



REPUBLIC OF KENYA

THE SENATE

ELEVENTH PARLIAMENT – THIRD SESSION

VOTES AND PROCEEDINGS

TUESDAY, MAY 26, 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. **MESSAGES**

Pursuant to Standing Order 40 (3) and (4), the Speaker conveyed the following Messages from the National Assembly:

- a) **Message from the National Assembly on the approval of the mediated version of the Environmental Management and Co-Ordination Bill (National Assembly Bill No. 31 of 2014)**

"Hon. Senators,

I wish to report to the Senate that, pursuant to Standing Order 40 (3) and (4), I have received the following message from the Speaker of the National Assembly regarding the approval, by the Assembly, of the mediated version of the Environmental Management and Co-ordination Bill (National Assembly Bill No. 31 of 2014)-

"PURSUANT to the provisions of Standing Order 150 of the National Assembly Standing Orders, I hereby convey the following message from the National Assembly-

WHEREAS the Environmental Management and Co-ordination Bill (National Assembly Bill No. 31 of 2014), was referred to a Mediation Committee in accordance with the provisions of Article 112 (2) (b) of the Constitution;

AND WHEREAS, the National Assembly, on the 26th day of May, 2015, considered and approved the Mediated Version of the said Bill as required under Article 113 (2) of the Constitution;

NOW THEREFORE, in fulfillment of the provisions of Standing Order 150 (4) (b) of the National Assembly Standing Orders, I hereby convey to the Senate, the said decision of the National Assembly”.

Hon. Senators,

As you are aware, this is one of the Bills with a Constitutional timeline of tomorrow, 27th May, 2015. You will also note that the report of the Mediation Committee on the Environmental Management and Co-ordination Bill (National Assembly Bill No. 31 of 2014) is listed at Order No. 8 in today's Order Paper. I therefore urge all Honourable Senators to avail themselves to transact this important business as it will require a majority of the delegations for it to pass.

I thank you.”

b) Message from the National Assembly on the rejection of Senate Amendments to The Public Audit Bill (National Assembly Bill No. 38 of 2014)

“Hon. Senators,

I wish to report to the Senate that, pursuant to Standing Order 40 (3) and (4), I have received the following message from the Speaker of the National Assembly regarding the rejection by the Assembly of the amendments made by the Senate to the Public Audit Bill (National Assembly Bill No. 38 of 2014)-

“PURSUANT to the provisions of Standing Orders 41 and 149 of the National Assembly Standing Orders, I hereby convey the following message from the National Assembly-

WHEREAS the Public Audit Bill (National Assembly Bill No. 38 of 2014), which was published in the Kenya Gazette Supplement No. 162 of 8th December, 2014 as a Bill originating in the National Assembly and passed by the National Assembly on 2nd April, 2015, and was passed by the Senate with amendments on May 20, 2015;

WHEREAS, the Senate forwarded its amendments to the Public Audit Bill (National Assembly Bill No. 38 of 2014) on May 22nd, 2015 for the concurrence of the National Assembly;

AND WHEREAS, through a resolution, the National Assembly, on May 26th, 2015 passed Senate amendments to the said Bill, but rejected the amendments to Clauses 5,11,19,24,32, and 39;

NOW THEREFORE, in accordance with the provisions of Article 112(1) (a) of the Constitution and Standing Order 149 of the National Assembly Standing Orders, I hereby convey the said decision of the National Assembly, the consequence of which the Bill stands referred to a Mediation Committee.”

Hon. Senators,

Article 112(1) (b) of the Constitution provides that *'if one House passes an ordinary Bill concerning counties and the second House passes the Bill in an amended form, it shall be referred back to the originating House for reconsideration'*.

Further, Article 112(2) (b) of the Constitution provides that *'if after the originating House has reconsidered a Bill referred back to it under clause (1) (b), that House rejects the Bill as amended, the Bill shall be referred to a Mediation Committee under Article 113'*.

