



REPUBLIC OF KENYA

THE SENATE

ELEVENTH PARLIAMENT – THIRD SESSION

VOTES AND PROCEEDINGS

TUESDAY, JULY 14, 2015 AT 2.30 P.M.

1. The Senate assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with Prayer.
3. **COMMUNICATION FROM THE CHAIR**

The Speaker conveyed the following Communications from the Chair:-

"Honourable Senators,

I have the following brief communication to make. It relates to the appearance by the Cabinet Secretary for Education before the Committee of the Senate on Education.

The Cabinet Secretary will appear tomorrow at 10.00am in this Senate Chamber to respond to the request for a statement on the predicament of students of the Garissa Teachers Training College resulting from insecurity.

Honourable Senators, you will recall that the matter of insecurity in various parts of the North Eastern region and the plight of teachers who were teaching in these areas as well as students who are affected by the absence of teachers elicited a lot of interest and concerns in the Senate.

This is therefore to invite all Senators to attend the Committee meeting here in this Chamber tomorrow at 10.00 am.

I thank you."

4. MESSAGES

Pursuant to Standing Order 40 (3) and (4), the Speaker conveyed the following Messages from the National Assembly-

i) **Message from the National Assembly on the Presidential Memorandum on the Public Audit Bill (National Assembly Bill No. 38 of 2014)**

"Hon. Senators,

I wish to report to the Senate that, pursuant to Standing Order 40 (3) and (4), I have received the following message from the Speaker of the National Assembly regarding the Presidential Memorandum on the Public Audit Bill (National Assembly Bill No. 38 of 2014)-

"PURSUANT to the provisions of standing orders 41 and 142 of the National Assembly, I hereby convey the following message from the National Assembly-

THAT WHEREAS, in exercise of powers conferred on him by Article 115 of the Constitution, H.E the President refused to assent to the Public Audit Bill (*National Assembly Bill No. 38 of 2014*), and referred the Bill to Parliament for reconsideration;

AND WHEREAS, the National Assembly, on Tuesday, June 23, 2015 reconsidered and passed the Bill, **fully accommodating the President's reservations** and without proposing any amendments to the said reservations;

NOW THEREFORE, in accordance with the provisions of Article 115(3) and (4) of the Constitution, I hereby forward the memorandum of the President, containing his reservations to the Bill, to the Senate for reconsideration."

I thank you."

ii) **Message From the National Assembly on the Appointment of Members to the Joint Committee on the Presidential Memorandum on the Public Audit Bill, 2014 and the Public Procurement and Asset Disposal Bill, 2014**

"Hon. Senators,

I wish to report to the Senate that, pursuant to Standing Order 40 (3) and (4), I have received the following message from the Speaker of the National Assembly regarding the appointment of members to the Joint Committee on the Presidential Memorandum on the Public Audit Bill, 2014 and the Public Procurement and Asset Disposal Bill, 2014-

"PURSUANT to the provisions of standing orders 41 and 142 of the National Assembly, I hereby convey the following message from the National Assembly-

WHEREAS, the Presidential Memoranda on the Public Audit Bill (*National Assembly Bill No. 38 of 2014*) and Public Procurement and Asset Disposal Bill (*National Assembly Bill No. 40 of 2014*) were considered and passed without amendments by the National Assembly on June 23, 2015 and June 18, 2015 respectively and subsequently forwarded to the Senate for consideration;

AND WHEREAS, on June 24, 2015, the Senate, by way of a Message, recommended the formation of a Joint Committee to consider the Memorandum from H.E the President on the Public Procurement and Asset Disposal Bill;

NOW THEREFORE, pursuant to Standing Order No. 213 and Rule 9 of the Houses of Parliament (Joint Sittings) Rules, the National Assembly by resolution appointed the following Members to the Joint Committee on the Presidential Memoranda on the Public Audit Bill, 2014 and the Public Procurement and Asset Disposal Bill, 2014 on July 09, 2015:-

- i) The Hon. Jakoyo Midiwo, MGH, MP;
- ii) The Hon. Samuel Chepkong'a, MP;
- iii) The Hon. Mary Emaase, MP;
- iv) The Hon. Johnson Sakaja, MP; and
- v) The Hon. Abdikadir Aden, MP."

Hon. Senators,

As you may recall, on Tuesday 23rd June, 2015, I delivered a message from the National Assembly regarding the Presidential Memorandum on the Public Procurement and Asset Disposal Bill (*National Assembly Bill No. 40 of 2014*). On the same day and pursuant to Article 115 of the Constitution and Standing Order Nos 158, 216 and the Fourth Schedule

of the Senate Standing Orders, this Senate resolved to appoint the following Senators to the Joint Committee to consider the Memorandum by His Excellency the President on the Public Procurement and Asset Disposal Bill, (National Assembly Bill No. 40 of 2014) :-

1. Sen. Billow Kerrow;
2. Sen. Beatrice Elachi;
3. Sen. Mutahi Kagwe;
4. Sen. (Prof.) Anyang' Nyong'o; and
5. Sen. (Dr.) Agnes Zani

Hon. Senators,

Following the Message from the National Assembly on the Presidential Memorandum on the Public Audit Bill (*National Assembly Bill No. 38 of 2014*) (*which I just read*), I direct that the five (5) Senators who were appointed to the Joint Committee on 23rd June, 2015 form part of the Joint Committee on the Presidential Memorandum on the Public Audit Bill (*National Assembly Bill No. 38 of 2014*).

