



**REPUBLIC OF KENYA**

**THE SENATE**

**ELEVENTH PARLIAMENT – THIRD SESSION**

**VOTES AND PROCEEDINGS**

**WEDNESDAY, NOVEMBER 04, 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. **COMMUNICATIONS FROM THE CHAIR**

The Deputy Speaker issued the following communications from the Chair-

i). **On the Visiting Students and Teachers from Kituamba Primary School**

"Honorable Senators,

I wish to recognize the presence of the Students and Teachers from Kituamba Primary School from Nyeri County. They are seated in the Public gallery.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I Thank You."

ii). **On a Special Sitting of the Senate to Consider the Report of the Special Committee on the Proposed Removal From Office of the Governor of Murang'a County**

"Honourable Senators,

As you may be aware, on Wednesday 28<sup>th</sup> October, 2015, the Senate, in its morning sitting, debated and approved a Motion for the establishment of a Special Committee on the proposed removal from office of the Governor of Murang'a County. The Committee thereafter commenced its sittings.

Under section 33(4) of the County Governments Act and Standing Order 68(2) of the Senate Standing Orders, the Special Committee is required to investigate the matter and report to the Senate within ten days, on whether it finds the Particulars of the allegations against the Governor to have been substantiated.

Honourable Senators,

I wish to inform you that, pursuant to Standing Order 29 (1), on the request of the Senate Majority Leader and with the support of the requisite number of Senators, I have appointed **Saturday, 7<sup>th</sup> November, 2015** as a day for a special sitting of the Senate.

The sitting shall be held in the Senate Chamber, Main Parliament Buildings, Nairobi **commencing at 11.00 am**. The business to be transacted at the sitting shall be the consideration of the Report of the Special Committee on the Proposed Removal from Office of the Governor of Murang'a County. In accordance with Standing Order 29 (5), this shall be the only business on that day and thereafter, the Senate shall adjourn to the next sitting day as per the approved Calendar.

A Gazette Notice on the matter has been issued. I urge all Honourable Senators to attend the special sitting of the Senate.

I thank you".

#### 4. MESSAGES

The Deputy Speaker delivered the following Messages from the National Assembly-

##### **i). On the approval of the Constitution of Kenya (Amendment) (No.2) Bill (National Assembly Bill No. 26 OF 2013)**

"Honourable Senators,

I wish to report to the Senate that on 29<sup>th</sup> October, 2015 and pursuant to Standing Order 40 (3) and (5), I received the following message from the Speaker of the National Assembly regarding the approval, by the Assembly, of the Constitution of Kenya (Amendment) (No. 2) Bill (National Assembly Bill No. 26 of 2013)-

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

**WHEREAS**, the Constitution of Kenya (Amendment) (No.2) Bill (National Assembly Bill No. 26 of 2013), was published in the Kenya Gazette Supplement No. 115 of August 6, 2013 as a Bill to amend Article 204 of the Constitution regarding disbursement of Equalization Fund;

**AND WHEREAS**, the National Assembly, in accordance with the provisions of Article 256 of the Constitution, considered and passed the said Bill on Wednesday, October 1, 2015 in the form attached hereto;

**NOW THEREFORE**, in accordance with Articles 110 (4) and 256 of the Constitution and the provisions of Standing Order 142 of the National Assembly Standing Orders, I hereby forward the said Bill to the Senate for consideration".

Honourable Senators,

Article 256 (1) of the Constitution provides that a Bill to amend the Constitution may be introduced in either House of Parliament. 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 now therefore direct that the Constitution of Kenya (Amendment) (No. 2) Bill (National Assembly Bill No. 26 of 2013) be listed for First Reading, tomorrow, Thursday, 5<sup>th</sup> November, 2015.

I thank you".

**ii). On the approval of the Fisheries Management and Development Bill  
(National Assembly Bill No. 18 of 2014)**

"Honourable Senators,

I wish to report to the Senate that on 29<sup>th</sup> October, 2015 and pursuant to Standing Order 40 (3) and (5), I received the following message from the Speaker of the National Assembly regarding the approval, by the Assembly, of the Fisheries Management and Development Bill (National Assembly Bill No. 18 of 2014)-

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

**WHEREAS**, the Fisheries Management and Development Bill (National Assembly Bill No. 18 of 2014), was published vide Kenya Gazette Supplement No. 18 of 4<sup>th</sup> April, 2014 as a Bill concerning County Governments in terms of Article 110 of the Constitution;

**AND WHEREAS**, the said Bill was considered and passed by the National Assembly on 30<sup>th</sup> September, 2015 with amendments and in the form attached hereto;

**NOW THEREFORE**, in accordance with Article 112 of the Constitution and Standing Order 142 of the National Assembly Standing Orders, I hereby forward the said Bill to the Senate, the object of which is to seek concurrence of the Senate on the said Bill".

