest of a person who fails to honour a summons.*

Additionally, section 27(1)(a) of the Act provides that “*a person commits an offence where the person having been duly summoned in terms of section 18 fails, without sufficient cause to attend at the time and place specified in the summons; or remain in attendance until excused from further attendance by the person presiding at the inquiry*”. Under section

27(2) a person who commits an offence under subsection (1) is liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

Honourable Senators, the exercise of the powers under Article 125 of the Constitution by Parliament has been the subject of judicial consideration. For instance, in ***International Legal Consultancy Group v Senate (2014) eKLR*** the court held, inter alia, “.....it is not in doubt that the Senate is conferred with the powers to summon any person to appear before it to give evidence or to provide information, within its Constitutional and statutory mandate. The powers to summon by the Committees are equivalent to those of the High Court...”.

In this same decision the court found that the constitutional power to summon “.....must be respected by all public officials at all times.....”. The court further stated that summons should be a remedy of last resort after attempts of consultation or mediation have failed and where it is clear that a County Governor and other County officials have declined an invitation by the Senate or its Committee(s) to answer to matters of oversight of county funds.

Honourable Senators, from the foregoing we may observe that under Article 125 of the Constitution as read together with section 18(1) of the Powers and Privileges Act, Parliament and its Committees have the power to summon any person to appear before it for the purpose of giving evidence or any information. In this respect, Parliament has the same powers as the High Court to enforce the attendance of witnesses and examine them on oath, affirmation or otherwise.

Although the courts have held that the power to summon under Article 125 of the Constitution should be not be exercised in arbitrary or capricious manner and should be preceded by attempts at consultation and mediation it is clear that the various Committees of the Senate have made several attempts to invite the Governor to appear before issuing summons. In both instances the Governor has failed to appear in a clear disregard of the Senate’s power under the Constitution. This conduct by the Governor not only undermines the rule of law also but obstructs the Senate from discharging its role as the protector of counties under Article 96(1) of the Constitution and the primary organ of oversight on the use of public funds by county governments under Article 96(3) of the Constitution. It is not acceptable. It cannot be allowed to continue to obtain.

Honourable Senators, in light of, this I therefore guide that all Committees which had issued summons to the Governor of Isiolo to appear before the Committees, and in which the Governor failed to appear, liaise with the Inspector-General of Police, as a matter of urgency, and require the Inspector-General of Police to produce the Governor before the respective Committees at a determined date and time. This is not a favour that the Senate or its Committees are asking of the Inspector-General of Police. The defiance displayed by the

Governor of Isiolo in respect of the invitations and summonses of the Senate cannot persist.

The Inspector-General of Police must, in exercise of his mandate pursuant to Article 245(2)(b) of the Constitution, extend the necessary support to the Committees in order to secure the appearance of the Governor. It is also expected that if recourse to the courts becomes necessary, such action will be robustly pursued in the courts as well.

It is also open to the Honourable Senator for Isiolo, and indeed any other Senator, to use the legislative mechanisms available under our Standing Orders, including a censure Motion to deal with the errant conduct of the Governor.

I thank you.”

## **5. PAPERS**

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

- i. Office of the Auditor General Annual Corporate Report for financial year 2023 -2024.

*(The Senate Majority Leader)*

- ii. Report of the Standing Committee on Devolution and Intergovernmental Relations on its consideration of the Intergovernmental Relations (Amendment) Bill (Senate Bills No. 12 of 2024)

*(Chairperson, Standing Committee on Devolution and Intergovernmental Relations)*

## **6. QUESTIONS & STATEMENTS**

### **Request for Statements pursuant to Standing Order 53(1)**

Nominated Senator (Sen. Crystal Asige, MP) sought a Statement from the Standing Committee on Roads, Transportation and Housing regarding recognition of and respect for white cane users on Kenyan roads.

## **7. MOTION - REPORTS OF THE KENYA DELEGATION TO THE 147<sup>TH</sup> AND 148<sup>TH</sup> ASSEMBLIES OF THE INTER-PARLIAMENTARY UNION (IPU) AND RELATED MEETINGS HELD IN LUANDA, ANGOLA FROM 23<sup>RD</sup> TO 27<sup>TH</sup> OCTOBER, 2023 AND IN GENEVA, SWITZERLAND FROM 23<sup>RD</sup> TO 27<sup>TH</sup> MARCH, 2024**

Order read;

Motion made and Question proposed in an amended form;

THAT, the Senate notes the Reports of the Kenya Delegations to the 147<sup>th</sup> and 148<sup>th</sup> Assemblies of the Inter-Parliamentary Union (IPU) and related meetings held in –

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- i. Luanda, Angola from 23<sup>rd</sup> to 27<sup>th</sup> October, 2023 laid on the Table of the Senate on Thursday, 29<sup>th</sup> February, 2024; and
- ii. Geneva, Switzerland from 23<sup>rd</sup> to 27<sup>th</sup> March, 2024 laid on the Table of the Senate on Thursday, 30<sup>th</sup> May, 2024.

