



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – FOURTH SESSION

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, OCTOBER 04, 2016 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. COMMUNICATIONS FROM THE CHAIR

The Deputy Speaker conveyed the following Communications from the Chair-

a) Resumption of the Senate from recess

"Honourable Senators,

It is my pleasure to welcome you back from the long recess on this first day of the last part of the current session which as you are all aware ends in December of this year. Despite the numerous interruptions caused by Special Sittings, it is my sincere hope that you all had a pleasant recess.

Honourable Senators, before we went on recess, the Senate conducted a substantial amount of business in line with its mandate as provided in the Constitution;

Just to refresh your memories, some of the business transacted by the Senate during the previous part of this session and during the special sittings was as follows-

- 1) A total of 20 Bills, 8 of them with Constitutional deadline of 27th August 2016, were passed;
- 2) The Report of the Joint Select Committee on the Independent Electoral and Boundaries Commission; and
- 3) Impeachment proceedings against the Governor of Nyeri County, Hon. Nderitu Gachagua; the first proceedings to be fully conducted in plenary;

This is just part of what the Senate achieved which indicates a marked improvement in volume and quality of business transacted over the previous Sessions. As you are undoubtedly aware, much more was achieved through respective committees as the House firmly and unequivocally took up its rightful place as the guardian angel of devolution.

Honourable Senators, in continuing to exercise our mandate as the House of equity, it is my heartfelt expectation that we will see more business transacted by the House during this last part. As we resume sittings, let us all be aware that our in-tray is full as the following business is still pending;

- 1) 23 Bills are pending Committee stage;
- 2) 19 Bills are at Second Reading stage; and
- 3) 5 Bills are due for First Reading.

It is my sincere hope that the same zeal and dedication that you have shown in handling business before the Senate will be exhibited as we seek to fully exercise our role as the overseer of the devolved system of governance.

Honourable Senators, I wish you all the best as you continue to fulfill your mandate.

I thank you."

b) Visiting staff from various county assemblies on the Third County Staff Legislative Attachment Programme at the Senate

"Honourable Senators,

I would like to acknowledge the presence, in the Speaker's Gallery this afternoon, of visiting Staff from various County Assemblies.

The County Assemblies' Staff are here on a ten-day County Staff Legislative Attachment Programme at the Senate.

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

They are:

1. From Baringo County Assembly:
Ms. Anne Kapanat Domongole - Clerk Assistant II
Mr. Hosea Kondira Komen - Senior Clerk Assistant II
2. From Kilifi County Assembly:
Mr. Mwalili Dickson Kachiezy - Clerk Assistant II
Ms. Safari Damaris Redson - Clerk Assistant II
3. From Siaya County Assembly:
Mr. Tobias Odhiambo - Deputy Hansard Editor
Mr. Charles Otieno - Sergeant-at-Arms I

4. From Migori County Assembly:
Ms. Salome Atieno Nguka - Clerk Assistant II
5. From Kitui County Assembly:
Ms. Esther Kitavi - Research Officer I
Mr. Mutetei Mutisya - Senior Communication Officer
6. From Nyamira County Assembly:
Mr. James Michael Gisesa - Administrative Assistant II
Ms. Stella Kwamboka Nyamete - Administrative Assistant III
7. From Kajiado County Assembly:
Mr. Saiyanka Richard - Director, Legislative, Committees
and Procedural Services
Ms. Lydia V. Makaka - Principal Clerk Assistant
8. From West Pokot County Assembly:
Mr. Daniel Lokeno Lotupot - Clerk Assistant II
Ms. Lydia Cheptoo Katialem - Clerk Assistant III
9. From Embu County Assembly:
Mr. Silas Njeru Mwaniki - Principal Sergeant-at-Arms
Ms. Doreen Mumbi Muthoni - Administrative Assistant I
10. From Kiambu County Assembly:
Ms. Faith Wanjiku David - Clerk Assistant II
Mr. Alex Njogu Wanjiku - Clerk Assistant II
11. From Bomet County Assembly:
Mr. Calvin Kibet Kitur - Legal Clerk
Ms. Veronica Waweru - Clerk Assistant II
12. From Tharaka Nithi County Assembly:
Ms. Mary Kendi - Clerk Assistant I
13. From Trans Nzoia County Assembly:
Mr. Nicholas Nandasaba Simiyu - Deputy Chief Sergeant-at-Arms
Ms. Joan Cherop Ngetich - Public Relations and
Communication Officer
14. From Samburu County Assembly:
Mr. Lekerpes Saiwana Shadrack - Senior Clerk Assistant
Mr. Leleok Lekupanae - Principal Clerk Assistant
Mr. Lekalesoi Philip - Senior Clerk Assistant

I hope that they have a fruitful program.

