



REPUBLIC OF KENYA

THE SENATE

ELEVENTH PARLIAMENT – THIRD SESSION

VOTES AND PROCEEDINGS

TUESDAY, FEBRUARY 10, 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 ON THE DEMISE OF THE MEMBER OF PARLIAMENT FOR KABETE CONSTITUENCY**

The Speaker notified the Senate of the untimely demise of the Member of Parliament for Kabete constituency, Hon. George Muchai, who was gunned down in Nairobi on Saturday, 7th February, 2015. The Speaker consequently undertook to issue a Communication on Wednesday, 11th February, 2015 and allow Senators to eulogize their departed colleague. Thereupon, the Senate observed a minute of silence in honour of the late Hon. Muchai.

4. **COMMUNICATION FROM THE CHAIR ON THE PETITION TO DISSOLVE THE MAKUENI COUNTY GOVERNMENT**

"Honourable Senators,

Article 192 of the Constitution as read together with section 122 of the County Government Act provides for the suspension of a county government by the President, in an emergency arising out of internal conflict or war; or in any other exceptional circumstances. Section 123 of the County Governments Act states as follows:-

123 (1) *Subject to subsection (2), a person may petition the President to suspend a county government in accordance with Article 192(1)(b) of*

the Constitution if the county government engages in actions that are deemed to be against the common needs and interests of the citizens of a county.

- (2) *A petition under subsection (1) shall be supported by the signatures of not less than ten percent of the registered voters in the county.*
- (3) *The President shall, within fourteen days after receiving a petition against a county government under subsection (1), submit a report on the averments made and grounds giving rise to suspension of a county government before the apex intergovernmental body (hereinafter referred to as the apex body) established under the law governing intergovernmental relations for approval.*

Honourable Senators,

Pursuant to the above provisions, I have received correspondence, dated 6th February, 2015, from the Presidency informing me that, H.E the President received a petition for the suspension of the Makueni County Government. Subsequent to receipt of the Petition, H.E the President requested the Independent Electoral and Boundaries Commission (IEBC) to confirm the veracity of the signatures annexed to the petition to ensure that the requirement under section 123 (2) of the County Governments Act had been satisfied and that those who supported the Petition were indeed registered voters of Makueni County. The IEBC subsequently confirmed that section 123 (2) of the County Governments Act had been satisfied.

Consequently, and in compliance with section 123 (3) of the County Governments Act, H.E the President submitted the Petition and a Report of the same to the National and County Government Coordinating Summit, established under section 7 (1) of the Intergovernmental Relations Act, for its approval. Subsequently, the National and County Government Coordinating Summit approved the report on 8th December, 2014.

Honourable Senators,

Section 123 of the County Governments Act further provides as follows:-

- (4) *Upon approval by the apex body, the President shall nominate members of a Commission to inquire into and investigate the situation in the county and make recommendations on the suspension of the county government and shall, after approval by Senate, appoint the members of the Commission by notice in the Gazette.*
- (5) *The Commission shall comprise—*

- (a) a chairperson, who shall be an advocate of the High Court of Kenya with at least fifteen years' experience;*
 - (b) the chairperson of the National Police Service;*
 - (c) two persons resident in the affected county and who have not for the last ten years stood for an elective office in the affected county government, or have been an officer or employee of the affected county government; and*
 - (d) two other persons not resident in the affected county with experience in conflict management.*
- (6) The Commission shall have all or any of the powers vested in a Commission under the Commissions of Inquiry Act (Cap. 102) and at any inquiry directed under this section, the county government in question and any member thereof shall be entitled to be heard.*
- (7) The Commission shall inquire into the matters before it expeditiously and report on the facts and make recommendations to the President.*

Honourable Senators,

Pursuant to Article 192 (2) of the Constitution as read together with the above provisions of the County Governments Act, H.E the President is required to appoint a Commission of Inquiry to investigate the veracity of the allegations set out in the Petition.

Honourable Senators,

By a letter Ref. No. OP/CAB.1/40/2A dated 6th February, 2015 and received in the Office of the Speaker of the Senate on 9th February, 2015, the Chief of Staff and Head of the Public Service, informed the Speaker that pursuant to section 123 (5) of the County Governments Act, H.E the President has nominated the following persons to the Commission of Inquiry to investigate the veracity of the allegations set out in the Petition for the dissolution of Makueni County Government:-

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| 1. Mr. Mohammed Nyaoga | - | Chairperson |
| 2. Mr. Johnston Kavuludi | - | Member |
| 3. Ms. Emily Gatuguta | - | Member |
| 4. Prof. Harrison Maithya | - | Member |
| 5. Ms. Alice Wairimu Nderitu | - | Member |
| 6. Mr. Taib Ali Taib | - | Member |

Honourable Senators,

I now direct that the names and curriculum vitae of the six (6) nominees be forwarded to the Sessional Committee on Devolved Government for vetting. The Committee should file its report within 14 days from today for deliberation by the Senate pursuant to section 123 (4) of the County Governments Act. In carrying out the vetting process, the Committee must adhere to the provisions of the Public Appointments (Parliamentary Approval) Act, 2011.

I thank you."

