



REPUBLIC OF KENYA

THE SENATE

ELEVENTH PARLIAMENT – THIRD SESSION

VOTES AND PROCEEDINGS

WEDNESDAY, FEBRUARY 11, 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 HON. GEORGE MUKURU MUCHAI, MP, FORMER MEMBER OF PARLIAMENT FOR KABETE CONSTITUENCY**

The Speaker made the following Communication from the Chair-

"Honourable Senators,

As you may be aware, on the morning of Saturday, February 7th, 2015 the Hon. George Mukuru Muchai, Member for Kabete Constituency together with his two bodyguards and a driver, lost their lives when they were attacked by armed thugs along Kenyatta Avenue, Nairobi.

Records in Parliament indicate that the late Hon. George Muchai was born on July 22, 1949. He attended St. Michael Primary School between 1956 and 1963 and Highway Secondary School, Nairobi between 1964 and 1967. He obtained a Certificate in Electrical Installation Trade Test from the Railway Training School in 1974. Later, the late Hon. Muchai attended the Kenya Polytechnic where he was awarded a Certificate in Electrical Installation Technology. He thereafter undertook several courses on Labour matters, regionally and internationally.

Honourable Senators,

The late Hon. Muchai was an active and vibrant labour unionist having been elected as the General Secretary of the Bakery, Confectionery, Food Manufacturing and Allied Workers' Union in 1984, a position he still held until his demise, owing to his passion for and responsiveness to the needs of the people he represented. His empathy and humility largely endeared him to the workers of this nation and saw him overwhelmingly elected as the Deputy Secretary of the Central Organization of Trade Unions (COTU) in 2001. Indeed, he never lost an opportunity to air the problems that befall the masses, especially workers, whom he continued to represent for the last three decades.

Honourable Senators,

The late Hon. George Muchai made his debut in national politics in the run-up to the 2013 General Elections when successfully vied for the Kabete Constituency seat, Kiambu County. His swift mastery and grasp of parliamentary business ensured that his contributions were keenly followed by all. Particularly, his contributions on legislations related to the labour and education sectors were insightful and tremendously enriching to the matters under debate. He was an active Member of the Departmental Committee on Labour and Social Welfare as well as the Budget and Appropriations Committee of the National Assembly.

Honourable Senators,

On behalf of all Senators and indeed on my own behalf, I wish to take this opportunity to condole with the family of the late Hon. Muchai, the people of Kabete Constituency and all his friends for the loss of this great trade unionist and a peoples' defender at this trying time. I also condole with the families of the late Police Constables Samuel Lekakeny Montata and Samuel Kimathi Kairingia who were security officers of the deceased Hon. Member and the late Stephen Ituu Wambugu, the driver of the late Hon. Muchai. As the Senate, we assure the families of our support during this period of great sorrow.

As I conclude, I would like to appeal to the concerned security agencies to move with speed in investigating this heinous crime with a view to bringing the perpetrators to book. It is only through this that the nation and indeed the families of the departed will rest knowing that justice, and indeed the sacredness of every life as enshrined in the Constitution, will have prevailed.

May his soul and the souls of his departed staff rest in eternal peace.

As I promised yesterday, I will allow a few minutes for Senators to eulogize our departed colleague.

I thank you".

Thereafter, Senators eulogized their departed colleague, the late Hon. George Muchai.

4. **MESSAGE FROM THE NATIONAL ASSEMBLY ON THE PUBLIC SERVICE (VALUES AND PRINCIPLES) BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2014)**

The Speaker gave the following Message from the National Assembly regarding the Public Service (Values and Principles) Bill (National Assembly Bill No. 29 of 2014).

"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 Public Service (Values and Principles) Bill (National Assembly Bill No. 29 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 follows:-

"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 Public Service (Values And Principles) Bill (National Assembly Bill No. 29 of 2014), was published in the Kenya Gazette Supplement No. 112 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 232 of the Constitution was considered and passed by the National Assembly on 3rd 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 also 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 has been scheduled to be read a First Time today. Also slated for First Reading today is the Environmental Management and Coordination (Amendment) Bill (National Assembly Bill No. 31 of 2014), whose message from the Assembly I communicated to you yesterday.