On behalf of the Senate and on my own behalf, I welcome them to the Senate and I wish them well for the remainder of their stay.

I thank you."

c) Visiting students and teachers from St. George's Girls Secondary School from Nairobi County

"Honourable Senators,

I wish to recognize the presence of visiting students and teachers from St. George's Girls Secondary school from Nairobi County.

They are seated at the public gallery.

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 visit.

I thank you."

4. MESSAGES

The Deputy Speaker conveyed the following Messages from the National Assembly-

a) Message from the National Assembly on the passage of the Warehouse Receipts System Bill (National Assembly Bill No. 12 of 2015)

"Hon. Senators,

I wish to report to the Senate that, pursuant to standing order 40 (3) and (5), I received the following Message from the Speaker of the National Assembly, on 6th September, 2016, regarding the passage, by the National Assembly, of the Warehouse Receipts System Bill (National Assembly Bill No. 12 of 2015)-

"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 Warehouse Receipts System Bill (National Assembly Bill No. 12 of 2015) was published vide the Kenya Gazette Supplement No. 34 of 27th March, 2015, as a Bill concerning County Governments in terms of Article 110 (1)(a) of the Constitution, seeking to provide a legal framework for the development and regulation of a warehouse receipt system for agricultural commodities to address marketing challenges associated with cereals and grain subsectors in Kenya;

WHEREAS, the National Assembly considered and passed the said Bill with amendments on Wednesday, 31st August, 2016;

NOW THEREFORE, in accordance with the provisions of Article 110(4) of the Constitution and Standing Order 142 of the National Assembly Standing Orders, I hereby refer the said Bill to the Senate for consideration".

Hon. Senators, this Message was received at a time when the Senate was on recess and pursuant to standing order No. 40 (5), I transmitted the Message to every Senator.

Hon. Senators, pursuant to standing order No. 148 which requires that a Bill which originates in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with standing order No. 129, I now direct that the Bill be listed for First Reading in the Order Paper of Wednesday, 5th October, 2016.

I thank you."

b) Message from the National Assembly on the passage of the Kenya Roads Bill (National Assembly Bill No. 26 of 2015)

"Hon. Senators,

I wish to report to the Senate that, pursuant to standing order 40 (3) and (5), I received the following Message from the Speaker of the National Assembly, on 8th September, 2016, regarding the passage by the National Assembly of the Kenya Roads Bill (National Assembly Bill No. 26 of 2015)-

"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 Kenya Roads Bill (National Assembly Bill No. 26 of 2015) was published vide the Kenya Gazette Supplement No. 77 of 5th June, 2015, as a Bill concerning County Governments in terms of Article 110 (1)(a) of the Constitution, seeking to give effect to the Fourth Schedule of the Constitution as regards the roads subsector by reviewing, consolidating and rationalizing the legal and institutional framework for management of the road network and roads subsector; and repealing the Kenya Roads Board Act, 1999, the Kenya Roads Act, 2007 and the Public Roads and Road Access Act, 1920;

WHEREAS, the National Assembly considered and passed the said Bill with amendments on 23rd August, 2016;

NOW THEREFORE, in accordance with the provisions of Article 110(4) of the Constitution and Standing Order 142 of the National Assembly Standing Orders, I hereby refer the said Bill to the Senate for consideration".

Hon. Senators, this Message was received at a time when the Senate was on recess and pursuant to standing order No. 40 (5), I transmitted the Message to every Senator.

Hon. Senators, pursuant to standing order No. 148 which requires that a Bill which originates in the National Assembly be proceeded with by the Senate in the same manner as a Bill introduced in the Senate by way of First Reading in accordance with standing order No. 129, I now direct that the Bill be listed for First Reading in the Order Paper of Wednesday, 5th October, 2016.

I thank you."

5. PAPER LAID

The following Paper was laid on the Table of the Senate -

The Parliamentary Service (Senate Monitoring and Evaluation) (Procedures for Management of Funds) Regulations, 2016.

