



REPUBLIC OF KENYA

THE SENATE

ELEVENTH PARLIAMENT – THIRD SESSION

VOTES AND PROCEEDINGS

THURSDAY, MARCH 19, 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 issued Communication from the Chair as follows-

- a) **Referring to Substance of Proceedings of a Select Committee before the Committees has made its Report to the Senate.**

"Honourable Senators,

On Tuesday 3rd March, 2015, the Senator for Mombasa County (Sen. Omar Hassan) drew the attention of the house to an article appearing in a Sunday Newspaper of 1st March, 2015 covering information allegedly divulged by the Chairperson of the Standing Committee on Education. Sen. Omar claimed that the Information given to the media breached Standing Order 88 of the Senate as it amounted to pre-empting or anticipating debate as the matter was being investigated by a committee of the Senate on disturbances facing the University of Eldoret.

Honourable Senators,

Although the Senator quoted Standing order 88 that relates to anticipating debate, the appropriate provision is Standing Order No. 89, which states and I quote:-

**"No Senator shall refer to the substance of the proceedings of a select Committee before the Committee has made its report to the Senate."**

I wish to note that the above provision applies to debate within the house which gives the principle of application of the rule of extending discussions by Senators outside the House.

The question of members of the House taking debate or commenting on matters pending before the House or Committees outside the House is not new and therefore as you can expect there is a well developed path in terms of procedure, which is codified through rules, and practice which, as you are well aware, is uncoded and set by precedents mostly through communications from the Chair.

Let me remind Senators that the Chair comprehensively pronounced itself on the subject in the last Session and that the position has not changed.

Honourable Senators,

I have looked at the article in the newspaper referred to by Sen. Hassan titled Senate team unearths rot at Eldoret varsity. It is a report summarizing alleged problems confronting the institution that led to the unrest, from the author's perspective in course of their work of reporting Committee activities. It is not quoting or referring to a statement issued by or attributed to a member of the Committee or any other Senator.

Arising from the foregoing, therefore, the Chair is satisfied that the reporters who filed the story were within the parameters provided by the Constitution and our rules of procedure and hence there was no breach of the rules by any Senator.

Honourable Senators,

I also applaud and commend members of the committee for staying the course and not being carried away and deviating from the task at hand, namely, making proposals that will assist the University get back to its feet, as the specialized agency of the House in education matters.

I thank you."

#### **b) Visiting Delegation of Speakers of County Assemblies**

"Honorable Senators,

Hon. Members, I am pleased to acknowledge and to welcome to the Senate this afternoon, a delegation of Speakers from various County Assemblies accompanied by the C.E.O, County Assemblies Forum seated at the Speaker's Gallery.

I request our guests that when your name is called out, you stand so that you may be acknowledged in our usual Senate tradition.

- |                        |   |                               |
|------------------------|---|-------------------------------|
| 1. Hon. Jimmy Kahindi  | - | Speaker, Kilifi County        |
| 2. Hon. Teddy Mwambire | - | Deputy Speaker, Kilifi County |

- |                             |   |                               |
|-----------------------------|---|-------------------------------|
| 3. Hon. Titus N Mbiti       | - | Deputy Speaker, Kitui County  |
| 4. Hon. Gideon Kimathi      | - | Deputy Speaker, Meru County   |
| 5. Hon. Dr. Nuh Nassir      | - | Tana-River                    |
| 6. Hon. Hashim Mohamed      | - | Lamu                          |
| 7. Hon. Geoffrey Kipngetich | - | Bomet                         |
| 8. Hon. Kaltuko Geoffrey    | - | Turkana                       |
| 9. Hon. Meshack Maghanga    | - | Taita-Taveta                  |
| 10. Hon. Aresmus Mwarabu    | - | Taita-Taveta                  |
| 11. Hon. Haron M. Motume    | - | Kisii                         |
| 12. Hon. Evans Mokoro       | - | Kisii                         |
| 13. Hon. James Mwangi       | - | Majority Leader, Nyandarua    |
| 14. Roselyn Mungai          | - | C.E.O County Assemblies Forum |
| 15. Wanyoike Mbuche         | - | Clerk, Lamu County            |

Honourable Senators,

I take this opportunity on behalf of the Senate and on my own behalf, to wish the delegation a happy and fruitful visit.

I Thank You."

