



REPUBLIC OF KENYA

THE SENATE

ELEVENTH PARLIAMENT – THIRD SESSION

VOTES AND PROCEEDINGS

TUESDAY, 28TH APRIL, 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**

The Speaker conveyed the following messages-

- a) **MESSAGE FROM THE NATIONAL ASSEMBLY ON THE APPROVAL OF THE PUBLIC AUDIT BILL (NATIONAL ASSEMBLY BILL NO. 38 OF 2014)**

"Honourable Senators,

I wish to bring to the attention of the Senate that pursuant to Standing Order No. 40 (2) and (3), the Clerk received and delivered to me, on Thursday, 23rd April, 2015 the following Message from the National Assembly regarding the Public Audit Bill (National Assembly Bill No. 38 of 2014):

Consequently, I caused the Message to be transmitted to every Senator pursuant to Standing Order 40 (5) through letter Ref. SEN/L&P/MSG.2015/(01) dated 23rd April, 2015 as the Senate was not sitting at the time.

Hon. Senators, in accordance, therefore, with Standing Order No. 40 (5), I hereby report the following Message to the Senate-

"PURSUANT to the provisions of Standing Orders 41 and 142 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) was published vide the Kenya Gazette Supplement No. 162 of December 8, 2014 as a Bill originating in the National Assembly to provide inter alia, for the functions and powers of the Auditor-General in accordance with Article 226 of the Constitution and passed by the National Assembly on April 2, 2015;

WHEREAS, the Bill as passed by the National Assembly concerns County Governments in terms of Article 110 of the Constitution;

NOW THEREFORE, the National Assembly seeks the concurrence of the Senate in the said Bill in accordance with the provisions of Article 110 (4) of the Constitution and Standing Orders 142 of the National Assembly Standing Orders."

Honourable Senators,

As you note in the Order Paper, the Bill is scheduled for First Reading at Order No. 8.

Let me also notify the House that this is one of the Bills with a Constitutional deadline of 27th May, 2015 and we must therefore ensure that it is concluded as soon as is practically possible to meet the timelines set.

I thank you."

b) **MESSAGE FROM THE NATIONAL ASSEMBLY ON THE REJECTION BY THE ASSEMBLY OF SENATE AMENDMENTS TO THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO. 11 OF 2015)**

"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 Senate amendments to the Division of Revenue Bill (National Assembly Bill No. 11 of 2015)-

"PURSUANT to the provisions of standing orders 41 and 142 of the National Assembly Standing Orders, I hereby convey the following message from the National Assembly-

WHEREAS the Division of Revenue Bill (National Assembly Bill No. 11 of 2015), a Bill concerning County Governments, was published vide the Kenya Gazette Supplement No. 28 of 18th March, 2015 and thereafter Considered and passed by the National Assembly on 23rd March, 2015;

WHEREAS, the Senate's amendments to the Division of Revenue Bill (National Assembly Bill No. 11 of 2015), were received on 14th April, 2015 for consideration by the National Assembly;

AND WHEREAS, the National Assembly, on 21st April, 2015 rejected the amendments to the said Bill;

NOW THEREFORE, in accordance with the provisions of Article 112(1) (a) of the Constitution and Standing Order 142 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 Article 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. Mutava Musyimi, MP;
- 2) The Hon. Mary Emaase, MP; and,

- 3) The Hon. Tom Joseph Kajwang, MP.

In this regard, Hon. Senators, I hereby nominate the following Senators to represent the Senate in the Mediation Committee-

- 1) Sen. Beatrice Elachi;
- 2) Sen. Mutahi Kagwe; and
- 3) Sen. Boni Khalwale.

I thank you."

4. STATEMENTS

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

- i. The Senator for Bungoma County (Sen. Moses Wetang'ula) sought a Statement from the Chairperson of the Standing Committee on Legal Affairs and Human Rights regarding the Government's plan to open more consulates which, according to the Cabinet Secretary for Foreign Affairs and International Trade will be used as polling centres by Kenyans living in the United States of America during the 2017 General Elections.
- ii. The Senator for Nyandarua County (Sen. (Eng.) Muriuki Karue) sought a Statement from the Chairperson of the Standing Committee on National Security and Foreign Relations regarding the aborted visit to the United States of America (USA) by H.E Uhuru Kenyatta, the President of the Republic of Kenya.
- iii. The Chairperson of the Standing Committee on Health (Sen. (Dr.) Mohamed Kuti) issued a Statement on the Senate resolution requiring the Kenya Medical Practitioners and Dentists Board to open offices in the forty seven counties.

