

PARLIAMENT OF KENYA

THE SENATE

THE HANSARD

Wednesday, 20th November, 2019

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

[The Temporary Speaker (Sen. (Dr.) Lelegwe) in the Chair]

PRAYER

Sen. Olekina: Mr. Temporary Speaker, Sir, I rise to support the Statement by Sen. Mwaruma. We cannot cry over spilt milk; we already passed that stage. It is fair for us to know which projects are being earmarked to be funded by the money that we are borrowing. I was under the impression that the money being borrowed will be used to retire the commercial loans. This House represents Kenyans, therefore, I fully support the Statement by Sen. Mwaruma, so that we know how we are progressing.

Sen. (Prof.) Ekal: Mr. Temporary Speaker, Sir, I also support the Statement by Sen. Mwaruma. A number of hon. Senators have jumped onto the idea of ignorance. I do not think it really makes sense to call another Senator “ignorant,” because ignorance is not an excuse for what is going on. Kenyans need to know the kind of projects that are being carried out throughout the country. That is a fact. Every Senator needs to know the projects that are being carried in his or her county. I represent Turkana County, so I need to know the projects that are being carried out there.

Mr. Temporary Speaker, Sir, we are borrowing a lot of money. The Kshs9 trillion should be distributed among the 47 counties. It makes sense that if I and my children are paying taxes, I and the people of Turkana will have to use that money. However, it is not acceptable for these projects to be concentrated in particular counties, yet the rest of us are paying. This is what Sen. (Dr.) Ali is saying. We need to know the projects that are being carried out in the North, and all counties in the country.

Thank you, Mr. Temporary Speaker, Sir.

Sen. (Dr.) Kabaka: Mr. Temporary Speaker, Sir, this issue of distribution of the national wealth has brought a lot of disparity in this nation. This is especially so in terms of what is going on at the Commission on Revenue Allocation (CRA), and sharing of the national cake. The formula which has been introduced has brought problems. These are concomitant to what Sen. Mwaruma is trying to assert. Either way, if you look at it from the top, bottom or sideways, it is still the same question of sharing of the national cake.

Since independence to date, it is true that certain areas in this country have benefited more than others, particularly the SAHEL areas. The North Eastern and Lower

Eastern have not been allocated adequate projects. The formula is very cooked up. The 21 counties as opposed to---

Sen. (Prof.) Ekal: On a point of order, Mr. Temporary Speaker, Sir. I am I in order to inform the not too ignorant Senator that the SAHEL is way up there in the continent? It is three quarters of Africa. Our counties cannot be counted as part of the SAHEL.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Proceed, Sen. (Dr.) Kabaka.

Sen. (Dr.) Kabaka: Mr. Temporary Speaker, Sir, I stand corrected. I meant the Arid and Semi Arid Lands (ASALs). We had a conference in Malindi on the same. However, that encompasses areas from where I come from, Kitui, Machakos, Makueni, Garissa, Marsabit and so on, and so forth. That is the area that I am referring to.

In 1969, the late Tom Mboya drafted Sessional Paper No.10, which gave priority to areas with the best weather to be developed. This was done not knowing that God has His own ways of doing it in His own creation. Those are the areas which were marginalized, the areas that people are now rushing to. It is foolhardy for the Government to continue marginalizing these areas, which are the future of the country. These areas have a lot of minerals and a huge potential. Recently, we visited Loiyangalani with my friend, the Senator from Marsabit, and we saw a major wind power project. That is the future.

Mr. Temporary Speaker, Sir, without much ado, this Government needs to rethink the issue of sharing of wealth in this nation. Therefore, it is important for them to ensure fairness in opportunities and projects in this country. Even as we talk about performance in the national examinations, we are not seeing the children from those areas doing well, because there has been a lot of skewed development and discrimination.

I support Sen. Mwaruma.

Sen. Mutula Kilonzo Jnr.: Thank you, Mr. Temporary Speaker, Sir, for this opportunity. To some extent, I commiserate with the position we are in, and the Statement by Sen. Mwaruma. However, from the Constitution, it appears as if we must make a resolution to get this information under Article 211. Therefore, as we approve the Statement, it appears to me that Sen. Mwaruma should have proposed a Motion, which should have led to a resolution of the Senate to get the information he is seeking for.

Generally, the projects being undertaken for this financial year and the ones the Government was borrowing for this financial year are included in the report that was tabled here before we voted. We had that opportunity to ask those questions then, which were not asked.

Thank you.

POINT OF ORDER

FAILURE BY SEN. MADZAYO TO COMPLY WITH THE OFFICIAL DRESS CODE

Sen. Linturi: Mr. Temporary Speaker, Sir, I rise pursuant to the Speaker's Rules, Third Edition, published in July, 2018, and specifically Part I(5), which relates to the conduct of Senators within Parliament. Part I(5), for avoidance of doubt states:-

“Senators are required not to enter the Chamber, Lounge or Dining Room without being properly dressed. This means that a male Senator

shall be dressed in a coat, collar, tie, long trousers, socks and shoes, or service uniform, religious attire or such other decent dressing as may be approved by the Speaker from time to time. An equivalent standard shall apply in respect of women Senators, who may also wear Kitenge or such other African attire.”

Mr. Temporary Speaker, Sir, I would like you to look at how Sen. Madzayo is dressed, and find that he is not compliant with the requirement of Rule No.5 of this House. For that matter, he should be excused from the Chamber to go and dress properly.

(Laughter)

The Temporary Speaker (Sen. (Dr.) Lelegwe): Hon. Senators, it is true, but I will give this chance to Sen. Madzayo to confirm.

