



REPUBLIC OF KENYA

THE SENATE

ELEVENTH PARLIAMENT – THIRD SESSION

VOTES AND PROCEEDINGS

THURSDAY, MAY 21, 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-

i) Voting in the House

"Honourable Senators,

During the Sitting of Tuesday, 19th May 2015 the Senate voted for the following three Bills at Second Reading stage-

1. The Public Audit Bill (National Assembly Bill No.38 of 2014);
2. The Fair Administrative Action Bill (National Assembly Bill No. 10 of 2015); and
3. The Public Procurement and Asset Disposal Bill (National Assembly Bill No. 40 of 2014).

At the conclusion of the voting, there were variations in the number of Senators voting, culminating into a point of order raised regarding Senators who did not vote as it is in violation of the Standing Orders.

I Speaker directed the Clerk to establish the Senators who did not vote.

Subsequently, it was established from the division list print-outs, Sens. Fatuma Dullo and Daniel Karaba did not vote on the Public Procurement Bill. It was also established that Sen. Fatuma Dullo did not vote on the Fair Administrative Action Bill.

As canvassed by Sen. Khaniri regarding decorum during voting, Standing Order 80 provides for decorum during division. It states-

"80(1) – No Senator shall be obliged to vote in a Division, but those present and not voting shall either-

- a) In the case of an electronic vote, press the "Abstain" button; or*
- b) In the case of a roll call vote, record their abstention with the Clerk.*

(2) It shall be disorderly conduct for a Senator to fail to record his or her abstention in a division."

However, it is worth noting that several Senators have been experiencing challenges while using the electronic system, sometimes without their knowledge. It is, therefore, necessary to continue reminding Senators of the above provision and to encourage those in doubt on whether they have voted to consult the Clerks-at-the-Table, otherwise sanctions will ensue.

I thank you."

ii) Visiting Members of Nandi County Assembly

"Honorable Senators,

Hon. Members, I am pleased to acknowledge and to welcome to the Senate this afternoon, the Members of Nandi County Assembly who are seated in the Speaker's Gallery.

I request that when their names are called out, they stand so that they may be acknowledged in our usual Senate tradition.

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| 1. Hon. Pius Kiprop Murrey | 15. Hon. Jane Jepkorir |
| 2. Hon. Mark Kipkoech George | 16. Hon. Philemon Maiyo Nengo |
| 3. Hon. Pauline J Singoei | 17. Hon. Julius Kibet Bwambok |
| 4. Hon. Isaac Kiplagat Choge | 18. Hon. Karen C Mutai |
| 5. Hon. Kapkurui Chepkwony | 19. Hon. Jennifer J Maritim |
| 6. Hon. Emil Cherobon | 20. Hon. Rodah J Chepkwony |
| 7. Hon. Eunice J Singoei | 21. Hon. Jennifer J Maritim |
| 8. Hon. Koros Erick Kiptoo | 22. Hon. Rodah J Chepkwony |
| 9. Hon. Sally Cherubet Lelei | 23. Hon. Emmanuel Kipkoech Rotich |
| 10. Hon. Domtila Jemaiyo Rop | 24. Hon. Fredrick Kipkemboi |
| 11. Hon. Francis Kiprop Kemei | 25. Hon Phillip K.M. Sang |
| 12. Hon. Simion Bor | 26. Hon. Baruch Suge |
| 13. Hon. Joyceline Jerop Bett | |
| 14. Hon. Monica Jekemboi | |

Honorable Senators,

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

I Thank You."

4. MESSAGE

The Senator for Mombasa County (Sen. Hassan Omar) conveyed a Message from the Council of Governors to the Senate concerning the leasing of medical equipment for county governments and failure by the National Government to transfer funds directly to health facilities within counties.

Pursuant to Standing Order 43 (6), the Speaker directed that the Message be referred to the Standing Committee on Health for consideration and reporting back to the House.

5. PETITION - ALLEGED MISAPPROPRIATION OF FUNDS BY THE GOVERNOR AND THE COUNTY GOVERNMENT OF WAJIR

Pursuant to Standing Order 220 (1) (a), the Speaker reported to the Senate that a petition had been received from six residents of Wajir County on alleged misappropriation of funds by the Governor and the County Government of Wajir, among other grievances.

Pursuant to Standing Order 226, the Speaker invited Senators to comment on the petition and directed that the Petition be committed to the Standing Committee on Finance, Commerce and Budget, pursuant to Standing Order 227.