In the Statement the Chairperson explained that the resolution has not been implemented due to financial constraints. He noted that the Board finances its operations using internally generated funds and does not receive funding from the National Government.

He further stated that the Board is not in a position to open offices in counties but in compliance with the Senate resolution, the Board plans to devolve inspection activities to the counties in the 2016/2017 financial year.

He informed the Senate that this will be done through; establishing county offices on a cluster basis; employing county inspectors and purchasing motor vehicles for counties on cluster basis.

In the meantime, the Board has developed an ICT business model which offers a platform for clients to obtain services without physically visiting the office in Nairobi.

Further, the Board procedure rules were amended in the year 2013 to allow the Board to work together with the county governments in conducting inquiries into complaints and make appropriate recommendations and that so far, eleven professional conduct committee hearings in six counties have been conducted.

- iv. The Vice-Chairperson of the Standing Committee on National Security and Foreign Relations issued a Statement on the long term measures to stamp out cattle rustling in West Pokot County.

Thereupon, the Vice-Chairperson informed the Senate that cattle rustling has been a long standing menace in the region and that the National Government has developed and put in place the following measures to stamp out the menace in the long run: plans are underway to establish an Anti-Stock Theft training camp at Olwa, Turkwel junction, Lomuti and Perkeye areas; has deployed adequate security personnel in different parts of the county to enhance patrols and vigilance; is planning for a comprehensive disarmament in the region; has formed inter-community grazing committees in the region; is holding inter-communal peace and security committees; the public is being sensitized through frequent *barazas*, on the importance of peaceful coexistence; the members of the public are being encouraged to embrace education and abandon cattle rustling and women and youth have been given alternative means of livelihood through Uwezo Fund.

5. ADJOURNMENT OF THE SENATE UNDER THE PROVISIONS OF STANDING ORDER 33 TO DISCUSS A DEFINITE MATTER OF URGENT NATIONAL IMPORTANCE – THE STATE OF SECURITY IN PARLIAMENT AND UNIVERSITIES

Raising a point of order, the Senator for Kakamega County (Sen. Khalwale) sought leave to move a Motion for the adjournment of the Senate to discuss the state of security in Parliament and universities.

And the Speaker having considered the claim;

And there being the requisite number of Senators rising in support of the claim;

Thereupon, the Speaker directed that the Motion be moved today at 5.30 p.m.

6. THE PUBLIC AUDIT BILL (NATIONAL ASSEMBLY BILL NO. 38 OF 2014)

(Senate Majority Leader)

Order for First Reading read;

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

7. **COMMITTEE OF THE WHOLE**

i) **THE ALCOHOLIC DRINKS CONTROL (AMENDMENT) BILL
(SENATE BILL NO. 5 OF 2014)**

(Senate Majority Leader)

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

(Sen. (Eng.) Karue Muriuki)

iii) **THE FUNDRAISING BILL (SENATE BILL NO. 28 OF 2014)**

(Chairperson of the *Ad hoc* Committee on Legislation on Harambee)

Order deferred;

8. **THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL) BILL
(SENATE BILL NO. 20 OF 2014)**

Second Reading

Order deferred;

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

Second Reading

Order deferred;

10. **THE NATIONAL GOVERNMENT COORDINATION (AMENDMENT) BILL
(SENATE BILL NO. 32 OF 2014)**

Order for Second Reading Read;

Motion made and Question proposed-

THAT the National Government Coordination (Amendment) Bill
(Senate Bill No. 32 of 2014) be now read a second time.

(Sen. (Prof.) John Lonyangapuo)

Debate arising;

11. **MOTION – ADJOURNMENT OF THE HOUSE UNDER THE PROVISIONS
OF STANDING ORDER NO. 33 TO DISCUSS A DEFINITE MATTER OF
URGENT NATIONAL IMPORTANCE ON THE STATE OF SECURITY IN
PARLIAMENT AND UNIVERSITIES**

Motion made and Question proposed-

THAT, the Senate do now adjourn.

(Sen. (Dr.) Boni Khalwale)

Debate arising;

And the time being thirty minutes past Six O'clock, the Deputy Speaker 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
Wednesday, April 29, 2015 at 2.30 p.m.*

----X----