**c) Workshop for all Major Players on Accountability and Oversight**

"Honourable Senators,

The Standing Committee on Finance, Commerce and Budget has organized a workshop for all major players on accountability and oversight, this weekend and the Senate leadership is invited.

The Committee has provided an opportunity to interrogate all matters relating to accountability and oversight.

I thank you."

**4. PAPERS LAID**

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

- i) The National Gender and Equality Commission Annual Report 2013/14.

*(Chairperson, Standing Committee on Labour and Social Welfare)*

- ii) Report of the Senate Standing Committee on Finance, Commerce and Budget on the matter of County Ceilings on Recurrent Expenditure for the Financial Year 2014/2015.

*(Chairperson, Standing Committee on Finance, Commerce and Budget)*

- iii) Statement by the Senate Majority Leader regarding the Business of the Senate for the week commencing 24<sup>th</sup> March, 2015.

*(Senate Majority Leader)*

5. **STATEMENTS PURSUANT TO STANDING ORDER 45**

(a) Pursuant to the provisions of Standing Order 45(2) (b) -

- i) Nominated Senator (Sen. Fatuma Dullo) sought a statement from the Chairperson of the Standing Committee on Health regarding the suspension of radiotherapy treatment at Kenyatta National.
- ii) The Vice-Chairperson of the Standing Committee on National Security and Foreign Relations issued a Statement regarding insecurity in villages along the West Pokot-Turkana border.

Thereupon the Vice-Chairperson informed the House that on 2<sup>nd</sup> March, 2015, an unknown number of bandits attacked Ombolion *Manyatta* in Kasei Division/Ward and drove away 70 goats but Police officers tracked the bandits and managed to recover all the goats

The Vice-Chairperson stated that the Government is aware of the presence of armed bandits operating in West Pokot and Turkana County borders and that necessary measures had been taken to address security challenges in the region.

- iii) The Vice-Chairperson of the Standing Committee on National Security and Foreign Relations issued a Statement regarding the status of the suspended recruitment of Police officers in 2014 and the structure and command at the VIP Protection Unit.

Thereupon the Vice-Chair informed the House that the 2014 police recruitment exercise was annulled following claims of malpractices by members of the public and other stakeholders. The house was further informed that a repeat recruitment could not be conducted after the Independent Policing Oversight Authority obtained a court injunction stopping the same.

Regarding VIP protection, the Vice Chairperson informed the House that the Government has developed a VIP Protection Policy for the protection of VIPs and State officers, which was currently being implemented and Senators were invited to make any recommendations to enrich the policy.

- iv) The Chairperson of Standing Committee on Finance, Commerce and Budget issued a statement on the status of Financial Allocation to Counties by the Commission on Revenue Allocation (CRA) and the

reported grinding to a halt of operations of County Governments as a result of budget ceilings imposed by the CRA.

Thereupon the Chair informed the Senate that pursuant to Article 216 of the Constitution, CRA issued a circular to county Governments recommending a ceiling on allocation to County Assemblies and County Executives in the budget for 2014/2015, on 22<sup>nd</sup> April, 2014 in order to, *inter alia*, eliminate arbitrary allocation of funds between the assemblies and the executive.

The Chairperson also informed the Senate that while some counties complied with the circular, others declined and the Controller of Budget declined requests of counties that did not comply with the ceilings whereupon the matter ended up in court.

The Chairperson further informed the House that his Committee had made recommendations that, *inter alia*, ceilings on the Recurrent Expenditure for the FY 2014/2015 were lawfully issued and the courts had subsequently approved withdrawals of up to 75 percent of the ceilings for the first three quarters for the remaining 3 months in the Financial Year. The Chairperson further stated that the report of the Committee on Finance, Commerce and Budget on the matter had comprehensively addressed the challenges affecting county governments and he would be giving a Notice of Motion for the Senate to deliberate on and adopt the report.

- b) Pursuant to Standing Order 45(2) (c), the Senate Majority Leader issued a Statement regarding the Business of the Senate for the week commencing Tuesday, 24<sup>th</sup> March, 2014.