*(Sen. Catherine Mumma, MP – 09.10.24)*

Debate interrupted on Wednesday, 9<sup>th</sup> October, 2024 (Morning Sitting), resumed for the Question to be put;

Before the Question was put and pursuant to Standing Order 84(1), the Speaker ruled that the Motion does not affect counties;

And the Speaker having ascertained that there was Quorum, pursuant to Standing Order 42 (1);

Question put and **agreed to.**

**RESOLVED ACCORDINGLY**

THAT, the Senate notes the Reports of the Kenya Delegations to the 147<sup>th</sup> and 148<sup>th</sup> Assemblies of the Inter-Parliamentary Union (IPU) and related meetings held in –

- i. Luanda, Angola from 23<sup>rd</sup> to 27<sup>th</sup> October, 2023 laid on the Table of the Senate on Thursday, 29<sup>th</sup> February, 2024; and
- ii. Geneva, Switzerland from 23<sup>rd</sup> to 27<sup>th</sup> March, 2024 laid on the Table of the Senate on Thursday, 30<sup>th</sup> May, 2024.

**8. THE POLITICAL PARTIES (AMENDMENT) (NO. 2) BILL (SENATE BILLS NO. 26 OF 2024)**

Order for Second Reading read;

Motion made and Question proposed;

THAT, the Political Parties (Amendment) (No. 2) Bill (Senate Bills No. 26 of 2024) be now read a Second Time.

*(The Senate Majority Leader and the Senate Minority Leader -  
03.10.2024)*

Debate interrupted on Tuesday, 8<sup>th</sup> October, 2024 resumed on a Division;

The Speaker directed that electronic voting be taken pursuant to Standing Order 86(2) and that the Division bell be rung for five minutes;

Upon the expiry of five minutes, the Speaker directed that the doors be locked and the bars be drawn and asked Senators to log-in for electronic voting;

The Speaker put the Question and directed Senators to cast their votes by pressing either the “**Yes**”, “**No**” or “**Abstain**” button;

Before the results of the Division were announced and pursuant to provisions of Standing Order 86 (5), the Speaker allowed two (2) Senators to record their vote verbally.

Thereupon, the following Senator recorded their vote as “**Yes**”-

1. Sen. Haji Abdul Mohammed, MP
2. Sen. Muthama Agnes Kavindu, MP

The results of the Division were as follows:-

**AYES – 30**

**NOES - 0**

**ABSTENTION – 0**

**AYES**

1. Sen. Abass Sheikh Mohamed, MP
2. Sen. Adan Dullo Fatuma, MP
3. Sen. Boy Issa Juma, MP
4. Sen. Cheruiyot Aaron Kipkirui, MP
5. Sen. Ekomwa James Lomenen, MP
6. Sen. Haji Abdul Mohammed, MP – Voted verbally
7. Sen. Kajwang’ Moses Otieno, MP
8. Sen. Kamau Joseph Githuku, MP
9. Sen. Kathuri Murungi, MP
10. Sen. Khalwale Boni, MP
11. Sen. Kipkiror William Cheptumo, MP
12. Sen. Madzayo Stewart Mwachiru, MP
13. Sen. Mbugua George, MP – voted on behalf of Nyandarua county delegation
14. Sen. Mundigi Alexander Munyi, MP
15. Sen. Mungatana Danson Buya, MP
16. Sen. Murango James Kamau, MP
17. Sen. Muthama Agnes Kavindu, MP – Voted verbally
18. Sen. Mwaruma Johnes Mwashushe, MP
19. Sen. Mwinyihaji Mohamed Faki, MP
20. Sen. Nderitu John Kinyua, MP
21. Sen. Ojienda Odhiambo Tom, MP
22. Sen. Oginga Oburu, MP
23. Sen. Oketch Eddy Gicheru, MP
24. Sen. Okoiti Andrew Omtatah, MP
25. Sen. Osotsi Godfrey Atieno, MP
26. Sen. Recha Julius Murgor, MP
27. Sen. Roba Ali Ibrahim, MP
28. Sen. Seki Lenku Ole Kanar, MP
29. Sen. Sifuna Edwin Watanya, MP
30. Sen. Wafula David Wakoli, MP

Question, agreed to;

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Bill read a Second Time and committed to the Committee of the Whole tomorrow.