(Chairperson, Sessional Committee on Delegated Legislation)

6. STATEMENTS PURSUANT TO STANDING ORDER 45 (2) (b)

- i) The Senator for Nandi County (Sen. Stephen Sang') sought a Statement from the Chairperson of the Standing Committee on National Security and Foreign Relations regarding the murder of Musa Koech, a resident of Chepkuny village in Bonjoge, Aldai, Nandi County;
- ii) The Senator for Nandi County (Sen. Stephen Sang') sought a Statement from the Chairperson of the Standing Committee on Education regarding the leadership crisis at Moi University;
- iii) The Senator for Bungoma County (Sen. Moses Wetang'ula) sought a Statement from the Chairperson of the Standing Committee on National Security and Foreign Relations regarding the kidnap and murder of a University Student, Peter Kalamu Nyongesa at Mtwapa;
- iv) The Senator for Marsabit County (Senator Hargura Godana) issued a statement on behalf of the Chairperson of the Standing Committee on Roads and Transportation regarding Mogonga-Kenyanja-Nyansembe road in Kisii County.

In the Statement, the Senator informed the House that the Ministry of Transport, Infrastructure, Housing and Urban Development is aware that the President on 28th April 2016, issued a directive that Kenyanja-Nyansembe road section be included in the Contract No. RWC 217.

He further informed the House that the Ministry is aware that the road is an important link to Narok, Migori and Homa Bay Counties and had consequently allocated Kshs 400 million this Financial Year 2016/2017 for the improvement of the road to bitumen standards.

- v) The Senator for Marsabit County (Senator Hargura Godana) issued a statement on behalf of the Chairperson of the Standing Committee on Roads and Transportation regarding persistent traffic congestion along Naivasha-Nakuru road and possible expansion of the road.

In the Statement, the Senator informed the House that there is ongoing Public Private Partnership feasibility study with the view of having a contractor to design, build and operate dual carriageway of Rironi-Nakuru-Mau Summit Road to ease the congestion.

He further informed the House that the Public Private Partnership also proposes to improve the Rironi-Mai-Mahiu section and in addition, heavy vehicles would be allowed to use the improved Rironi-Naivasha section and hence reduce congestion on the Rironi-Mai Mahiu route.

The Senator was directed to provide further information in a fortnight.

7. **THE COUNTY STATISTICS BILL (SENATE BILL NO. 11 OF 2016)**

(Sen. Naisula Lesuuda)

Order for First Reading read;

Bill read a First Time and committed to the relevant Standing Committee.

8. **THE CYBER SECURITY AND PROTECTION BILL (SENATE BILL NO. 12 OF 2016)**

(Sen. Mutahi Kagwe)

Order for First Reading read;

Bill read a First Time and committed to the relevant Standing Committee.

9. **THE TREATY MAKING AND RATIFICATION (AMENDMENT) BILL (SENATE BILL NO. 5 OF 2016)**

(Chairperson, Standing Committee on National Security and Foreign Relations)

(Second Reading)

Order deferred.

10. **THE NATIONAL COHESION AND INTEGRATION (AMENDMENT) BILL (SENATE BILL NO. 6 OF 2016)**

(Sen. Beatrice Elachi)

(Second Reading)

Order deferred.

11. **THE ASSUMPTION OF OFFICE OF GOVERNOR BILL (SENATE BILL NO. 10 OF 2016)**

(Sen. Paul Kimani Wamatangi)

(Second Reading)

Order deferred.

12. **THE COUNTY GOVERNMENTS (AMENDMENT) (NO. 2) BILL (SENATE BILL NO. 7 OF 2016)**

(Sen. Mutula Kilonzo Jnr.)

(Second Reading)

Order deferred.

13. THE IMPEACHMENT PROCEDURE BILL (SENATE BILL NO. 8 OF 2016)

(Sen. (Eng.) Muriuki Karue)

(Second Reading)

Order deferred.

14. THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL (NATIONAL ASSEMBLY BILL NO. 36 OF 2014)

Order for Second Reading read;

Motion made and Question proposed;

THAT, the Assisted Reproductive Technology Bill (National Assembly Bill No. 66 of 2014) be now read a Second time.

(The Senate Majority Leader)

Debate arising;

There being no other Senator wishing to contribute;

The Mover Replied;

Raising a point of order, the Senate Majority Leader requested for deferment of putting of the Question pursuant to Standing Order 54(3).

And the Temporary Speaker (Sen. (Dr.) Wilfred Machage) acceding to the request, deferred putting the question until Wednesday, 5th October 2016.

15. THE PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) (AMENDMENT) BILL (SENATE BILL NO. 9 OF 2016)

Order for Second Reading Read;

Motion made and Question proposed-

THAT, the Public Appointments (Parliamentary Approval) (Amendment) Bill (Senate Bill No. 9 of 2016) be now read a Second time.

