



REPUBLIC OF KENYA

THIRTEENTH PARLIAMENT – SECOND SESSION

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, FEBRUARY 28, 2023 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. **QUORUM IN THE HOUSE**

The Speaker, having counted the Honourable Senators present at the commencement of the Sitting and confirming that there was no Quorum, caused the Bell to be rung for five minutes pursuant to Standing Order 40;

And there being a Quorum after the expiry of five minutes;

The Speaker invited the Clerk to call the Orders of the day.

4. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following Communications from the Chair: -

i. Visiting delegation from the Gambia National Assembly Authority

“Honourable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, a visiting delegation from the Gambia National Assembly Authority. The delegation comprises leadership of the National Assembly of Gambia who are on a five- day study tour in the Senate.

Honourable Senators,

I request each Member of the delegation to stand when called out so that you may be acknowledged in the Senate tradition –

1. Hon. Fabakary Tombong Jatta -Speaker of the National Assembly
2. Hon. Alhagie S. Darboe

3. Hon. Alhagie Mbow
4. Hon. Maimuna Ceesay
5. Mr. Momodou A Sise
6. Mr. Gibairu Janneh
7. Ms. Sally Secka
8. Ms. Jestina Greywoode
9. Mr. Ousman FT Jatta

On behalf of the Senate and on my own behalf, I extend a warm welcome and wish you a fruitful visit.

I thank you.”

ii. Visiting delegation from the County Assembly of Makueni

“Honourable Senators,

I would like to acknowledge the presence, in the Speaker’s Gallery this afternoon, a visiting delegation from the County Assembly of Makueni. The delegation comprises staff from the Serjeant- At- Arms Department who are in the Senate on a four- day benchmarking visit with the counterpart Department in the Senate.

Honourable Senators,

I request each Member of the delegation to stand when called out so that you may be acknowledged in the Senate tradition –

- | | | |
|---------------------|---|-------------------------------|
| 1. Leonard Ndwala | - | Serjeant – At- Arms |
| 2. Christine Muendo | - | Serjeant – At- Arms |
| 3. Benedict Mutua | - | Assistant Serjeant – At- Arms |
| 4. Al Leon Wambua | - | Assistant Serjeant – At- Arms |
| 5. Josphat Kimanthi | - | Assistant Serjeant – At- Arms |
| 6. Felister Matheka | - | Assistant Serjeant – At- Arms |

On behalf of the Senate and on my own behalf, I extend a warm welcome and wish you a fruitful visit.

I thank you.”

iii. Disorderly conduct by Honourable Senators

“Honourable Senators,

As you are all aware, the Second Session of the 13th Parliament begun on 14th February, 2023. This came after a First Session that was largely characterized by the swearing-in of Honourable Members, orientation and induction sessions that were intended to facilitate Senators to acclimatize

to parliamentary customs, rules and traditions, as well as to equip Members with the skills and competencies for parliamentary work.

We began the Second Session with an already full plate. This was mentioned by the Senate Majority Leader in his Statement to the House pursuant to Standing Order 57(1), that highlighted 16 Bills that are in our in-tray, as well as Motions, some of which are critical to the budget process and which have a major bearing on the management and operation of our counties.

Honourable Senators,

The proceedings in the Senate in the past two weeks have deprived us of the opportunity to pass critical legislation and may have the potential to deny the Senate the opportunity to pass important Motions within the timelines provided in statute and the Standing Orders.

The last two weeks also witnessed an unprecedented series of events in this Senate that have made it necessary for me to make this Communication. During this time, there was display of defiance and disrespect to the Chair that is alien to the conduct expected of a Senator. The directions of the Chair were ignored and some Senators conducted themselves in a most dishonorable manner.

How will the Senate remain of good standing, deliver on the aspirations of the people and protect the interests of counties and their governments, if we do not maintain the confidence and trust that the public have bestowed upon us?

Honourable Senators,

As your Speaker, I am deeply concerned with the state of affairs in the Chamber in the last few sittings and the abuse of privilege by some Senators in this August House. Even when one is not pleased with the directives of the Speaker or the Chair, as will sometimes happen, there are better ways of addressing grievances than resorting to outright disorder.

The Standing Orders provide a framework for debate and order in the House. The Senate Leadership has made concerted efforts to ensure that you are well versed with the Standing Orders, and at every opportune time the Chair has urged Senators to observe and apply the Standing Orders. I say this with particular reference to Parts XVII and XX of the Standing Orders that touch on "*Rules of Debate*" and "*Order in the Senate and in Committees*." I continue to urge all Senators to acquaint themselves with these provisions. They are at the core of orderly, smooth and predictable transaction of business in the Senate.