Hon Senators,

Pursuant to Standing Order 130(1), the Public Service (Values and Principles) Bill (National Assembly Bill No. 29 of 2014) shall stand committed to the Standing Committee on Legal Affairs and Human Rights and I 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."

5. PAPERS LAID

The following papers were laid on the Table of the Senate-

- i) Report of the Standing Committee on Legal Affairs and Human Rights on the benchmarking visit to Germany between 5th - 11th October, 2014.
(Sen. Mutula Kilonzo Jr. on behalf of the Chairperson)
 - ii) Report of the Standing Committee on Legal Affairs and Human Rights on Public Hearings on:
 1. The Statute Law (Miscellaneous Amendments) (No. 2) Bill (National Assembly Bill No. 33 of 2013);
 2. The County Assemblies Powers and Privileges Bill, 2014;
 3. The Public Appointments (County Assemblies Approval) Bill, 2014
 4. The Public Fundraising Appeals Bill, 2014; and
 5. The National Government Coordination (Amendment) Bill, 2014.*(Sen. Mutula Kilonzo Jr. on behalf of the Chairperson)*
 - iii) Report of the Standing Committee on Energy on the benchmarking visit to Brazil between 6th - 16th September, 2014.
(The Vice-Chairperson, Standing Committee on Energy)
 - iv) Report of the Standing Committee on Finance, Commerce and Budget on the Consideration of the Second Generation Criteria for Resource Allocation for 2015/16, 2016/17 and 2017/18.
(The Chairperson, Standing Committee on Finance, Commerce and Budget)
6. **NOTICE OF MOTION** - (The Senate Majority Leader)

THAT, pursuant to Standing Order Nos. 177 and 210, the Senate approves the following Senators nominated by the Rules and Business Committee to serve in the respective Sessional Committees as indicated below:-

A. COUNTY PUBLIC ACCOUNTS AND INVESTMENTS COMMITTEE

1. Sen. Murkomen Kipchumba
2. Sen. Wamatangi Kimani
3. Sen. Karue Muriuki
4. Sen. (Prof.) John Lonyangapuo
5. Sen. Wangari Martha
6. Sen. Khalwale Boni
7. Sen. Omar Hassan
8. Sen. Sitswila Wako Amos
9. Sen. Nyong'o Anyang'
10. Sen. Mong'are Okong'o Kennedy
11. Sen. (Dr.) Agnes Zani

B. COMMITTEE ON DEVOLVED GOVERNMENT

1. Sen. Murkomen Kipchumba
2. Sen. Lesuuda Naisula
3. Sen. Kerrow Billow
4. Sen. Beatrice Elachi
5. Sen. Stephen Ole Ntutu
6. Sen. Sitswila Wako Amos

7. Sen. Janet Ong'era
8. Sen. Omar Hassan
9. Sen. Tiole Ndiema Henry

C. COMMITTEE ON IMPLEMENTATION

1. Sen. Njoroge Paul
2. Sen. Bule A. Ali
3. Sen. Onchwang'i Hosea
4. Sen. Mbura Emma Gertrude
5. Sen. Kariuki Godfrey Gitahi
6. Sen. Ali Hassan Abdirahman
7. Sen. James Orengo
8. Sen. Muthama Johnson
9. Sen. Nyongesa Kanainza Daisy

D. COMMITTEE ON DELEGATED LEGISLATION

1. Sen. Sang Stephen
2. Sen. Gwendu Joy
3. Sen. Chelule Liza
4. Sen. Mbura Emma Gertrude
5. Sen. Karaba Daniel
6. Sen. Juma Boy Juma
7. Sen. Sijeny Judith
8. Sen. Musila David
9. Sen. Omondi Godliver Nanjira

7. **NOTICE OF MOTION** - (Sen. Mutula Kilonzo Jr.)