For the benefit of Senators, Article 113 provides as follows-

- (1) If a Bill is referred to a mediation committee under Article 112, the Speakers of both Houses shall appoint a mediation committee consisting of equal numbers of members of each House to attempt to develop a version of the Bill that both Houses will pass.*
- (2) If the mediation committee agrees on a version of the Bill, each House shall vote to approve or reject that version of the Bill.*
- (3) If both Houses approve the version of the Bill proposed by the mediation committee, the Speaker of the National Assembly shall refer the Bill to the President within seven days for assent.*
- (4) If the mediation committee fails to agree on a version of the Bill within thirty days, or if a version proposed by the committee is rejected by either House, the Bill is defeated.*

Hon. Senators,

In the circumstances, I concur with the Speaker of the National Assembly to form a mediation committee in accordance with Articles 112(2) (b) and 113 of the Constitution.

In this regard, Hon. Senators, I have received communication from the National Assembly that the Speaker of the National Assembly has appointed the following Members to represent the Assembly in the Mediation Committee that will attempt to develop a version of the Bill that both Houses will pass-

- 1) The Hon. Benjamin Langat, MP;
- 2) The Hon. Johnson Sakaja, MP; and,
- 3) The Hon. Makali Mulu, MP.

Similarly the Speaker of the Senate has appointed the following Senators to represent the Senate in the Mediation Committee.

- 1) Sen. Billow Kerow;
- 2) Sen. Stephen Sang; and
- 3) Sen. Mutula Kilonzo Jr

Hon. Senators,

This is one of the Bills with a Constitutional timeline of tomorrow 27th May, 2015. I therefore direct that the Mediation Committee meets urgently and Table their report at 2.30 pm tomorrow, Wednesday, 27th May, 2015.

I thank you."

4. **STATEMENTS**

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

- i) The Vice-Chairperson of the Standing Committee on National Security and Foreign Relations (Sen. Fatuma Dullo) issued a statement regarding the aborted visit to the United States of America by H.E the President of the Republic of Kenya. The Vice-Chairperson informed the House that H.E the President was invited as a key speaker to the 2015 Milken Global Conference which was scheduled for April 26-29, 2015 and that he was also scheduled to meet the film industry in Hollywood with a view to help revamp the film sector in Kenya, in addition to taking a tour of the Los Angeles Port Authority.

She informed the House that the pilot took the decision to turn back to Kenya following information of escalated military activity over Yemeni airspace and that there were twenty two persons on board including the crew members.

She further stated that Kenya did not lose any benefits as a result of cancellation of H.E the President's visit who was consequently represented by Dr. Fred Matiang'i, Cabinet Secretary for Information, Communication and Technology.

The Speaker directed the Committee to inquire into the matter and table its report in the House.

- ii) The Vice-Chairperson of the Standing Committee on National Security and Foreign Relations (Sen. Fatuma Dullo) issued a statement regarding the unfolding events in Burundi as well as safety of Kenyans therein. She informed the House that there are about six hundred Kenyans registered with the Kenya Embassy in Bujumbura and that by the time of the attempted coup, many of them had already left Burundi.

She further informed the House that no specific measures have been taken to evacuate Kenyans from Burundi as such weighty issues require to be dealt with great caution and diligence.

She stated that Kenya had not taken any sides and that her actions are guided by the collective position taken by the EAC Summit and that Kenya upholds the spirit of peaceful settlement of dispute.

She finally informed the House that Burundi has a Constitution that guides the affairs of the state including on matters of election and as a sovereign state, and will adjudicate on this important matter and that Kenya will remain engaged within the spirit of the EAC and AU.

5. **MOTION – TO APPROVE THE REPORT OF THE MEDIATION COMMITTEE ON THE ENVIRONMENTAL MANAGEMENT AND COORDINATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 31 OF 2014)**

Motion made and question proposed;

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) pursuant to Standing Order 155 laid on the Table of the House on Thursday, 21st May, 2015.

(Sen. Khaniri on behalf of the Chairperson of the Mediation Committee)

Debate arising;

And there being no Senator willing to contribute;

The Mover replied;

Before the Question was put, and pursuant to Standing Order No. 72, the Temporary Speaker (Sen. Mositet) informed the House that the Motion affected Counties.

The Temporary Speaker directed that a Roll Call vote be taken pursuant to Standing Order No. 77 and that the Division Bell be rung for two minutes;

The names of the Tellers for the “Ayes” and for the “Noes” were submitted to the Temporary Speaker;

After the expiry of two minutes, the Temporary Speaker directed that the doors be locked and the bar drawn;

The names of the Tellers were announced and directed to take seats at their designated place;

The Temporary Speaker put the Question and directed the Clerk to call out the names of the Senators in alphabetical order;

Following the Division, Question agreed to.