(Sen. Fatuma Dullo)

Debate arising;

There being no other Senator wishing to contribute;

The Mover Replied;

Raising a point of order, Sen. Fatuma Dullo requested for deferment of putting of the Question pursuant to Standing Order 54(3).

And the Temporary Speaker (Sen. Peter Mositet) acceding to the request, deferred putting the question until Wednesday, 5th October 2016.

16. **THE SELF HELP ASSOCIATIONS BILL (SENATE BILL NO. 2 OF 2015)**

Order for Second Reading Read;

Motion made and Question proposed-

THAT, the Self Help Associations Bill (Senate Bill No. 2 of 2015) be now read a Second time.

(Sen. Martha Wangari)

Debate arising;

There being no other Senator wishing to contribute;

The Mover Replied;

Raising a point of order, Sen. Martha Wangari requested for deferment of putting of the Question pursuant to Standing Order 54(3).

And the Temporary Speaker (Sen. Peter Mositet) acceding to the request, deferred putting the question until Wednesday, 5th October 2016.

17. **MOTION - RENEWAL OF THE MANDATE OF THE AD HOC SELECT COMMITTEE OF INQUIRY INTO THE POLICY AND LEGISLATION ON THE TREATMENT OF PRISONERS AND DETAINED PERSONS IN CORRECTIONAL FACILITIES IN KENYA-**

(Sen. Fatuma Dullo)

THAT, AWARE that the Senate resolved to establish a select Committee comprising eleven (11) Senators to inquire into the policy and legislation on the treatment of prisoners and detained persons in correctional facilities in Kenya on 22nd October, 2015;

APPRECIATING, that the mandate of the Select Committee lapsed and the Senate extended the same for forty five days on 7th April, 2016;

REGRETING, that due to heavy workload and sheer magnitude of the assignment, the Committee is yet to table its report in the House and requires more time to conduct a further and thorough inquiry into the subject matter of its mandate;

NOW THEREFORE, the Senate resolves to renew the mandate of the committee by a further period of thirty (30) days to enable it conclude its work and table its report in the House.

Order deferred.

18. **MOTION – COUNTRYWIDE AUDIT ON THE DISTRIBUTION OF TEACHERS IN PUBLIC SCHOOLS.**

(Sen. George Khaniri)

WHEREAS Article 43(1)(f) and 53(1)(b) of the Constitution guarantees every citizen a right to education and every child a right to free and compulsory basic education, respectively;

NOTING that the Teachers Service Commission is mandated to handle employment, deployment, remuneration and discipline of teachers in public schools in Kenya;

CONCERNED that there are great disparities in the distribution of teachers in public schools across the country leading to oversupply in some schools and undersupply in others and ultimately leading to major teacher shortage especially in rural and marginalized areas;

APPRECIATING efforts made by the national government to improve the teacher pupil ratio to international standards in all public schools through yearly employment of teachers;

FURTHER CONCERNED that the statistics on the number and distribution of teachers in public schools is not readily available;

NOW THEREFORE, the Senate directs the Ministry of Education, Science and Technology to conduct a countrywide audit on the distribution of teachers in all public schools indicating the requisite establishment per school and the corresponding number of teachers who are in-post and further that the Ministry submits a report to the House on the matter within ninety (90) days.

Order deferred.

19. **MOTION – INSTALLATION OF CCTV CAMERAS IN ALL POLICE STATIONS AND POLICE POSTS IN KENYA–**

(Sen. (Eng.) Muriuki Karue)

THAT CONCERNED about the numerous reports of the arbitrary arrests of innocent people by the police;

FURTHER CONCERNED that a large number of those arrested are allegedly locked up in police cells without being recorded either in the Occurrence Book or elsewhere;

DEEPLY CONCERNED that some of the arrested people disappear without a trace and that many who are subsequently traced are found dead away from where they were known to have been locked up;

ALARMED by the recent incident where three young men were locked up for hours at Syokimau Police Post without any record indicating they had

been at the police post, only for them to be found days later, in another area far from the police post, having been brutally killed;

APPRECIATING that the Closed Circuit Television (CCTV) system installed by the Government in Nairobi has helped a lot in criminal investigations;

NOW THEREFORE the Senate calls upon the National Government to-

- a) install CCTV cameras in all police stations and police posts in order to record each and every person going in and out of the station;
- b) have the CCTV system designed in such a way that it is capable of capturing the Occurrence Book entries every twelve hours; and
- c) ensure the CCTV system is connected to a central depository in order to minimize chances of subsequent tampering.

Order deferred.

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

20. **SENATE ROSE** – at twenty-seven minutes past six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Wednesday, October 5, 2016 at 02:30 p.m.*

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