6. **MOTION ON THE REVIEW OF EXISTING LEGISLATION TO ENHANCE CARE OF DEMENTIA PATIENTS**  
(Department of Health)

**THAT**, aware that currently there are approximately 44 million persons living with dementia worldwide, a figure that is expected to triple by 2050; acknowledging that caring for dementia patients can be a difficult experience; appreciating the contribution of family members and other care givers of people suffering from dementia across Kenya; noting with concern that mental healthcare does not seem to be a priority in the public health sector in Kenya since the allocation for mental healthcare is less than 1% of the total public health budget; acknowledging the importance of raising awareness of dementia and ensuring that people with dementia are treated with dignity and respect; appreciating the contribution of non- governmental organizations such as the Africa Mental Health Foundation and the International Institute for Legislative Affairs who provide a platform for sharing of views and experiences on care of people with dementia; noting the need to enhance awareness on and provide better care for patients of dementia; the Senate directs the Standing Committee on Health to immediately initiate review of the existing legislation on health care in order to mainstream and enhance care for patients of dementia and

further that the Committee submits a report to the House on the matter within ninety (90) days.

*(Sen. (Dr.) Wilfred Machage)*

Order Deferred.

7. **NEED TO IMPROVE PROCESS OF REGISTRATION FOR NATIONAL IDENTITY CARDS ESPECIALLY FOR ORPHANED AND VULNERABLE CHILDREN**

(Department of Interior and Coordination of National Government)

**THAT**, cognizant that Article 12 of the Constitution guarantees a right to citizenship; noting that it is the right of every Kenyan attaining 18 years to register and be issued with a National Identity Card ; further noting that the National Identity Card is at the core in determining the extent to which an individual enjoys his or her fundamental rights and freedoms; concerned that Orphans and Vulnerable Children attaining the age of 18 years in children's homes have difficulties obtaining the National Identity Cards, the Senate urges the National Government to take remedial, policy, administrative and legislative measures to improve and expedite the process of registration for National Identity Cards especially for the Orphans and Vulnerable Children who live in children's homes and have attained 18 years of age.

*(Sen. Beatrice Elachi)*

Order Deferred.

8. **NEED TO SET UP NATIONAL AIDS CONTROL COUNCIL (NACC) OFFICES IN ALL COUNTY HEADQUARTERS**

(Department of Health)

**THAT**, cognizant that the core mandate of the National AIDS Control Council (NACC) is to develop strategies, policies and guidelines relevant to the prevention and control of HIV and AIDS in Kenya; noting that the operational structure of NACC has not been aligned to the Constitution of Kenya 2010; acknowledging the objects of devolution as set out under Article 174 of the Constitution; recognizing that under the Fourth Schedule, the health function has been devolved except for the health policy and referral hospitals; concerned that an estimated 1.2 million Kenyans are infected with HIV/AIDS and a 100,000 are infected annually; recognizing the need to achieve an "*AIDS free society*" by stepping up the fight against the pandemic at the County level, the Senate urges the National Government to set up the National AIDS Control Council (NACC) County offices in all County Headquarters with the National Headquarters providing overall co-ordination and that the resources allocated for the fight against HIV/AIDS be disbursed and managed at the County level.

*(Sen. Sammy Leshore)*

Order Deferred.

9. **NEED FOR ESTABLISHMENT OF RESCUE CENTERS IN KENYA MISSIONS ABROAD**

(Department of Foreign Affairs and International Trade)

**THAT**, aware that many Kenyans migrate out of the country for employment especially as domestic workers; concerned that they work under deplorable conditions in those countries they go to; cognizant of the grave danger this poses to them and their families, the Senate calls upon the National government to establish rescue centers in all its Embassies and Missions abroad.

*(Sen. Beatrice Elachi)*

Order Deferred.

10. **THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILL NO. 34 OF 2014)**

Order for Second Reading read;

Motion made and Question proposed:-

**THAT**, the Natural Resources (Benefit Sharing) Bill (Senate Bill No. 34 of 2014) be now read a Second Time.

*(Sen. (Dr.) Agnes Zani - 04.12.2014)*

Debate interrupted on Wednesday, 18<sup>th</sup> March, 2015 resumed;

There being no other Senator willing to contribute;

Mover replied;

Raising a point of order, pursuant to Standing Order 54 (3), the Nominated Senator (Sen. (Dr.) Agnes Zani) requested the Speaker to defer putting of the Question to another day;

And the Temporary Speaker (Sen. (Dr.) Machage) acceding to the request, deferred putting of the question to another day.

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

Order for Second Reading read;

Motion made and Question proposed:-

**THAT**, the Public Service (Values and Principles) Bill (National Assembly Bill No. 29 of 2014) be now read a Second Time.

*(The Senate Majority Leader)*

Debate arising;

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

12. 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  
Tuesday, March 24, 2015 at 2.30 p.m.*

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