I urge the Joint Committee to move with urgency and dispose off this matter.

I thank you."

iii) Message from the National Assembly on the Fertilizers and Animal Foodstuffs (amendment) Bill (National Assembly Bill No. 36 of 2013)

"Hon. Senators,

I wish to report to the Senate that, pursuant to Standing Order 40 (3) and (4), I have received the following message from the Speaker of the National Assembly regarding the rejection by the Assembly of the Senate amendments to clause 3 of the Fertilizers and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No. 36 of 2013)-

"PURSUANT to the provisions of standing orders 41 and 142 of the National Assembly Standing Orders, I hereby convey the following message from the National Assembly-

WHEREAS the Fertilizers and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No. 36 of 2013), a Bill concerning County Governments, was published *vide* the Kenya Gazette Supplement No.

150 of 1st November, 2013 and thereafter considered and passed by the National Assembly on 19th June, 2014;

WHEREAS, the Senate's amendments to the said Bill were received on 15th April, 2015 for consideration by the National Assembly;

AND WHEREAS, the National Assembly, on April 29th, 2015 agreed to all Senate's amendments, save for amendment to Clause 3 of the said Bill;

NOW THEREFORE, in accordance with the provisions of Article 112(1) (a) of the Constitution and Standing Order 148 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly, the consequence of which the Bill stands referred to a Mediation Committee."

Hon. Senators,

Article 112(1) (b) of the Constitution provides that *if one House passes an ordinary Bill concerning counties and the second House passes the Bill in an amended form, it shall be referred back to the originating House for reconsideration*. Further, Article 112(2) (b) of the Constitution provides that *if after the originating House has reconsidered a Bill referred back to it under clause (1) (b), that House rejects the Bill as amended, the Bill shall be referred to a Mediation Committee under Article 113*.

For the benefit of Senators, Article 113 provides as follows-

- (1) *If a Bill is referred to a mediation committee under Article 112, the Speakers of both Houses shall appoint a mediation committee consisting of equal numbers of members of each House to attempt to develop a version of the Bill that both Houses will pass.*
- (2) *If the mediation committee agrees on a version of the Bill, each House shall vote to approve or reject that version of the Bill.*
- (3) *If both Houses approve the version of the Bill proposed by the mediation committee, the Speaker of the National Assembly shall refer the Bill to the President within seven days for assent.*

(4) *If the mediation committee fails to agree on a version of the Bill within thirty days, or if a version proposed by the committee is rejected by either House, the Bill is defeated.*

Hon. Senators,

In the circumstances, I concur with the Speaker of the National Assembly to form a mediation committee in accordance with Articles 112(2) (b) and 113 of the Constitution.

In this regard, Hon. Senators, I have received communication from the National Assembly that the Speaker of the National Assembly has appointed the following Members to represent the Assembly in the Mediation Committee that will attempt to develop a version of the Bill that both Houses will pass-

- 1) The Hon. Adan Mohammed Noor, MP;
- 2) The Hon. Chrisanthus Wamalwa, MP; and,
- 3) The Hon. Benjamin Washiali, MP.

In this regard, Hon. Senators, I also hereby nominate the following Senators to represent the Senate in the Mediation Committee-

- 1) Sen. Kiraitu Murungi;
- 2) Sen. Henry ole Ndiema; and
- 3) Sen. Peter Mositet.

I thank you."

5. PAPERS LAID

The following Papers were laid on the Table of the House-

1. Report of the Auditor-General on the Financial Operations of Kakamega County Executive and Kakamega County Assembly for the year ended 30th June 2014;
2. Report of the Auditor-General on the Financial Operations of Nyeri County Executive for the year ended 30th June 2014;

3. Report of the Auditor-General on the Financial operations of Muranga County Assembly for the year ended 30th June 2014;
4. Report of the Auditor-General on the Financial operations of Kirinyaga County Executive for the year ended 30th June 2014;
5. Report of the Auditor-General on the Financial operations of Nyandarua County Executive for the year ended 30th June 2014;
6. Report of the Auditor-General on the Financial operations of Meru County Executive and Meru County Assembly for the year ended June 2014;
7. Report of the Auditor-General on the financial operations of Busia County Executive and Busia County Assembly for the year ended 30th June 2014;
8. Report of the Auditor-General on the financial statements of the County Government of Busia for the year ended 30th June 2014;
9. Report of the Auditor-General on the Financial statements of Kakamega County Government for the year ended June 2014; and
10. Report of the Auditor-General on the Financial operations of Tharaka-Nithi County Executive and Tharaka-Nithi County Assembly for the year ended June 2014
(Chairperson, Sessional Committee on County Public Accounts and Investments)
11. Report of the Standing Committee on Finance, Commerce and Budget on the annual 2015 session of the Parliamentary Conference on the World Trade Organization (WTO) held from 16th – 17th February, 2015 in Geneva, Switzerland.
(Sen. Mutahi Kagwe on behalf of the Chairperson, Standing Committee on Finance, Commerce and Budget)

