

# PARLIAMENT OF KENYA

## THE SENATE

### THE HANSARD

Thursday, 6<sup>th</sup> December, 2018

*The House met at the Senate Chamber,  
Parliament Buildings, at 2.30 p.m.*

*[The Deputy Speaker (Sen. (Prof.) Kindiki) in the Chair]*

#### PRAYER

**Sen. Olekina:** Thank you, Mr. Deputy Speaker, Sir. Likewise, I would like to extend a warm welcome to our friends from Namibia and Zanzibar. A couple of years ago, I went on holiday in Zanzibar and had a great time. It was good and I enjoyed it. I want to encourage all of you to make sure that you visit the Maasai Mara Game Reserve, which is a different kind of experience. I know that you are used to the ocean in Zanzibar, but here you will go and see the wild animals. I know you have them in Serengeti, but it is very different. Maasai Mara is where we have the best.

To our friends from Namibia, we know that you have beautiful game parks there, but even if you go up to the sky you will never beat Maasai Mara. I want to welcome you and when you are here, do not be a stranger. Come and if you cannot afford, we will make sure that we accommodate you.

Thank you, Mr. Deputy Speaker, Sir.

**The Deputy Speaker** (Sen. (Prof.) Kindiki): Thank you. Sen. Olekina, proceed.

**Sen. Olekina:** Thank you, Mr. Deputy Speaker, Sir. I rise to support the Petition by my brother, Sen. Wambua on pending bills. The biggest question we must ask ourselves is: why is it that many counties still owe their suppliers a lot of money yet we have laws? For example, the Public Procurement and Asset Disposal Act 2015 states very clearly under Section 140 that if any supplier is not paid their money on time; it will accrue a lot of interest.

When I sat down with the Cabinet Secretary of the national Treasury, Hon. Rotich - I remember engaging him on this in Narok - he indicated that there is no excuse as to why counties should have pending bills because all their money had been released. If you look at Kitui County, for the last financial year, they received about Kshs9.3 billion and a majority of that money went into recurrent expenditure. When you look at the Controller of Budget report, the amount spent on development expenditure indicates 44 per cent. However, when you go to the summary of the projects which are supposed to have cost a lot of money, only three out of the ten projects were concluded at 100 per cent.

There is a disconnect and it has been clearly indicated in the Controller of Budget report who has cited serious issues with the Integrated Finance Management Information System (IFMIS) and procurement. Therefore, as we try to balance this war, where we are listening to the excuses given by the Cabinet Secretary of the national Treasury, Hon. Rotich, versus the excuses the county governments are giving for not receiving their money, we have to figure out who is telling the truth and who is not.

I support my colleagues who said that we should further investigate this matter. I am sure the Committee on Finance and Budget and also the Committee on County Public Accounts and Investment that I belong to will deal with it. I am aware that we interrogate these issues on a day to day basis. If in Kitui County, about seven out of ten projects are not completed - some of them are at 15 per cent - I dare say, when you follow the procurement process of these entities, they are not even on IFMIS. We have to approach this issue wholesomely to ensure that those companies that have supplied services to---

Proceed, Sen. Olekina.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir, for giving me this opportunity. I rise to support the Motion that the Senate do adjourn.

When I came to this House, I believed that black is black and white is white. However, today, black is indeed white. It has been a tumultuous and confusing time for me, in terms of my expectations. Someone was right in saying that when you have expectations, you are setting yourself up for disappointment. I had so much expectation about this House, being the House of union. However, at the end of this Session, I am one of the most disappointed Senators of this Republic.

*[The Speaker (Hon. Lusaka) left the Chair]*

*[The Temporary Speaker (Sen. Nyamunga) on the Chair]*

I thought that this was a House of union, where the Senator for Nyeri County, my good friend and Chairperson of my Committee - regardless of the number of people who voted for him - my dear sister, Sen. Seneta, who was nominated, and all of us, would come here and fight for Kenyans. However, I am disappointed because corruption is in our bones, all of us. None of us here can stand and say they are saints; we are all rotten.

I want to apologize to Kenyans out there that we have failed them because when we had the opportunity to make sure that the children of Ruaraka get what is rightfully theirs, corruption penetrated deeply, and at the end of the day, we failed. People died in the Solai Dam tragedy and this House came up with serious recommendations. None of them has been implemented and, in fact, some people are bragging out there and saying: "Look at you. You fought so hard for the poor, yet you are toothless." That is wrong and it has to change.