5. MESSAGE FROM THE NATIONAL ASSEMBLY SEEKING CONCURRENCE ON THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 31 OF 2014)

The Speaker conveyed the following message from the National Assembly-

"Hon. Senators,

I wish to bring to the attention of the Senate that, pursuant to Standing Order 40 (3) and (4), the Clerk has delivered to me a message from the National Assembly regarding the Environmental Management and Coordination (Amendment) Bill (National Assembly Bill No. 31 of 2014). The message which is dated December 5, 2014, was communicated to all Senators, pursuant to Standing Order 40(5), on December 23, 2014. It states as follow:-

Pursuant to the provisions of Standing Order 142 of the National Assembly Standing Orders, I hereby convey the following message from the National Assembly-

Whereas, the Environmental Management And Coordination (Amendment) Bill (National Assembly Bill No. 31 of 2014), was published in the Kenya Gazette Supplement No. 114 of July 25, 2014 as a Bill concerning County Governments in terms of Article 110 (1) (a) of the Constitution and provisions of the Fourth Schedule of the Constitution;

AND WHEREAS the said Bill, whose objective is to give effect to Article 72 of the Constitution was considered and passed by the National Assembly on 4th December 2014;

NOW THEREFORE, in accordance with provisions of Article 110 (4) of the Constitution and Standing Order 142 of the National Assembly Standing Orders, I hereby forward the said Bill to the Senate, the effect of which is to seek the concurrence of the Senate to the said Bill as passed by the National Assembly".

Hon. Senators,

Standing Order No. 148 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 would like to draw your attention to the fact that this is a Bill with a constitutional deadline in accordance with Article 261 (1) and the Fifth Schedule to the Constitution. Consequently, it shall be read a first time tomorrow.

Hon Senators,

Pursuant to Standing Order 130(1), the Bill shall stand committed to the Standing Committee on Land and Natural Resources and I further direct that, pursuant to Standing Order 130 (4), the Standing Committee facilitates public participation and concludes consideration of the Bill as soon as possible so that the Second Reading is commenced without delay.

I thank you".

6. NOTICE OF MOTION – (The Senate Majority Leader)

THAT, pursuant to Standing Order 176(1), the Senate approves the following Senators to be Members of the Rules and Business Committee:-

1. Sen. David Ekwee Ethuro - Speaker of the Senate - Chairperson
2. Sen.(Prof.) Kithure Kindiki - Senate Majority Leader
3. Sen. Moses Masika Wetang'ula - Senate Minority Leader
4. Sen. Beatrice Elachi - Senate Majority Whip
5. Sen. Johnson Nduya Muthama - Senate Minority Whip
6. Sen. Beth Mugo
7. Sen. Charles Keter
8. Sen. Kiraitu Murungi
9. Sen. (Prof.) John Lonyangapuo
10. Sen. James Orengo
11. Sen. Janet Ong'era
12. Sen. (Dr.) Agnes Zani

7. **MOTION ON APPROVAL OF MEMBERSHIP OF THE RULES AND BUSINESS COMMITTEE**

Motion made and Question proposed-

THAT, pursuant to Standing Order 176(1), the Senate approves the following Senators to be Members of the Rules and Business Committee:-

1. Sen. David Ekwee Ethuro - Speaker of the Senate - Chairperson
2. Sen.(Prof.) Kithure Kindiki - Senate Majority Leader
3. Sen. Moses Masika Wetang'ula - Senate Minority Leader
4. Sen. Beatrice Elachi – Senate Majority Whip
5. Sen. Johnson Nduya Muthama – Senate Minority Whip
6. Sen. Beth Mugo
7. Sen. Charles Keter
8. Sen. Kiraitu Murungi
9. Sen. (Prof.) John Lonyangapuo
10. Sen. James Orengo
11. Sen. Janet Ong'era
12. Sen. (Dr.) Agnes Zani

(The Senate Majority Leader)

Debate arising;

There being no other Senator willing to contribute;

Before the Question was put, and pursuant to Standing Order 72, the Speaker informed the House that the Motion did not affect Counties.

Question put and agreed to.

RESOLVED ACCORDINGLY

THAT, pursuant to Standing Order 176(1), the Senate approves the following Senators to be Members of the Rules and Business Committee:-

1. Sen. David Ekwee Ethuro - Speaker of the Senate - Chairperson
2. Sen.(Prof.) Kithure Kindiki - Senate Majority Leader
3. Sen. Moses Masika Wetang'ula - Senate Minority Leader
4. Sen. Beatrice Elachi – Senate Majority Whip
5. Sen. Johnson Nduya Muthama – Senate Minority Whip
6. Sen. Beth Mugo
7. Sen. Charles Keter
8. Sen. Kiraitu Murungi
9. Sen. (Prof.) John Lonyangapuo

10. Sen. James Orengo
11. Sen. Janet Ong'era
12. Sen. (Dr.) Agnes Zani

And the time being forty minutes past Three O'clock, the Speaker adjourned the Senate without Question put, pursuant to the Standing Orders.

8. SENATE ROSE - at forty minutes past Three O'clock.

MEMORANDUM

*The Speaker will take the Chair on
Wednesday, February 11, 2015 at 2.30 p.m.*

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