6. **STATEMENTS**

a) **Statements pursuant to Standing Order 45(2) (b)**

- i) The Senator for Narok County (Sen. Stephen Ole Ntutu) sought a Statement from the Chairperson of the Sessional Committee on County Public Accounts and Investments regarding status of projects launched by the Narok County Government in Narok County.
- ii) The Senator for Narok County (Sen. Stephen Ole Ntutu) sought a Statement from the Chairperson of the Sessional Committee on County Public Accounts and Investments on Mara Conservancy revenue.
- iii) The Senator for West Pokot County (Sen. (Prof.) John Lonyangapuo) sought a Statement from the Chairperson of the Standing Committee on Education regarding the management of Moi and Eldoret Universities.
- iv) The Vice-Chairperson of the Standing Committee on Agriculture issued a Statement regarding the construction of the proposed *Gatitu Nyayo* Tea Factory in Kirinyaga County.

Whereupon, the Vice-Chairperson informed the Senate that the Nyayo Tea Zones Development Corporation was planning to construct its 2nd tea processing factory at *Gatitu* in Kirinyaga County to replicate the successful *Kipchabo* Tea factory in Nandi County and the construction work was planned to start in the 2014/2015 financial year.

The Vice-Chairperson also informed the Senate that the project was, however, not implemented due to parastatal reforms that suspended most operations in parastatals, the high cost of implementing the project, which was estimated to be Kshs 1.1 billion, failure to secure funding to fund the project and recession in the tea industry in year 2013/14 and 2014/15, which affected cash flow in the corporation. He stated that the corporation targets to start the construction of the factory in financial year 2015/16 subject to availability of funds.

The Vice-Chairperson further informed the Senate that M/s N K Brothers Limited were awarded the tender for construction of the tea factory and that various social benefits would accrue to the people living in the neighbourhood of the factory, including creation of employment, creation of market for farm produce, especially horticulture, poultry and dairy products, development of infrastructure and knowledge transfer in specialty tea processing, tea value addition, purple tea cultivation and general tea husbandry.

- v) The Chairperson of the Standing Committee on National Security and Foreign Relations issued a Statement regarding the Meru-Isiolo Border.

Whereupon, the Chairperson informed the Senate that the Government was in the process of establishing an Administrative

Boundaries Dispute Resolution Taskforce comprising officers drawn from the Ministry of Interior and Coordination of National Government, the Independent Boundaries and Electoral Commission, the Attorney General, the Ministry of Lands, Housing and Urban Development and the National Land Commission.

The Chairperson further informed the Senate that the taskforce would have the mandate to address the boundary disputes in the Country.

- vi) The Chairperson of the Standing Committee on National Security and Foreign Relations issued a Statement regarding the killing of Mr. Silas Chepkoech in Mt. Elgon Constituency.

Whereupon, he informed the Senate that the Government was aware that on 16th April, 2015, Cpl. Isaac Leweri of *Kaberua* Kenya Wildlife Service Station reported at *Kapsokwony* Police Station vide OB. No. 29/16/4/15 that some rangers on normal patrol within *Kamuneru* Forest in Mt. Elgon were confronted by three armed suspected poachers.

The Chairperson also informed the Senate that the confrontation resulted in an exchange of fire between the two parties and that subsequently two of the suspects, identified as Isaac Kibet Kikwai and Silas Chepkoech, were fatally shot while a third one escaped.

The Chairperson further stated that investigations were commenced at *Kapsokwony* Police Station vide Inquest File No. 2/2015, which had been finalized and forwarded to the Office of the Director of Public Prosecutions for perusal and advice.

7. THE COUNTY HALL OF FAME BILL (SENATE BILL NO. 33 OF 2014)

Order for Second Reading read;

Motion made and Question proposed-

THAT, the County Hall of Fame Bill (Senate Bill No.33 of 2014) be now read a Second Time.

(Sen. Stephen Sang' on behalf of Chairperson of the Standing Committee on Legal Affairs and Human Rights- 1. 7. 2015)

Debate interrupted on Wednesday, 1st July, 2015 resumed;

And there being no other Senator wishing to contribute;

The Mover replied;

Raising a point of order, the Senator for Nandi County (Sen. Sang') requested for deferment of putting of the Question to the following day pursuant to Standing Order 54(3).

And the Temporary Speaker (Sen. Ongoro) acceding to the request deferred putting the question to Wednesday, 15th July, 2015.

And the time being thirty minutes past six O'clock, the Temporary Speaker (Sen. Ongoro) interrupted the proceedings and adjourned the Senate without Question put pursuant to the Standing Orders.

8. **SENATE ROSE** - at thirty minutes past six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Wednesday, July 15, 2015 at 2.30 p.m.*

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