**9. THE ELECTION OFFENCES (AMENDMENT) (NO. 2) BILL (SENATE BILLS NO. 28 OF 2024)**

Order for Second Reading read;

Motion made and Question proposed;

THAT, the Election Offences (Amendment) (No. 2) Bill (Senate Bills No. 28 of 2024) be now read a Second Time.

*(The Senate Majority Leader and the Senate Minority Leader -  
09.10.2024)*

Debate interrupted on Wednesday, 9<sup>th</sup> October, 2024 (Afternoon Sitting) resumed on a Division;

The Speaker directed that electronic voting be taken pursuant to Standing Order 86(2) and that the Division bell be rung for five minutes;

Upon the expiry of five minutes, the Speaker directed that the doors be locked and the bars be drawn and asked Senators to log-in for electronic voting;

The Speaker put the Question and directed Senators to cast their votes by pressing either the “**Yes**”, “**No**” or “**Abstain**” button;

Before the results of the Division were announced and pursuant to provisions of Standing Order 86 (5), the Speaker allowed two (2) Senators to record their vote verbally.

Thereupon, the following Senator recorded their vote as “**Yes**”-

1. Sen. Cherarkey Samson, MP
2. Sen. Ekomwa James Lomenen, MP

The results of the Division were as follows:-

**AYES – 33**

**NOES - 0**

**ABSTENTION – 0**

**AYES**

1. Sen. Abass Sheikh Mohamed, MP
2. Sen. Adan Dullo Fatuma, MP
3. Sen. Boy Issa Juma, MP
4. Sen. Cherarkey Samson, MP – voted verbally
5. Sen. Cheruiyot Aaron Kipkirui, MP
6. Sen. Ekomwa James Lomenen, MP – voted verbally
7. Sen. Haji Abdul Mohammed, MP
8. Sen. Kajwang’ Moses Otieno, MP
9. Sen. Kamau Joseph Githuku, MP



10. Sen. Kathuri Murungi, MP
11. Sen. Khalwale Boni, MP
12. Sen. Kipkiror William Cheptumo, MP
13. Sen. Madzayo Stewart Mwachiru, MP
14. Sen. Mbugua George, MP - voted on behalf of Nyandarua county delegation
15. Sen. Mundigi Alexander Munyi, MP
16. Sen. Mungatana Danson Buya, MP
17. Sen. Murango James Kamau, MP
18. Sen. Muthama Agnes Kavindu, MP
19. Sen. Mwaruma Johnes Mwashushe, MP
20. Sen. Mwinyihaji Mohamed Faki, MP
21. Sen. Nderitu John Kinyua, MP
22. Sen. Ojienda Odhiambo Tom, MP
23. Sen. Oginga Oburu, MP
24. Sen. Oketch Eddy Gicheru, MP
25. Sen. Okoiti Andrew Omtatah, MP
26. Sen. Olekina Ledama, MP
27. Sen. Osotsi Godfrey Atieno, MP
28. Sen. Recha Julius Murgor, MP
29. Sen. Roba Ali Ibrahim, MP
30. Sen. Seki Lenku Ole Kanar, MP
31. Sen. Sifuna Edwin Watanya, MP
32. Sen. Wafula David Wakoli, MP
33. Sen. Wambua Enoch Kiio, MP

Question, agreed to;

Bill read a Second Time and committed to the Committee of the Whole tomorrow.

10. **MOTION – CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE COUNTY GOVERNMENTS ADDITIONAL ALLOCATIONS BILL (SENATE BILLS NO. 19 OF 2024)**

Order read;

Motion made and Question proposed;

THAT, the National Assembly amendments to the County Governments Additional Allocations Bill (Senate Bills No. 19 of 2024) be now considered.

*(Sen. Boni Khalwale on behalf of the Chairperson, Standing Committee on Finance and Budget)*

Debate arising;

**Quorum of the Senate**

Rising on a Point of Order pursuant to Standing Order 41, nominated Senator (Sen. Beatrice Ogolla, MP) drew the attention of the Temporary Speaker (Sen. Abdul Haji, MP) to the fact that there was no quorum in the Senate;

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And the Temporary Speaker (Sen. Abdul Haji, MP) having counted the Senators present and confirmed that there was no quorum in the Senate, ordered the quorum bell to be rung for ten minutes;

And there being no quorum after the expiry of ten minutes, the Temporary Speaker (Sen. Abdul Haji, MP) adjourned the Senate at thirty-six minutes past Five O'clock pursuant to Standing Order 41 (2) without Question put.

11. **SENATE ROSE** – at thirty-six minutes past five O'clock.

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

*The Speaker will take the Chair on  
Wednesday, October 16, 2024 at 9:00 a.m.*

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