



**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – FOURTH SESSION**

**THE SENATE**

**VOTES AND PROCEEDINGS**

**THURSDAY, NOVEMBER 17, 2016 AT 2.30 P.M.**

1. The Senate assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with Prayer said by the Speaker.
3. **COMMUNICATION FROM THE CHAIR - VISITING STUDENTS FROM SOUTH EASTERN KENYA UNIVERSITY AND KENYATTA UNIVERSITY**

The Speaker issued the following Communication from the Chair-

“Honourable Senators,

I would like to acknowledge the presence, in both the Speaker's and Public Gallery, this afternoon, of visiting students from South Eastern Kenya University and Kenyatta University (Kitui Campus).

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.”

4. **PAPER LAID**

The following paper was laid on the Table of the Senate-

Statement on the business of the Senate for the week commencing 22<sup>nd</sup> November, 2016.

*(The Senate Majority Leader)*

5. **STATEMENTS**

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

- (a) The Chairperson of the Standing Committee on Labour and Social Welfare issued a Statement on the collection of levies by Music Copyright Society of Kenya (MCSK), Kenya Association of Music Producers (KAMP) and

Performers Rights Society of Kenya (PRISK) from business premises and public transport vehicles for playing music.

Thereupon, the Chairperson informed the Senate that, once music was played to the “public”, especially where it enhances the business of the person playing, a license fee must be paid to the representative of the rights holder since they could not individually monitor and collect on their own.

The Chairperson also informed the House that this was what created the need for the “collecting societies” known as MCSK (for composers and publishers), KAMP (for producers and sound recorders) and PRISK (for performers of music).

The Chairperson further informed the House that the three societies were entitled to collect royalties for exploitation of music in public and that the societies are covered by section 46 of the Copyright Act , Chapter 130 of the Laws of Kenya.

The Speaker directed the Chairperson to provide further information on the statement on 22<sup>nd</sup> November, 2016.

- (b) The Vice Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries issued a Statement regarding farmers’ preparedness for the planting season and supply of fertilizer and other farm inputs to farmers.

Thereupon, the Vice Chairperson informed the House that the Ministry had put in place measures to ensure adequate seed and fertilizer supply and distribution to farmers while seed companies in the country had 48,000 metric tons of maize seed against an annual demand of 35,000 metric tons; and enough seed (wheat, sorghum, millet) to meet farmers’ requirement to plant 492,515 hectares, as well as 1.69 million hectares of pulses (beans, green grams and cowpeas).

Regarding fertilizer supply and distribution, the Vice Chairperson informed the House that the Ministry was implementing a national subsidy fertilizer programme, which was part of the 3-Tier Fertilizer Cost-Reduction Strategy, a flagship project of the Kenya Vision 2030, and the fertilizer was accessible to registered farmers through the National Cereals and Produce Board depots across the country.

The Speaker directed that the Cabinet Secretary appears before the Committee on 22<sup>nd</sup> November, 2016 and the Chairperson provide further information on the statement thereafter.

- (c) The Chairperson of the Standing Committee on National Security and Foreign Relations issued a statement on the alleged killing by police of Edna Osoro and Irene Kerubo at Daraja Mbili Market in Kisii County.

Thereupon, the Chairperson informed the House that, as Administration Police officers from the Quick Response Team (QRT) were clearing hawkers

and *boda boda* riders who had obstructed the free flow of traffic at Daraja Mbili Market, a *boda boda* rider attempted to wrestle a gun from one of the officers.

The Chairperson informed the House that, in the ensuing melee, a rifle accidentally discharged ammunition, resulting in the accidental shooting of the two women, Irene Kerubo (aged 36 years) and Edna Osoro (aged 21 years).

The Speaker directed that the Chairperson provides further information on the matter on Thursday, 1<sup>st</sup> December, 2016.

- (d) The Request for Statement by Sen. Catherine Mukiite to the Chairperson, Standing Committee on Education regarding use of corporal punishment in learning institutions was dropped, in the absence of the Senator.
- (e) The Speaker directed that supplementary documents to the Statement sought by Sen. Njoroge Ben regarding the ongoing construction of the Northern Corridor Water Collector Tunnel be tabled on 29<sup>th</sup> November, 2016.
- (f) The Speaker directed that the unanswered part of the Request for Statement by Sen. Moses Kajwang to the Chairperson, Standing Committee on National Security and Foreign Relations be referred to the relevant Committee.
- (g) The Request for Statement by Sen. Martha Wangari to the Chairperson, Standing Committee on Education regarding loans advanced to university students by the Higher Education Loans Board was dropped, in the absence of the Senator.
- (h) The Request for Statement by Sen. Ali Bule to the Chairperson, Sessional Committee on Devolved Government regarding the prolonged drought disaster and looming famine in the country was dropped, in the absence of the Senator.
- (i) The Request for Statement by Sen. Stephen Sang to the Chairperson, Standing Committee on Education regarding alleged leadership crisis at Moi University was dropped, in the absence of the Senator.
- (j) The Request of Statement by Sen. Moses Kajwang to the Chairperson, Standing Committee on Lands and Natural Resources regarding Hyacinth Menace in Lake Victoria was deferred to 22<sup>nd</sup> November, 2016.
- (k) The Request for Statement by Sen. Johnson Muthama to the Chairperson, Standing Committee on National Security and Foreign Relations regarding alleged detention of Mr. Philip Mbithi Mutiso by Tanzania authorities was deferred to 24<sup>th</sup> November, 2016.

