



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – (THIRD SESSION)**

**THE SENATE**

**VOTES AND PROCEEDINGS**

**TUESDAY, NOVEMBER 12, 2019 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. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following Communications from the Chair: -

**(i) Visiting Delegation from the County Assembly of Migori**

“Honourable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, of a visiting delegation from the Migori County Assembly.

They are:

- |                               |                          |
|-------------------------------|--------------------------|
| 1. Hon. Kevince Keke          | - Majority Whip          |
| 2. Hon. Mwise Agustine Mwerah | - Member                 |
| 3. Hon. Beatrice Adhiambo     | - Member                 |
| 4. Hon. Brian Odhiambo Osodo  | - Member                 |
| 5. Hon. Orina Samwel          | - Member                 |
| 6. Hon. Roseline Oyoo         | - Member                 |
| 7. Ms. Vincensia Awino        | - Senior Clerk Assistant |
| 8. Mr. Dickson Odir           | - Serjeant-at-arms       |

On behalf of the Senate and on my own behalf, I welcome them to the Senate and I wish them well for the remainder of their stay.

I thank you”.

**(ii) Visit by the Speaker of the East African Legislative Assembly (EALA)**

“Honourable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, of the Speaker of the East African Legislative Assembly (EALA), Hon. Martin Ngoga. He is accompanied by Mr. Bobby Odiki, an officer of the East African Legislative Assembly.

On behalf of the Senate and on my own behalf, I welcome you to the Senate and I wish you well for the remainder of your stay.

I thank you.”

**4. STATEMENTS****(i) Statement pursuant to Standing Order 47(1)**

Nominated Senator (Sen. Abshiro Halake, MP) made a statement on electoral violence that takes place during the election campaigns.

In her statement, the Senator informed the House that Kenya has been at a political cross road ever since the close of the 2007 general elections. She said that while there has been relative peace, general calmness and a running government, the state of affairs has remained fairly fragile and uncertain. The Senator raised concern that electoral violence has been commonplace in Kenya since the introduction of multi-party politics in 1991 leading to deaths of thousands of Kenyans and disruption of lives of many as a result of this poor political culture.

The Senator further informed the Senate that the Commission of Inquiry on Post-Election Violence (2009) that investigated Kenya’s 2007/08 post-election violence attributed the country’s history of electoral violence to a combination of long-standing conflict drivers such as inter-communal clashes and divisive politics. She noted with concern that no measures had since been put in place to address these challenges.

The Senator stated that there are deep concerns with the recent spate of violence witnessed in the just concluded by-elections for Kibra Constituency in Nairobi County and Ganda Ward, Kilifi County and called on the Government to come up with specific measures to ensure that Independent Electoral and Boundaries Commission (IEBC) fulfils its key mandate of ensuring that instances of electoral misconduct such as incitement to violence, disruption of the voting exercise, assault, electoral offenses and breach of Elections Code of Conduct, are addressed

without fail and punished. She further beseeched voters to shun any violence that may be impelled by politicians.

(ii) **Statements pursuant to Standing Order 48(1)**

- a) The Senator for Mombasa County (Sen. Mohamed Faki, MP) sought a Statement from the Standing Committee on Labour and Social Welfare on preparations for the upcoming Football Kenya Federation (FKF) elections.
- b) The Senator for Wajir County (Sen. (Dr.) Abdullahi Ali, MP) sought a statement from the Standing Committee on Finance and Budget on the status of pending bills in the Counties.
- c) The Senator for Nandi County (Sen. Samson Cherarkey, MP) sought a statement from the Standing Committee on Roads and Transportation on the recent incidents in the operations of Silverstone Air in Kenya.

(iii) **Statements pursuant to Standing Order 51(1)(b)**

- a) The Chairperson, Standing Committee on Agriculture, Livestock and Fisheries issued a statement relating to the activities of the Committee for the last three months.
- b) The Chairperson, Standing Committee on Devolution and Intergovernmental Affairs issued a statement relating to the activities of the Committee for the last three months.
- c) Sen. (Prof.) Samson Ongeri, MP, member of the Standing Committee on Education issued a statement relating to the activities of the Committee for the last three months on behalf of the Chairperson.