The results of the Division were as follows:-

AYES – 24

NOES – NIL

ABSTENTIONS – NIL

AYES

1. Sen. Adan Dullo Fatuma – On behalf of Isiolo County delegation
2. Sen. Billow Adan Kerrow
3. Sen. Bule Ali Abdi
4. Sen. Chelule Liza - On behalf of Nakuru County delegation
5. Sen. Hassan Omar Hassan
6. Sen. Kajwang' Moses Otieno
7. Sen. Kariuki Godfrey Gitahi
8. Sen. Keter Charles Cheruiyot
9. Sen. Khalwale Boni
10. Sen. Khaniri George
11. Sen. Kimani Paul Wamatangi
12. Sen. Kindiki Kithure
13. Sen. Kivuti Lenny Maxwell
14. Sen. Lesan Wilfred Rotich
15. Sen. Machage Wilfred Gisuka
16. Sen. Madzayo Stewart Mwachiru
17. Sen. Melly Isaac Kipkemboi
18. Sen. Mositet Peter Korinko
19. Sen. Murkomen Onesimus Kipchumba
20. Sen. Nyong'o Peter Anyang'
21. Sen. Obure Christopher Mogere
22. Sen. Orenge James
23. Sen. Sijeny Judith Achieng - On behalf of Nairobi City County delegation
24. Sen. Zani Agnes Philomena – On behalf of Kwale County delegation

RESOLVED ACCORDINGLY-

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) pursuant to Standing Order 155 laid on the Table of the House on Thursday, 21st May, 2015.

6. **COMMITTEE OF THE WHOLE**
The Public Finance Management (National Government) Regulations, 2015
(Chairperson of the Sessional Committee on Delegated Legislation)

Order Deferred.

7. **COMMITTEE OF THE WHOLE**
The Public Finance Management (County Government) Regulations, 2015
(Chairperson of the Sessional Committee on Delegated Legislation)

Order Deferred.

8. 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 – 5th May, 2015)

The House proceeded to a Division on the Second Reading;

The Temporary Speaker (Sen. Mositet) directed that a Roll Call vote be taken pursuant to Standing Order No. 77 and that the Division Bell be rung for two minutes;

The names of the Tellers for the "Ayes" and for the "Noes" were submitted to the Temporary Speaker;

After the expiry of two minutes, the Temporary Speaker (Sen. Mositet) directed that the doors be locked and the bar drawn;

The names of the Tellers were announced and directed to take seats at their designated place;

The Temporary Speaker (Sen. Mositet) put the Question and directed the Clerk to call out the names of the Senators in alphabetical order;

Following the Division, Question agreed to.

The results of the Division were as follows:-

AYES – 24

NOES – NIL

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AYES

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2. Sen. Billow Adan Kerrow
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5. Sen. Hassan Omar Hassan
6. Sen. Kajwang' Moses Otieno
7. Sen. Kariuki Godfrey Gitahi
8. Sen. Keter Charles Cheruiyot
9. Sen. Khalwale Boni
10. Sen. Khaniri George
11. Sen. Kimani Paul Wamatangi
12. Sen. Kindiki Kithure

13. Sen. Kivuti Lenny Maxwell
14. Sen. Lesan Wilfred Rotich
15. Sen. Machage Wilfred Gisuka
16. Sen. Madzayo Stewart Mwachiru
17. Sen. Melly Isaac Kipkemboi
18. Sen. Mositet Peter Korinko
19. Sen. Murkomen Onesimus Kipchumba
20. Sen. Nyong'o Peter Anyang'
21. Sen. Obure Christopher Mogere
22. Sen. Orengo James
23. Sen. Sijeny Judith Achieng - On behalf of Nairobi City County delegation
24. Sen. Zani Agnes Philomena - On behalf of Kwale County delegation

Bill Read a Second Time and committed to the Committee of the Whole.

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

Order for Second Reading Read;

Motion made and Question proposed-

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

(Sen. Judith Sijeny- 30.09.2014)

Debate interrupted on Thursday, 21st May, 2015 resumed;

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

10. **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
Wednesday, May 27, 2015 at 2.30 p.m.*

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