- (l) The Request for Statement by Sen. (Prof.) John Lonyangapuo to the Chairperson, Standing Committee on National Security and Foreign Relations regarding alleged injury to the Governor of Bomet County by police was deferred to 23<sup>rd</sup> November, 2016.
- (m) The Request for Statement by Sen. Sammy Leshore to the Chairperson, Standing Committee on Energy regarding compensation of land owners affected by the Kenya Electricity Transmission company electricity network expansion project in Samburu County was dropped, on the absence of the Senator.

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

The Senate Majority Leader issued a Statement of the business of the Senate for the week commencing 22<sup>nd</sup> November, 2016.

6. **THE COUNTY STATISTICS BILL (SENATE BILL NO. 11 OF 2016)**

(Sen. Naisula Lesuuda)

*(Second Reading)*

*(Resumption of Debate interrupted on Thursday, 10<sup>th</sup> November, 2016)*

*(Division)*

Order deferred.

7. **THE TREATY MAKING AND RATIFICATION (AMENDMENT) BILL (SENATE BILL NO. 5 OF 2016)**

(Chairperson, Standing Committee on National Security and Foreign Relations)

*(Second Reading)*

*(Resumption of Debate interrupted on Tuesday, 15<sup>th</sup> November, 2016)*

*(Division)*

Order deferred.

8. **THE WAREHOUSE RECEIPTS SYSTEM BILL (NATIONAL ASSEMBLY BILL NO. 12 OF 2015)**

(Senate Majority Leader)

*(Second Reading)*

*(Resumption of Debate interrupted on Wednesday, 16<sup>th</sup> November, 2016)*

*(Division)*

Order deferred.

9. **THE CONSTITUTION OF KENYA (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2013)**

(The Senate Majority Leader)

*(Second Reading)*

*(Resumption of Debate interrupted on Thursday, 3<sup>rd</sup> November, 2016)*

*(Division)*

Order deferred.

10. **THE CONSTITUTION OF KENYA (AMENDMENT) (NO. 2) BILL (NATIONAL ASSEMBLY BILL NO. 2 OF 2015)**

(The Senate Majority Leader)

*(Second Reading)*

*(Resumption of Debate interrupted on Thursday, 3<sup>rd</sup> November, 2016)*

*(Division)*

Order deferred.

11. **THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILLS NO. 16 OF 2015)**

(Sen. Judith Sijeny)

*(Second Reading)*

*(Resumption of Debate interrupted on Tuesday, 26<sup>th</sup> July, 2016)*

*(Division)*

Order deferred.

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

(Sen. Hassan Omar)

*(Resumption of Debate interrupted on Tuesday, 15<sup>th</sup> November, 2016)*

*(Division)*

Order deferred.

13. **COMMITTEE OF THE WHOLE  
THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILL  
NO. 13 OF 2015)**

(Sen. Godliver Omondi)

*(Resumption of Debate interrupted on Tuesday, 15<sup>th</sup> November, 2016)*

*(Division)*

Order deferred.

14. **COMMITTEE OF THE WHOLE  
THE BASIC EDUCATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL  
NO. 35 OF 2014)**

(The Senate Majority Leader)

*(Resumption of Debate interrupted on Tuesday, 15<sup>th</sup> November, 2016)*

*(Division)*

Order deferred.

15. **COMMITTEE OF THE WHOLE  
THE NATIONAL CEREALS AND PRODUCE BOARD (AMENDMENT) BILL  
(SENATE BILL NO. 15 OF 2015)**

(Sen. (Dr.) Zipporah Kittony)

*(Resumption of Debate interrupted on Wednesday, 16<sup>th</sup> November, 2016)*

*(Division)*

Order deferred.

16. **THE CYBER SECURITY AND PROTECTION BILL (SENATE BILL NO. 12 OF 2016)**

(Sen. Mutahi Kagwe)

Order deferred.