THAT, this House adopts the Report of the Standing Committee on Legal Affairs and Human Rights on the benchmarking visit to Germany between 5th - 11th October, 2014 laid on the Table of the House on Wednesday, 11th February, 2015.

8. **NOTICE OF MOTION** - (The Chairperson, Standing Committee on Finance, Commerce and Budget)

THAT, this House adopts the Report of the Standing Committee on Finance, Commerce and Budget on the Consideration of the Second Generation Criteria for Resource Allocation for 2015/16, 2016/17 and 2017/18 laid on the Table of the House on Wednesday, 11th February, 2015.

9. **NOTICE OF MOTION** -(The Vice-Chairperson, Standing Committee on Energy)

THAT, this House adopts the Report of the Standing Committee on Energy on the benchmarking visit to Brazil between 6th - 16th September, 2014 laid on the Table of the House on Wednesday, 11th February, 2015.

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

- i) The Senator for Murang'a County (Sen. Kembi-Gitura) sought a Statement from the Chairperson of the Standing Committee on Land and Natural Resources regarding the ongoing property development on a piece of land, LR Number Nairobi/Block 90/599 in Loresho, Nairobi which houses Nairobi City County offices and which had been reserved for construction of a water reservoir.
- ii) The Nominated Senator (Sen. Hosea Onchwangi) sought a Statement from the Chairperson of the Standing Committee on Education regarding plans by the national Government to pay examination fees for KCPE and KCSE candidates for the year 2015, and measures that have been put in place to ensure schools do not demand examination fees from the candidates.
- iii) The Nominated Senator (Sen. Martha Wangari) sought a Statement from the Chairperson of the Standing Committee on Education on enrollment of pupils to join Form 1 in the year 2015 and in particular the criteria which had been followed in allocating schools to those joining Form 1.

11. PROCEDURAL MOTION ON THE LIMITATION OF DEBATE ON MOTIONS

(The Senate Majority Leader)

Motion made and Question proposed;

THAT, pursuant to Standing Order 100 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party Official Responder, twenty minutes for the Minority Party Official Responder and fifteen minutes for each other Senator speaking and that fifteen minutes before the time expires, the Mover shall be called upon to reply.

And there being no Senator willing to contribute;

Before the Question was put, and pursuant to Standing Order No. 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 100 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party Official Responder, twenty minutes for the Minority Party Official Responder and fifteen minutes for each

other Senator speaking and that fifteen minutes before the time expires, the Mover shall be called upon to reply.

12. **PROCEDURAL MOTION ON THE LIMITATION OF DEBATE ON AN ADJOURNMENT MOTION**

(The Senate Majority Leader)

Motion made and Question proposed;

THAT, notwithstanding the provisions of Standing Order 100 (4), the debate on any Motion for the adjournment of the Senate to a day other than the next normal sitting day in accordance with the calendar of the Senate shall be limited to a maximum of two hours with not more than fifteen minutes for each Senator speaking after which the Senate shall adjourn without question put; Provided that when the period of recess proposed by any such Motion does not exceed nine calendar days, the debate shall be limited to a maximum of thirty (30) minutes, and shall be confined to the question of adjournment.

And there being no Senator willing to contribute;

Before the Question was put, and pursuant to Standing Order No. 72, the Speaker informed the House that the Motion did not affect Counties.

Question put and **agreed to**.

RESOLVED ACCORDINGLY-

THAT, notwithstanding the provisions of Standing Order 100 (4), the debate on any Motion for the adjournment of the Senate to a day other than the next normal sitting day in accordance with the calendar of the Senate shall be limited to a maximum of two hours with not more than fifteen minutes for each Senator speaking after which the Senate shall adjourn without question put; Provided that when the period of recess proposed by any such Motion does not exceed nine calendar days, the debate shall be limited to a maximum of thirty (30) minutes, and shall be confined to the question of adjournment.