Allow me to reiterate what constitutes disorderly conduct and gross disorderly conduct, pursuant to Standing Orders 121 and 122, respectively. Among other things, the Standing Orders provide that a Senator is disorderly if the Senator –

- (i) creates disorder;*
- (ii) knowingly raises a false point of order;*
- (iii) unnecessarily interrupts proceedings or consults in a disruptive manner;*
- (iv) makes allegations without, in the Speaker's opinion, adequate substantiation; or*
- (v) defies a ruling or direction of the Speaker or Chairperson of Committees;*
- (vi) demonstrates or makes disruptive utterances against the suspension of a named Senator;*
- (vii) disrupts or attempts to disrupt the Speaker's Procession;*
- (viii) commits any other breach of these Standing Orders, that in the opinion of the Speaker, constitutes gross disorderly conduct.*

Honourable Senators,

Standing orders 121 (2) and 122 (2) provide for the consequences of creating disorder and gross disorder in the Senate. In the first instance of disorderly conduct, *“the Speaker may call a Senator whose conduct is disorderly to order, and-*

- (a) caution the Senator; or*
- (b) order the Senator to withdraw from the precincts of the Senate for the remainder of that day's sitting.”*

In the second instance of gross disorderly conduct, the Speaker *“shall order the Senator to withdraw immediately from the precincts of Parliament*

- (a) on the first occasion, for a maximum of three sitting days, including the sitting day of suspension; and*
- (b) on the second or subsequent occasion during the same session, for a minimum of seven sitting days and a maximum of twenty-one sitting days, including the day of suspension;”*

Honourable Senators,

We owe it to our forbearers who established the Senate as an institution for sober, decorous and amicable debate and as a dignified Chamber, to maintain it as such. Leaders lead by example and if we are to be the pace setters for the many Kenyans who look up to the Senate, and the Counties that see hope in us, we have the solemn duty to conduct ourselves in a dignified manner, rise to the occasion to be better legislators and uphold

the provisions of the Standing Orders in our conduct in both Plenary session and Committee meetings.

Honourable Senators,

Let it be on record that a recurrence of the kind of disorder that was witnessed in the Senate in the past two weeks, shall not be tolerated. As your Speaker and - indeed the entire Speaker's Panel - we shall discharge our duties without fear or favour when it comes to dealing with disorder, irrespective of where it emanates from.

Hon. Senators, stand guided accordingly.

I thank you.”

5. **PAPERS**

The following Papers were laid on the Table of the Senate: -

- (i) Report of the Standing Committee on Finance and Budget on the 2023 Medium Term Debt Management Strategy.
- (ii) Report of the Standing Committee on Finance and Budget on the 2023 Budget Policy Statement.

(The Chairperson, Standing Committee on Finance and Budget)

- (iii) Report of the Standing Committee on Justice, Legal Affairs and Human Rights on the proposed appointment of Hon. Johnson Muthama, as a Commissioner to the Parliamentary Service Commission.

(The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

- (iv) Report of the 61st Session of the Organisation of African, Caribbean and Pacific States (OACPS) Parliamentary Assembly and the 42nd Session of the OACPS -EU Joint Parliamentary Assembly held in Maputo, Mozambique on 23rd October to 2nd November, 2022.

(Sen. Tabitha Mutinda, MP)

6. **NOTICE OF MOTION – ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE 2023 BUDGET POLICY STATEMENT**

(The Chairperson, Standing Committee on Finance and Budget)

THAT, the Senate, adopts the Report of the Standing Committee on Finance and Budget on the 2023 Budget Policy Statement, laid on the Table of the Senate on Tuesday, 28th February 2023, and pursuant to Section 25 (7) of the Public

Finance Management Act and Standing Order 186 (7) of the Senate, approves the 2023 Budget Policy Statement.

7. **NOTICE OF MOTION – ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON FINANCE ON THE 2023 MEDIUM TERM DEBT MANAGEMENT STRATEGY**

(The Chairperson, Standing Committee on Finance and Budget)

THAT, the Senate, adopts the Report of the Standing Committee on Finance and Budget on the 2023 Medium Term Debt Management Strategy, laid on the Table of the Senate on Tuesday, 28th February, 2023.