Honourable 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 now therefore direct that the Fisheries Management and Development Bill (National Assembly Bill No. 18 of 2014) be listed for First Reading, tomorrow, Thursday, 5<sup>th</sup> November, 2015.

I thank you".

**iii). On the rejection of some of the Senate amendments to the Mining Bill (National Assembly Bill No. 9 of 2014)**

"Honourable Senators,

I wish to report to the Senate that on 29<sup>th</sup> October, 2015 and pursuant to Standing Order 40 (3) and (4), I received the following message from the Speaker of the National Assembly regarding the rejection by the Assembly of some of the Senate amendments to the Mining Bill (National Assembly Bill No. 9 of 2014)-

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

**WHEREAS**, the National Assembly, on Tuesday, October 27, 2015, **concurred** with part of the Senate's amendments to the Mining Bill (National Assembly Bill No. 9 of 2014), and **rejected** the amendment to **Clauses 4 (a) and (c), 7, 16, 30, 33, 34, 37, 40, 49, 51 and 149** of the Bill;

**NOW THEREFORE**, in accordance with Article 112 of the Constitution and Standing Order 149 of the National Assembly Standing Orders, I hereby **convey** the said decision of the National Assembly to the Senate, and seek the appointment of a Mediation Committee in respect of the said Bill".

Honourable 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*.

Honourable 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. Amina Abdalla, MP;
- 2) The Hon. Ejidius Njogu Barua, MP;
- 3) The Hon. Chachu Ganya, MP;
- 4) The Hon. George Peter Opondo Kaluma, MP; and,
- 5) The Hon. Andrew Mwadime, MP.

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

- 1) Sen. Lenny Kivuti, MP;
- 2) Sen. Billow Kerrow, MP;
- 3) Sen. Isaac Melly, MP;
- 4) Sen. (Dr.) Agnes Zani, MP; and
- 5) Sen. Henry Tiote ole Ndiema.

I thank you".

**iv). On the rejection of some of the Senate amendments to the National Drought Management Authority Bill (National Assembly Bill NO. 42 of 2013)**

"Honourable Senators,

I wish to report to the Senate that on 29<sup>th</sup> October, 2015 and pursuant to Standing Order 40 (3) and (4), I received the following message from the Speaker of the National Assembly regarding the rejection by the Assembly of the Senate amendments to clause 4 of the National Drought Management Authority Bill (National Assembly Bill No. 42 of 2013)-

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

**WHEREAS**, the National Assembly, on Thursday, October 22, 2015, **concurred** with the Senate on its amendments to Clause 8 of the National Drought Management Authority Bill (National Assembly Bill No. 42 of 2013), and **rejected** the amendment to **Clause 4** of the Bill;

**NOW THEREFORE**, in accordance with Article 112 of the Constitution and Standing Order 149 of the National Assembly Standing Orders, I hereby **convey** the said decision of the National Assembly to the Senate, and seek the appointment of a Mediation Committee in respect of the said Bill".

Honourable 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*.

Honourable 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. Joyce Emanikor, MP;
- 2) The Hon. (Dr.) Wilbur Ottichilo, MP;
- 3) The Hon. Chachu Ganya, MP;
- 4) The Hon. Juma Zuleikha Hassan, MP; and,
- 5) The Hon. Elmi Mohammed Ibrahim, MP.

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

- 1) Sen. Fatuma Dullo, MP;
- 2) Sen. (Prof.) John Lonyangapuo, MP;
- 3) Sen. Martha Wangari, MP;
- 4) Sen. Abdirahman Hassan, MP; and
- 5) Sen. Danson Mwazo Mwakulegwa.

I thank you".