6. PAPERS LAID

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

- i) Report of the Mediation Committee on the Environmental Management and Coordination Amendment Bill (National Assembly Bill No. 31 of 2014).

(Chairperson, Standing Committee on Land and Natural Resources)

- ii) Statement regarding the Business of the Senate for the week commencing Tuesday, 26th May, 2015.

(Sen. Billow Kerrow on behalf of the Senate Majority Leader)

7. NOTICE OF MOTION -(The Chairperson of the Standing Committee on Land and Natural Resources)

THAT this House approves the Report of the Mediation Committee on the Environmental Management and Coordination Amendment Bill (National Assembly Bill No. 31 of 2014), laid on the Table of the Senate on Thursday, 21st May, 2015.

8. STATEMENTS**a) Statement pursuant to Standing Order 45 (2) (a)**

The Senator for Taita Taveta County (Sen. Danson M. Mwazo) issued a statement regarding an incident where over one hundred (100) youths

reportedly from Tharaka Nithi County were allegedly transported to Voi town, Taita Taveta County with the promise that they would be hired as casual workers in the construction of the Standard Gauge Railway (SGR).

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

- i) The Senator for Vihiga County (Sen. George Khaniri) sought a statement from the Chairperson of the Standing Committee on Land and Natural Resources regarding the continued destruction of the forests in Kenya, and in particular the Mau Forest.
- ii) The Senator for Nyamira County (Sen. Kennedy Mong'are) sought a statement from the Chairperson of the Standing Committee on Land and Natural Resources regarding construction of a petrol station in a riparian area at the Konate Junction in Bonyamatuta Ward, Nyamira County.
- iii) The Senator for Vihiga County (Sen. George Khaniri) sought a statement from the Chairperson of the Standing Committee on Labour and Social Welfare regarding the new National Hospital Insurance Fund (NHIF) rates.
- iv) The Vice-Chairperson of the Sessional Committee on Devolved Government issued a statement regarding measures put in place to avert the adverse effect of floods in Kenya. The Vice-Chairperson informed the House that the National Government had provided humanitarian assistance in places such as Nairobi and Narok where floods had occurred. The National Youth Service had also been deployed as a back-up support in places affected by such flooding and other disasters.

The Vice-Chairperson assured the House that the Government would continue to take necessary measures to protect citizens from the adverse of disasters. She further stated that the matter was cross-cutting and that Committee on Devolved Government would, in liaison with other relevant agencies, investigate the matter further and report its findings to the House.

c) **Statement Pursuant To Standing Order 45 (2) (c)**

The Senator for Mandera County (Sen. Billow Kerrow) issued a Statement on behalf of the Senate Majority Leader on the Business of the Senate for the week commencing Tuesday, 26th May, 2015.

9. **COMMITTEE OF THE WHOLE**

The Public Finance Management (National Government) Regulations, 2015

(Chairperson of the Sessional Committee on Delegated Legislation)

Order Deferred.

10. COMMITTEE OF THE WHOLEThe Public Finance Management (County Government) Regulations, 2015

(Chairperson of the Sessional Committee on Delegated Legislation)

Order Deferred.

11. MOTION - NEED TO CONDUCT A FACT-FINDING MISSION ON REPORTED HUMAN-WILDLIFE CONFLICT BETWEEN THE KINNA COMMUNITY OF ISIOLO COUNTY AND WILDLIFE AT MERU NATIONAL PARK

(Department of Environment, Water and Natural Resources)

Motion made and question proposed;

THAT, aware that the Fourth Schedule to the Constitution assigns the responsibility of protection of the environment and natural resources to the National Government;

ACKNOWLEDGING THAT Section 5 of the Wildlife (Conservation and Management) Act, 2013 mandates the Cabinet Secretary to formulate innovative measures for mitigating human wildlife conflict;

FURTHER ACKNOWLEDGING THAT Section 19 of the said Act empowers the County Wildlife Conservation and Compensation Committee to develop and implement, in collaboration with community wildlife associations, mechanisms for mitigation of human wildlife conflict;

AWARE THAT in the spirit of mutual co-existence, Section 75 of the Wildlife Conservation and Management Act, 2013 advocates for recognition of the rights and privileges of communities living adjacent to conservation and protected areas in decision-making and determination on the matter of conservation and management of the wildlife resource;

NOTING WITH CONCERN THAT human-wildlife conflict between the Kinna Community of Isiolo County and wildlife at Meru National Park has escalated over the years;

FURTHER NOTING WITH CONCERN THAT the above conflict has led to tension between the community and the Kenya Wildlife Service (KWS) which the community accuses of kidnapping, shooting, torturing, wounding and even killing members of the community;

ALARMED about the latest alleged report that on 18th May, 2015 KWS rangers clashed with the Kinna Community demonstrators, shot and killed one demonstrator and wounded several others;

THE SENATE DIRECTS the Standing Committee on Land and Natural Resources to conduct a fact-finding mission regarding the conflict in the area with immediate effect and report back to the Senate within thirty days.