8. **NOTICE OF MOTION – ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS ON THE PROPOSED APPOINTMENT OF HON. JOHNSON MUTHAMA, AS A COMMISSIONER TO THE PARLIAMENTARY SERVICE COMMISSION**

(The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

THAT, the Senate adopts the Report of the Standing Committee on Justice, Legal Affairs and Human Rights, on the proposed appointment of Hon. Johnson Muthama, as a Commissioner of the Parliamentary Service Commission, laid on the table of the Senate on Tuesday, 28th February, 2023, and pursuant to Article 127(2)(d) of the Constitution, Section 9(2) of the Parliamentary Service Act and Standing Order 77 (3), approves the appointment of Hon. Johnson Muthama, as a Commissioner of the Parliamentary Service Commission.

9. **NOTICE OF MOTION – REPORT OF THE 61ST SESSION OF THE ORGANISATION OF AFRICAN, CARRIBEAN AND PACIFIC STATES (OACPS) PARLIAMENTARY ASSEMBLY AND THE 42ND SESSION OF THE OACPS -EU JOINT PARLIAMENTARY ASSEMBLY HELD IN MAPUTO, MOZAMBIQUE ON 23RD OCTOBER TO 2ND NOVEMBER 2022.**

(Sen. Tabitha Mutinda, MP)

THAT, the Senate notes the Report of the 61st Session of the Organisation of African, Caribbean and Pacific States (OACPS) Parliamentary Assembly and the 42nd Session of the OACPS-EU Joint Parliamentary Assembly held in Maputo, Mozambique on 23rd October to 2nd November, 2022.

10. **STATEMENT PURSUANT TO STANDING ORDER 52(1)**

The Senator for Nandi County (Sen. Samson Cherarkey, MP) made a Statement on the good performance posted by the Kenya cross-country team at the recently concluded World Athletics Cross Country Championship in Bathurst, Australia.

The Senator highlighted that Team Kenya had topped the medal standings at the Championship, winning a total of 10 medals and that the team had managed to claim two individual titles in the mixed relay title and three team titles.

The Senator expressed his appreciation regarding the early team selection and the good preparations that were accorded to the team before, during and after the Championship. He expressed optimism that Athletics Kenya would continue with the trend for the entire season.

The Senator concluded by calling upon the Government to use upcoming and promising athletes as brand ambassadors by issuing them with diplomatic passports and ensuring that their finances and rewards are properly and well-structured to enable them grow and always remain motivated.

11. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE 2023 BUDGET POLICY STATEMENT**

Order read;

Motion made and Question proposed;

THAT, the Senate, adopts the Report of the Standing Committee on Finance and Budget on the 2023 Budget Policy Statement, laid on the Table of the Senate on Tuesday, 28th February, 2023, and pursuant to Section 25 (7) of the Public Finance Management Act and Standing Order 186 (7) of the Senate, approves the 2023 Budget Policy Statement.

(The Chairperson, Standing Committee on Finance and Budget)

Debate arising;

Raising a Point of Order pursuant to Standing Order 109(1), the Senate Majority Leader claimed to move -

THAT, the Mover be now called upon to reply.

(The Senate Majority Leader)

And the Speaker acceding to the claim;

Question put and agreed to;

Thereupon, the Mover replied;

Raising a point of order pursuant to Standing Order 66(3), the Mover (Chairperson, Standing Committee on Finance and Budget) requested the Speaker to defer putting of the question to another day;

And the Speaker acceding to the request, nominated Wednesday, 1st March, 2023 as the day when the Question shall be put.

12. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON FINANCE ON THE 2023 MEDIUM TERM DEBT MANAGEMENT STRATEGY**
(The Chairperson, Standing Committee on Finance and Budget)

THAT, the Senate, adopts the Report of the Standing Committee on Finance and Budget on the 2023 Medium Term Debt Management Strategy, laid on the Table of the Senate on Tuesday, 28th February, 2023.

Order deferred.

13. **MOTION - ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON JUSTICE, LEGAL AFFAIRS AND HUMAN RIGHTS ON THE PROPOSED APPOINTMENT OF HON. JOHNSON MUTHAMA, AS A COMMISSIONER TO THE PARLIAMENTARY SERVICE COMMISSION**

Order read;

Motion made and Question proposed;

THAT, the Senate adopts the Report of the Standing Committee on Justice, Legal Affairs and Human Rights, on the proposed appointment of Hon. Johnson Muthama, as a Commissioner of the Parliamentary Service Commission, laid on the table of the Senate on Tuesday, 28th February, 2023, and pursuant to Article 127(2)(d) of the Constitution, Section 9(2) of the Parliamentary Service Act and Standing Order 77 (3), approves the appointment of Hon. Johnson Muthama, as a Commissioner of the Parliamentary Service Commission.