5. **NOTICE OF MOTION-** (Sen. (Prof.) Anyang' Nyong'o)

**THAT, COGNIZANT** that Mr. Harold Kipchumba, a former Senator in the Parliament of Kenya, has been instrumental in engaging public support for mass immunization campaign aimed at eradicating and eliminating diseases such as polio and tetanus as well as the introduction of new vaccines into the Kenya Expanded Programme of Immunizations Services (EPI);

**AWARE** that Sen. Kipchumba has, through dialogue and media appeal, persuaded communities and groups that were, by reason of their religious and cultural beliefs or practices, initially opposed to polio as well as other EPI vaccines immunization, to embrace the practice;

**ACKNOWLEDGING** that Sen. Kipchumba's unwavering advocacy and lobbying to various stakeholders, both at national and county government levels, was instrumental in helping to achieve 93% polio immunization coverage of children under 5 years of age during the August, 2015 polio campaign;

**NOTING** that Sen. Kipchumba has become the face of vaccine-preventable disease eradication and elimination efforts in Kenya and has identified 15 polio survivors as immunization champions and enlisted their support to take his message **"Immunization is not a choice, it is a right"** throughout the country;

**FURTHER AWARE** that both the United Nations Children's Fund (UNICEF) and the World Health Organization (WHO) Kenya Country offices nominated Sen. Kipchumba for the 2015 United Nations Person of the Year Award in recognition of his efforts cited herein and he was subsequently named for the award;

**NOW THEREFORE**, the Senate heartily congratulates Sen. Harold K. Kipchumba for being the 2015 UN Person of the Year and records its commendation for his efforts in the public support for mass immunization campaigns in the country.

6. **STATEMENTS PURSUANT TO STANDING ORDER 45 (2) (b)**

- i). The Senator for Kajiado County (Sen. Peter Mositet) sought a Statement from the Chairperson of the Standing Committee on Finance, Commerce and Budget on Kenya's External Debt totaling to Kshs. 2.3 Trillion;
- ii). The Vice-Chairperson of the Standing Committee on Roads and Transportation issued a statement on status of construction of roads in Kakamega County as sought by Sen. Boni Khalwale.

The Vice-Chairperson informed the Senate that the project commenced on 1<sup>st</sup> of April, 2013 and was set for completion on 31<sup>st</sup> March, 2015.

However, up to now, the contractor has achieved 2.36% completion of work and Ksh. 265,616,083.17 has been certified and paid to him out of the original budget for the project of Ksh. 250,925,536.66.

The Vice-Chairperson further informed the Senate that the reasons for the delay in completion were inadequate and late mobilization of equipment and personnel by the contractor; apparent cash flow problems by the contractors; and litigation entered into by the contractors after he was issued with a Notice of Termination.

The Vice-Chairperson regretted the delay and assured the Senate that in the likely event that the litigation is resolved by December, 2015 then the project will be completed in December, 2018.

The Speaker directed the Committee to furnish the Senate with more information in two weeks' time.

- iii). The Chairperson of the Standing Committee on National Security and Foreign Relations issued a statement on banditry attack in Meru County as sought by Sen. Kiraitu Murungi.

Thereupon, the Chairperson informed the Senate that on the 14<sup>th</sup> October, 2015 unknown Borana herdsmen shot a Mr. Charles Ntoruru, resulting to his admission in Maua hospital. The confrontation was as a result of the Borana herdsmen grazing his animals in the latter's piece of land.

The Chairperson also informed the Senate that members of the public drawn from the Meru community responded by rounding up unknown number of cattle from the Borana community. However, police officers successfully recovered 76 heads of cattle and arrested one suspect, Moses Mutethia, who was later arraigned in court.

The Senate was also informed that on the 21<sup>st</sup> October, 2015, suspected Borana tribesmen attacked their Meru counterparts in Kithirone near Kaongo in Kabachi Location of Igembe North Sub County, resulting to the killing of Julius M'Amuru (alias Kanyili), George Muthamia Mbiti, Njilu M'Kuranja M'lthiaba, and Stavastino M'Ethiangatha M'Arangaga (alias Murungi Karoru).

The Chairperson further reported that the Government has put in place measures that are aimed at ensuring peaceful coexistence among the communities residing along the Meru/Isiolo border including establishing police posts in ASTU camp at Kachuru, GSU camps at Ndurumuru, Makinya, Mariara and RDU camp at Mbataru. The Chairperson also informed the Senate that there are no immediate plans to set up police posts in Bulu, Kiomone and Kaongoka- MpiorLuthya for the existing camps were adequate and able to police the area effectively.