17. **THE IMPEACHMENT PROCEDURE BILL (SENATE BILL NO. 8 OF 2016)**

Order for Second Reading read;

Motion made and Question proposed:-

**THAT**, the Impeachment Procedure Bill (Senate Bill No. 8 of 2016) be now read a Second Time.

*(Sen. (Eng.) Muriuki Karue)*

Debate arising;

And there being no other Senator wishing to contribute;

Mover replied;

Raising a point of order, the Mover (Sen. (Eng.) Muriuki Karue) requested that the putting of the Question be deferred to a later date, pursuant to Standing Order 54 (3);

And the Temporary Speaker (Sen. Sang') acceding to the request, nominated Tuesday, 22<sup>nd</sup> November, 2016 as the day when the Question shall be put.

18. **THE LOCAL CONTENT BILL (SENATE BILL NO. 13 OF 2016)**

(Sen. Gideon Moi)

*(Second Reading)*

Order deferred.

19. **MOTION - COUNTRYWIDE AUDIT ON THE DISTRIBUTION OF TEACHERS IN ALL PUBLIC SCHOOLS**

**WHEREAS** Article 43(1)(f) and 53(1)(b) of the Constitution guarantees every citizen a right to education and every child a right to free and compulsory basic education, respectively;

**NOTING** that the Teachers Service Commission is mandated to handle employment, deployment, remuneration and discipline of teachers in public schools in Kenya;

**CONCERNED** that there are great disparities in the distribution of teachers in public schools across the country leading to oversupply in some schools and undersupply in others and ultimately leading to major teacher shortage especially in rural and marginalized areas;

**APPRECIATING** efforts made by the national government to improve the teacher pupil ratio to international standards in all public schools through yearly employment of teachers;

**FURTHER CONCERNED** that the statistics on the number and distribution of teachers in public schools is not readily available;

**NOW THEREFORE**, the Senate directs the Ministry of Education, Science and Technology to conduct a countrywide audit on the distribution of teachers in all public schools indicating the requisite establishment per school and the corresponding number of teachers who are in-post and further that the Ministry submits a report to the House on the matter within ninety (90) days.

*(Sen. George Khaniri)*

Order deferred.

20. **MOTION – CREATION OF THE OFFICE OF AN AUDITOR TO SPECIFICALLY AUDIT THE BASIC EDUCATION INSTITUTIONS' FUNDS**

**THAT**, whereas Article 53 (1)(b) of the Constitution provides that every child in Kenya has the right to free and compulsory basic education;

**RECOGNIZING** the importance of education in the alleviation of the main challenges facing Kenya's sovereignty identified at independence, namely; poverty, illiteracy and disease;

**APPRECIATING** the gains made following the implementation of the free primary education program in 2003 and cognizant of the principles set out in the Basic Education Act of 2013 whose objectives include promotion and regulation of free and compulsory basic education besides providing for accreditation, registration and management of basic education institutions;

**NOTING** the substantial resources invested by the national and county governments, parents, sponsors and development partners in the provision of basic education;

**FURTHER NOTING** that pursuant to the Basic Education Act, the County Director of Education is vested with numerous responsibilities including facilitation of auditing of all basic educational institutions in the respective county thereby leaving fundamental gaps of governance especially in the management of the available resources;

**NOW THEREFORE**, the House recommends to the Cabinet Secretary for Education to facilitate the creation of the office of an auditor to specifically audit the basic education institutions' funds to enhance transparency and accountability and improve governance in the management of these institutions.

*(Sen. (Prof.) John Lonyangapuo)*

Order deferred.

21. **MOTION – INSTALLATION OF CCTV CAMERAS IN POLICE STATIONS.**

Motion made and Question proposed;

**THAT,**

**CONCERNED** about the numerous reports of the arbitrary arrests of innocent people by the police;

**FURTHER CONCERNED** that a large number of those arrested are allegedly locked up in police cells without being recorded either in the Occurrence Book or elsewhere;

**DEEPLY CONCERNED** that some of the arrested people disappear without a trace and that many who are subsequently traced are found dead away from where they were known to have been locked up;

**ALARMED** by the recent incident where three young men were locked up for hours at Syokimau Police Post without any record indicating they had been at the police post, only for them to be found days later, in another area far from the police post, having been brutally killed;

**APPRECIATING** that the Closed Circuit Television (CCTV) system installed by the Government in Nairobi has helped a lot in criminal investigations;

**NOW THEREFORE** the Senate calls upon the National Government to-

- a) install CCTV cameras in all police stations and police posts in order to record each and every person going in and out of the station;
- b) have the CCTV system designed in such a way that it is capable of capturing the Occurrence Book entries every twelve hours; and
- c) ensure the CCTV system is connected to a central depository in order to minimize chances of subsequent tampering.

*(Sen. (Eng.) Muriuki Karue)*

Debate arising;

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

22. **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, November 22, 2016 at 2.30 p.m.*

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