(The Chairperson, Standing Committee on Justice, Legal Affairs and Human Rights)

Debate arising;

And there being no other Senator wishing to contribute;

Mover replied.

Before the Question was put and pursuant to Standing Order 84 (2), the Speaker ruled that the Motion did not affect counties;

Question put and agreed to.

RESOLVED ACCORDINGLY

THAT, the Senate adopts the Report of the Standing Committee on Justice, Legal Affairs and Human Rights, on the proposed appointment of Hon. Johnson Muthama, as a Commissioner of the Parliamentary Service Commission, laid on the table of the Senate on Tuesday, 28th February, 2023, and pursuant to Article 127(2)(d) of the Constitution, Section 9(2) of the Parliamentary Service Act and

Standing Order 77 (3), approves the appointment of Hon. Johnson Muthama, as a Commissioner of the Parliamentary Service Commission.

14. **THE PARLIAMENTARY POWERS AND PRIVILEGES (AMENDMENT) BILL (SENATE BILLS NO. 5 OF 2022)**

(Sen. Danson Mungatana, MP)

(Second Reading)

***(Resumption of Debate interrupted on Thursday, 23rd February, 2023)
(Division)***

Order deferred.

15. **THE COUNTY VOCATIONAL EDUCATION AND TRAINING BILL (SENATE BILLS NO. 3 OF 2022)**

(Sen. Moses Kajwang', MP)

(Second Reading)

Order deferred.

16. **THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO. 6 OF 2022)**

(Sen. Danson Mungatana, MP)

(Second Reading)

Order deferred.

17. **THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO. 7 OF 2022)**

(Sen. Danson Mungatana, MP)

(Second Reading)

Order deferred.

18. **MOTION – PROVISION OF FREE SANITARY TOWELS TO END PERIOD POVERTY**

Order read;

Motion made;

THAT, AWARE THAT period poverty refers to the common challenge plaguing women globally wherein they are unable to attend schools or work as a cause of a lack of funds for sanitary products that is both a health risk and a signal of gender inequity;

FURTHER AWARE THAT in rural Kenya, 2 out of 3 pad users receive pads from sexual partners and 65 percent of women and girls can't afford sanitary pads, forcing them to use alternative materials like grass, cotton wool and cloth which

lack adequate absorbent qualities, resulting in frequent leakage and hygiene issues;

CONCERNED THAT period poverty also referred to as the “shadow pandemic” contributes to global and regional gender inequity, as women are forced to solicit help from men in order to satisfy a basic health need with 10% of 15-year-old girls having sex to pay for sanitary products;

FURTHER CONCERNED THAT, data from the Ministry of Education indicates that a girl that is absent from school for four days a month loses 13 learning days, equivalent to two weeks of learning in every school term, translating to 39 learning days or six weeks of learning time in a term and up to 18 of 108 weeks in primary and 24 weeks of 144 weeks of learning in secondary school;

NOTING THAT, while the Government, through the State Department for Gender Affairs was charged with the responsibility of procuring and distributing sanitary towels for 3.7 million girls in public primary schools, special primary, and secondary schools in the country at a cost of Kshs. 470 million during the 2017/2018 Financial year, which amount needs to be increased in order to fully address and mitigate the problem;

NOW THEREFORE, the Senate resolves that the Ministry of Public Service, Gender and Affirmative Action in partnership with the Ministry of Education and the Council of Governors to:-

1. facilitate provision of feminine hygiene products in all public schools;
2. ensure that all schools that don't have bathrooms that facilitate privacy, cleanliness or proper disposal of hygiene products are properly equipped;
3. create awareness and take advocacy measures on reproductive health issues related to period poverty;
4. include in the curriculum a dedicated lesson per week to teach girls on menstrual hygiene; and
5. ensure that sanitary products will be obtainable timely, consistently, and in a way that respects the dignity of concerned persons.

(Sen. Gloria Orwoba, MP)

And the time being thirty minutes past six O'clock, the Temporary Speaker (Sen. Wakili Hillary Sigei, MP) interrupted the business of the Senate and adjourned the House without Question put, pursuant to the Standing Orders.

19. **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, March 01 2023 at 2.30 p.m.*