The Deputy Speaker directed the Chairperson to furnish the Senate with more information in one week's time.

## **7. COMMITTEE OF THE WHOLE**

The Presidential Memorandum on the Public Procurement and Asset Disposal Bill (National Assembly Bill No. 40 of 2014)

(The Senate Majority Leader)

***(Resumption of Debate interrupted on Thursday, 29<sup>th</sup> October, 2015)  
(Division)***

Order Deferred.

## **8. COMMITTEE OF THE WHOLE**

The Presidential Memorandum on the Public Audit Bill (National Assembly Bill No. 38 of 2014)

(The Senate Majority Leader)

***(Resumption of Debate interrupted on Thursday, 29<sup>th</sup> October, 2015)  
(Division)***



Order Deferred.

9. **THE OFFICE OF THE COUNTY ATTORNEY BILL, (SENATE BILL NO. 37 OF 2014)**

(Chairperson, Committee on Legal Affairs and Human Rights)

*(Second Reading)*

***(Resumption of Debate interrupted on Tuesday, 27<sup>th</sup> October, 2015)***  
***(Division)***

Order Deferred.

10. **COMMITTEE OF THE WHOLE**

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

(Chairperson of the Standing Committee on Labour and Social Welfare)

***(Resumption of Debate interrupted on Wednesday, 7<sup>th</sup> October, 2015)***

Order Deferred.

11. **COMMITTEE OF THE WHOLE**

**THE COUNTY EARLY CHILDHOOD EDUCATION BILL, (SENATE BILL NO. 32 OF 2014)**

(Chairperson, Standing Committee on Education)

***(Resumption of Debate interrupted on Wednesday, 7<sup>th</sup> October, 2015)***

Order deferred.

12. **THE KENYA NATIONAL EXAMINATIONS COUNCIL (AMENDMENT) BILL, (SENATE BILL NO. 32 OF 2014)**

(Sen. David Musila)

*(Second Reading)*

***(Resumption of Debate interrupted on Tuesday, 27<sup>th</sup> October, 2015)***

Order deferred.

13. **THE COUNTY GOVERNMENTS DISASTER MANAGEMENT BILL, (SENATE BILL NO. 40 OF 2014)**

Order for Second Reading read;

Motion made and Question proposed-

**THAT**, the County Governments Disaster Management Bill, (Senate Bill No. 40 of 2014) be now read a Second Time.

*(Chairperson, Committee on National Security and Foreign Relations - 28.10.15)*

Debate interrupted on Wednesday, 28<sup>th</sup> October, 2015 resumed;

There being no other Senator willing to contribute;

The Mover replied;

Raising a Point of Order, the Senator for Garissa County (Sen. Haji) requested the Speaker to defer putting of the question to another day, pursuant to Standing Order 54 (3).

The Deputy Speaker, in acceding to the request appointed Tuesday, 10<sup>th</sup> November, 2015 for putting of the Question.

14. **THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILL NO. 8 OF 2015)**

(Sen. Hassan Omar)

(Second Reading)

Order deferred.

15. **MOTION** -(Sen. Elizabeth Ongoro)

**THAT, AWARE** that the Parliament of Kenya is an active member of the Inter-Parliamentary Union (IPU) which is the international organization of national Parliaments;

**FURTHER AWARE** that the IPU provides support to Parliaments in areas such as law and policy-making, as well as representation;

**NOTING WITH APPRECIATION** that, upon a request by the Speaker of the Senate, the IPU sent an expert delegation to Kenya from 12<sup>th</sup> to 16<sup>th</sup> July, 2015 to offer advice on the way forward in implementing the constitutional requirement on the two thirds gender rule;

**NOW THEREFORE** the Senatenotes the report of the Inter-Parliamentary Union Expert Mission to Kenya on the framework to implement the constitutional provision of the two-thirds gender rule laid on the Table of the Senate on Thursday, 8<sup>th</sup> October, 2015 and extends its appreciation to the IPU for support on the matter.

Order deferred.

There being no other business and the time being forty five minutes past four O'clock, the Deputy Speaker adjourned the business of the Senate without Question put, pursuant to the Standing Orders.

16. **SENATE ROSE**- at forty five minutes past four O'clock.

**M E M O R A N D U M**

*The Speaker will take the Chair on  
Thursday, November 05, 2015 at 2.30 p.m.*

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