Madam Temporary Speaker, we talk about the monitoring and evaluation kitty. If this House wants to make sure that we do our work of oversight, I have a Bill that I have introduced and is at the Second Reading stage; The County Oversight and Accountability Bill, 2018.

*(The red timer went off)*

Madam Temporary Speaker, I request for five minutes please, being the Motion for Adjournment.

**The Temporary Speaker** (Sen. Nyamunga): Senator, it is not possible to give you five minutes, because there is a lot of interest.

You have one minute, please.

**Sen. Olekina:** Madam Temporary Speaker, one minute is not enough, but I will try my best. I want to point out one important thing in the Constitution, which is our “bible.” Members of the National Assembly misunderstand the Constitution. It is about time that each of the 67 Senators in this House buys a beautiful copy of the Constitution and gifts it to these Members. Parliament is not the National Assembly; it is the Senate and the National Assembly. That is the first thing they ought to know.

The Constitution is clear, and I want to go to the powers given to Parliament. I have heard many people ask whether it is the business of the Senate to call Cabinet Secretaries. Article 125 (1) of the Constitution on the power to call for evidence says-

“Either House of Parliament, and any of its committees, has the power to summon any person to appear before it for the purpose of giving evidence or providing information.”

That power is not given to the National Assembly or the Senate alone. It is given to either House.

The Cabinet Secretaries ought to know that this House has powers to summon anybody to appear before them. Today, we were disappointed because we waited for the Cabinet Secretary for Petroleum and Mining, but he did not show up. Again, yesterday he kept us waiting. It is embarrassing because he called to give us all manner of excuses for not showing up. He told us that he was in Ole Sereni and, later on, he said he was in Kisumu. They need to understand that the Constitution is very clear when they are summoned here. Article 125(2) of the Constitution says-

“For the purposes of clause (1), a House of a Parliament and any of its committees has the same powers as the High Court.”

Madam Temporary Speaker, I appeal to the national Government and all Members of the Senate to know that our water catchment areas are vital for our survival. It is a pity that the Mau Forest is being depleted. I want to appeal to my good friend who God is blessed so much and he is now a big tycoon, to join hands with me to save the Mau Forest. Let us fence it. We do not inherit this earth from our ancestors, but we are borrowing it from our children. Martin Luther King, Jr said, “Our lives begin to end the day we become silent about things that matter.” What matters now is our environment. We need to defend the poor people who are languishing in poverty. The gap between the rich and the poor is so wide.

Let me address myself to the Medical Equipment Services (MES). It is sad that county governors do not understand why they should pay for the equipment. From the ruling made by the Deputy Speaker this afternoon, it behooves each one of us to perform our mandate as stipulated in the Article 96 of our Constitution. We must defend and protect the interests of our counties and their governments.

The list that the CS Health, Sicily Kariuki presented here showed that over 60 medical equipment had been supplied to Narok County. However, they are not working in some dispensaries because there is no electricity. This is ridiculous.

It is time the President cemented his legacy. The other day, I was happy to hear him say that he will not assent the Parliamentary Service Commission (Amendment) Bill, 2018. This Bill had been crafted in way to kill the institution of the Senate. The role of the Chairperson of the Parliamentary Service Commission (PSC) is clearly defined in this Constitution. It says the Speaker of the National Assembly shall be the Chairperson of the PSC and the Clerk of the House---

**The Temporary Speaker** (Sen. Nyamunga): Hon. Senator, please, be mindful of others also.

**Sen. Olekina:** Madam Temporary Speaker, I am winding up. The Clerk of this House shall be the Secretary. That is not something we can debate here because it is well captured in the Constitution. That was something well designed because our Speaker does not sit in the PSC. He is represented there by the Clerk. We must defend our House and the interests of Kenyans who brought us here.

Madam Temporary Speaker, with all those many emotional remarks, I want to thank you because you have been gracious to me. You have given me enough time to speak to Kenyans. As we go on recess, it is time for us to meet with our electorates and eat some *nyama choma* with them.

Madam Temporary Speaker, the other day, I was in Kisumu and I ate some really good fish. However, I am afraid the Chinese might end up destroying our fish. I read from the newspapers that they are introducing some viruses into our lakes. It is a scheme to ensure that we consume more of their fish. I urge our brothers and sisters from that region to jealously guard their lake.

*(Sen. Olekina's Microphone went off)*