5. **MOTION – EXTENSION OF TIME FOR THE AD-HOC COMMITTEE TO INVESTIGATE THE MANAGED MEDICAL EQUIPMENT SERVICE**

Order read;

Motion made and Question proposed;

THAT, AWARE that the Senate resolved to establish a select Committee comprising nine (9) Senators to investigate and establish the facts surrounding the leasing of the Medical Equipment, in the now 119 beneficiary hospitals country wide;

APPRECIATING, that the mandate of the Select Committee lapsed on Friday, 8<sup>th</sup> November, 2019;

REGRETING, that due to heavy workload and sheer magnitude of the assignment, the Committee is yet to table its report in the House and requires more time to conduct a further and thorough inquiry into the subject matter of its mandate;

NOW THEREFORE, the Senate resolves to renew the mandate of the committee by a further period of forty-five (45) days to enable it conclude its work and table its report in the House.

*(Vice Chairperson, Ad Hoc Committee to investigate the Managed Medical Equipment Service)*

Debate arising;

And there being no other Senator wishing to contribute;

And in the absence of the Mover to reply;

Before the Question was put and pursuant to Standing Order 79(1), the Deputy Speaker ruled that the Question did not affect counties;

Question put and agreed to.

**RESOLVED ACCORDINGLY**

THAT, AWARE that the Senate resolved to establish a select Committee comprising nine (9) Senators to investigate and establish the facts surrounding the leasing of the Medical Equipment, in the now 119 beneficiary hospitals country wide;

APPRECIATING, that the mandate of the Select Committee lapsed on Friday, 8th November, 2019;

REGRETING, that due to heavy workload and sheer magnitude of the assignment, the Committee is yet to table its report in the House and requires more time to conduct a further and thorough inquiry into the subject matter of its mandate;

NOW THEREFORE, the Senate resolves to renew the mandate of the committee by a further period of forty-five (45) days to enable it conclude its work and table its report in the House.

6. **MOTION - EXERCISE BY THE DEPUTY COUNTY GOVERNORS OF THE POWERS AND FUNCTIONS VESTED IN THE OFFICE OF THE COUNTY GOVERNOR IN THE ABSENCE OF THE SUBSTANTIVE HOLDER OF THE OFFICE**

Order read;

Motion made and Question proposed in amended form;

THAT, COGNIZANT THAT, Article 179(4) of the Constitution designates the County Governor and the Deputy County Governor as the chief executive and deputy chief executive of the County, respectively;

FURTHER COGNIZANT THAT, pursuant to Article 180(6) of the Constitution, a County Governor and Deputy County Governor are elected on a joint ticket, with Article 179(5) providing that, whenever the County Governor is absent, the Deputy County Governor shall act as the County Governor;

AWARE THAT, in several Counties, Deputy County Governors have had to serve as County Governors due to the absence of the substantive County Governors, arising from ill health, incapacity or orders emanating from the Courts barring the substantive Governor from accessing office;

ACKNOWLEDGING THAT, section 32(4) of the County Governments Act places limitations on the exercise, by the Deputy County Governor while acting as Governor, of the powers to nominate, appoint or dismiss that are assigned to the Governor under the Constitution or other written law;

NOTING THAT, other than the said limitations under section 32(4) of the County Governments Act, no other restraints are placed in law on the exercise, by the Deputy County Governor, of the powers and functions of the Governor whenever the Governor is absent;

AWARE THAT, in exercising the powers and functions of County Governor pursuant to Article 179(5) of the Constitution, Deputy County Governors face a myriad of legal, operational and administrative challenges, which hinder the effective functioning of county governments and the efficient delivery of services to the public;

NOW THEREFORE, the Senate directs the National Treasury, the Controller of Budget, the Auditor General, and the respective County Assemblies and County Executive Committee Members, to work directly with the Deputy County Governor, while exercising the functions of County Governor, in order to facilitate the effective functioning of county governments and the efficient delivery of services to the public.

*(Sen. Ledama Olekina, MP)*

Raising a Point of Order, the Senator for Nandi County (Sen. Samson Cherarkey, MP) raised the question on the constitutionality of the Motion;

And the Deputy Speaker allowing several Senators to canvass on the matter;

The Deputy Speaker directed that the debate on the Motion proceed but voting on it be deferred awaiting a ruling from the Chair to be issued on Thursday, 21<sup>st</sup> November, 2019.

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.

7. **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, November 13, 2019 at 2:30 p.m.*