(Sen. Fatuma Dullo)

Debate arising;

Amendment proposed:

THAT, the Motion be amended by adding the following words between the words "Natural Resources" and "to conduct" appearing in the last paragraph **"and the Standing Committee on National Security and Foreign Relations"**

(Sen. Billow Kerrow)

Debate arising;

And there being no other Senator willing to contribute;

Before the Question was put, and pursuant to Standing Order No. 72, the Temporary Speaker (Sen. Ongoro) informed the House that the Motion does not affect Counties.

Question on amendment put and agreed to.

RESOLVED ACCORDINGLY-

THAT, the Motion be amended by adding the following words between the words "resources" and "to" appearing in the last paragraph **"and the Standing Committee on National Security and Foreign Relations"**.

Debate on the Motion as amended resumed;

And there being no other Senator willing to contribute;

Mover replied;

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

Question on Motion as amended put and agreed to.

RESOLVED ACCORDINGLY-

THAT, aware that the fourth Schedule to the Constitution assigns the responsibility of protection of the environment and natural resources to the National Government;

ACKNOWLEDGING THAT Section 5 of the Wildlife (Conservation and Management) Act, 2013 mandates the Cabinet Secretary to formulate innovative measures for mitigating human wildlife conflict;

FURTHER ACKNOWLEDGING THAT Section 19 of the said Act empowers the County Wildlife Conservation and Compensation Committee to develop and implement, in collaboration with community wildlife associations, mechanisms for mitigation of human wildlife conflict;

AWARE THAT in the spirit of mutual co-existence, Section 75 of the Wildlife Conservation and Management Act, 2013 advocates for recognition of the rights and privileges of communities living adjacent to conservation and protected areas in decision-making and determination on the matter of conservation and management of the wildlife resource;

NOTING WITH CONCERN THAT human-wildlife conflict between the Kinna Community of Isiolo County and wildlife at Meru National Park has escalated over the years;

FURTHER NOTING WITH CONCERN THAT the above conflict has led to tension between the community and the Kenya Wildlife Service (KWS) which the community accuses of kidnapping, shooting, torturing, wounding and even killing members of the community;

ALARMED about the latest alleged report that on 18th May, 2015 KWS rangers clashed with the Kinna Community demonstrators, shot and killed one demonstrator and wounded several others;

THE SENATE DIRECTS the Standing Committee on Land and Natural Resources and the Standing Committee on National Security and Foreign Relations to conduct a fact-finding mission regarding the conflict in the area with immediate effect and report back to the Senate within thirty days.

12. **THE PARLIAMENTARY SERVICE (AMENDMENT) BILL (SENATE BILL NO. 21 OF 2014)**

Order for Second Reading Read;

Motion made and Question proposed-

THAT, the Parliamentary Service (Amendment) Bill (Senate Bill No. 21 of 2014) be now read a Second Time.

(Sen. Kiraitu Murungi - 05.05.2015)

Debate interrupted on Tuesday, 19th May, 2015 resumed;

And there being no other Senator willing to contribute;

Mover replied;

Raising a point of order the Senator for Meru County (Sen. Kiraitu Murungi) moved that pursuant to Standing Order 54 (3), the putting of the Question be deferred to a later date;

And the Temporary Speaker (Sen. Ongoro) acceding to the request, deferred putting of question to a later date.

13. **THE REPRODUCTIVE HEALTH CARE BILL (SENATE BILL NO. 17 OF 2014)**

Order for Second Reading Read;

Motion made-

THAT, the Reproductive Health Care Bill (Senate Bill No. 17 of 2014) be now read a Second Time.

(Sen. Judith Sijeny)

Debate arising;

Pursuant to Standing Order 30 (2) the Temporary Speaker (Sen. Ongoro) adjourned the business of the Senate at forty one minutes past six O'clock, without Question put.

14. **SENATE ROSE** - at forty one minutes past six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Tuesday, May 26, 2015 at 2.30 p.m.*

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