13. **PROCEDURAL MOTION ON THE LIMITATION OF DEBATE ON MOTION ON THE ADDRESS BY THE PRESIDENT**

(The Senate Majority Leader)

Motion made and Question proposed;

THAT, pursuant to Standing Order 100 (1), the Senate resolves that the debate on the Motion on the Presidential Address shall be limited to a maximum of three sitting days with not more than fifteen minutes for each Senator speaking, excluding the Mover in moving and replying who shall be

limited to thirty minutes in either case and that the Senate Majority Leader and the Senate Minority Leader shall be limited to thirty minutes each.

And there being no Senator willing to contribute;

Before the Question was put, and pursuant to Standing Order No. 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 100 (1), the Senate resolves that the debate on the Motion on the Presidential Address shall be limited to a maximum of three sitting days with not more than fifteen minutes for each Senator speaking, excluding the Mover in moving and replying who shall be limited to thirty minutes in either case and that the Senate Majority Leader and the Senate Minority Leader shall be limited to thirty minutes each.

14. **THE PUBLIC SERVICE (VALUES AND PRINCIPLES) BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2014)**

(The Senate Majority Leader)

Order for First Reading read;

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

15. **THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 31 OF 2014)**

(The Senate Majority Leader)

Order for First Reading read;

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

16. **COMMITTEE OF THE WHOLE**

Order for Committee read;

IN THE COMMITTEE

(The Chairperson of Committees (Sen. (Dr.) Wilfred Machage) – in the Chair)

i) **The Fertilizers and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No. 36 of 2013)**

Raising a Point of Order, the Senate Majority Leader moved that the Committee of the Whole reports progress and seeks leave to sit again tomorrow.

Before the question was put and pursuant to Standing Order 72, the Chairperson of Committees (Sen. (Dr.) Machage) ruled that the question did not affect counties;

Question put and agreed to.

ii) The Statute Law (Miscellaneous Amendments) (No. 2) Bill (National Assembly Bill No. 33 of 2013)

Raising a Point of Order, the Senate Majority Leader moved that the Committee of the Whole reports progress and seeks leave to sit again tomorrow.

Before the question was put and pursuant to Standing Order 72, the Chairperson of Committees (Sen. (Dr.) Machage) ruled that the question did not affect counties;

Question put and agreed to.

17. **HOUSE RESUMED** - (Temporary Speaker (Sen. (Dr.) Wilfred Machage) in the Chair)

18. **THE FERTILIZERS AND ANIMAL FOODSTUFFS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 36 OF 2013)**

The Chairperson of Committees (Sen. Mositet) reported progress on consideration of the Bill and sought leave to sit again the following day.

Motion made and Question proposed:-

THAT, the House does agree with the Committee of the Whole House in the said report.

(The Senate Majority Leader)

Before the question was put and pursuant to Standing Order 72, the Chairperson of Committees (Sen. (Dr.) Machage) ruled that the question did not affect counties;

Question put and agreed to.

19. **THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO. 2) BILL (NATIONAL ASSEMBLY BILL NO. 33 OF 2013)**

The Chairperson of Committees (Sen. Mositet) reported progress on consideration of the Bill and sought leave to sit again the following day.

Motion made and Question proposed:-

THAT, the House do agree with the Committee of the Whole House in the said report.

(The Senate Majority Leader)

Before the question was put and pursuant to Standing Order 72, the Chairperson of Committees (Sen. (Dr.) Machage) ruled that the question did not affect counties;

Question put and agreed to.

20. **THE POTATO PRODUCE AND MARKETING BILL (SENATE BILL NO. 22 OF 2014)**

Motion made and Question proposed:-

THAT, The Potato Produce and Marketing Bill (Senate Bill No. 22 of 2014) be now read a Second Time.

(Sen. (Eng.) Karue Muriuki – 4.12.2014)

Debate interrupted on Thursday, 4th December, 2014 resumed;

And the time being thirty minutes past Six O'clock, a Temporary Speaker (Sen. Peter Mositet) adjourned the Senate without Question put, pursuant to the Standing Orders.

21. **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
Thursday, February 12, 2015 at 2.30 p.m.*

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