Sen. Madzayo: Asante, Bw. Spika wa Muda. Sheria zetu za mikataba ya Bunge la Seneti zinasema kwamba Mbunge anafaa kuvaa koti ambayo itakua imefika kwenye shingo na imeweza kumfunika kisawasawa. Hakuna mahali popote ambapo panasema kwamba mimi nimevaa hali sintofahamu ya kuingia ndani ya Bunge.

Nataka kumwambia ndugu yangu, ambaye pia ni shemeji yangu, Sen. Linturi, kwamba vile nimevaa ni kadri na sheria za Bunge.

Asante.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Sen. Madzayo, I will read you the provisions of the conduct of Senators within the precincts of Parliament. Rule No. 5 states as follows:-

“Senators are required not to enter the Chamber, Lounge or Dining Room without being properly dressed. This means that a male Senator shall be dressed in a coat, collar, tie, long trousers, socks and shoes, or service uniform, religious attire or such other decent dressing as may be approved by the Speaker from time to time. An equivalent standard shall apply in respect of women Senators, who may also wear *Kitenge* or such other African attire.”

Sen. Madzayo, you are out of order. So, get properly dressed.

Sen. Madzayo, the Chair ruled you out of order, so you are given this chance to say whether you are on religious attire.

(Loud consultations)

Senator, you are out of order. Therefore, you need to move out of the Chamber. You will be back when you are properly dressed.

The Senate Minority Leader (Sen. Orengo): On a point of order, Mr. Temporary Speaker, Sir. We need some clarity in this matter.

If you were here in the last Senate, there were people like Professor Anyang’ Nyong’o, who were dressed in this kind of attire, and issues arose. He was allowed to dress in the category of dressing which the Standing Order that you read categorises as religious attire or such other dressing as may be approved by the Speaker from time to time.

Where we are getting it wrong is that we should go back to the rulings that the Speaker has made, which has made it possible for Sen. (Dr.) Mwaura to dress without a

coat and a tie, and he has been able to attend the sessions here; because that is ceremonial dressing. In the National Assembly, for a long period, people like the late hon. Anyona and hon. Koigi Wamwere never wore a tie, coat or jacket. The ruling should be consistent; we need to go back and look at it.

In any case, Mr. Temporary Speaker, Sir, we have to review this issue of dressing. If you go to the House of Commons now, the Knesset in Israel and the Parliament of Tanzania, people do not put on ties. We are being overly conservative, which is not quite right. Even in our law courts, we dress better than the English. In the English Supreme Court, they do not wear the robes and wigs that we wear. This is a relic that we should review, but be conscious of the fact that many people have dressed like Sen. Madzayo has in this particular Senate, and in this Chamber. We need some consistency.

Mr. Temporary Speaker, Sir, I request that when you retire, go back to your chambers and look at the previous rulings on the question of dressing, so that we are consistent.

Sen. (Dr.) Ali: Thank you, Mr. Temporary Speaker, Sir. I will also follow suit with the Minority Leader. I have also come severally to this Chamber dressed in Kaunda suits with no collar. When you have no collar, you cannot wear a tie. This is a decent African dressing. He cannot wear a tie because the coat has no collar. He cannot wear a shirt because the Kaunda Suit coat has no collar. This is how we have been dressing.

Mr. Temporary Speaker, Sir, we urge you to reconsider that ruling and allow Sen. Madzayo to continue.

Sen. Linturi: Mr. Temporary Speaker, Sir, it is not my wish to challenge what Sen Orengo and Sen. (Dr.) Ali have said. I have no problem with the positions they hold, considering our history and the development of the attire that has been worn by Members of Parliament in the past.

This Parliament can make rules, and the Speaker can make rules that will guide our conduct, as a House. As long as rules have been made and adopted, then the obtaining position should be that, those are the rules that should be followed at that particular time.

The rules I referred you to, and I was very clear, are the Speaker's Rules as published in July, 2018, when the referred Senators had left the Senate. This means that the date of application of the rules that govern how we dress is from July, 2018, to now. We have no problem, we can even change the rules to even not put on anything.

(Laughter)

However, as long as the rules that we have today are the ones that are published, and are before you, then your finding on this matter should be based purely on the rules that have been published, which govern the conduct of this House now. If we change them tomorrow, then fine, so be it.

Sen. (Eng.) Hargura: Mr. Temporary Speaker, Sir, will I be in order, taking into account the views---

(Sen. Madzayo stood up on his feet)

The Temporary Speaker (Sen. (Dr.) Lelegwe): Order, Sen. Madzayo.

Proceed, Sen. (Eng.) Hargura.

Sen. (Eng.) Hargura: Mr. Temporary Speaker, Sir, taking into account the views given out by my colleagues and also the practices which we have seen, because I am aware of the rulings made by former Speaker Ekwee Ethuro in the last Senate, will I be in order to request that you reconsider your ruling, because we have to be consistent with past traditions?

The Temporary Speaker (Sen. (Dr.) Lelegwe): Sen. Madzayo, we have given you a chance to explain the attire you are wearing. Explain to the House before we proceed.

Sen. Madzayo: Mr. Temporary Speaker, Sir, quite a number of other Senators have contributed to this debate, but it is important that I respond. In the previous Parliament, the Speaker ruled that this is proper and decent dressing. The Senate has never been dissolved since 2013, when we were elected, up to date; it is still the same Senate. We have hon. Otiende Amollo in the National Assembly, who never wears a tie. He always dresses this way. The Speaker there ruled that it is decent dressing.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Sen. Madzayo, I gave you an opportunity to explain what you are wearing. It is not about what I said, as the Chair.

Sen. Madzayo: That is why I am telling you that Speakers who were there before you had no problem with it. It is decent.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Order, Senator!

Sen. Madzayo: You should not depart from that.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Order, Senator! You need to explain what you are wearing.

Sen. Madzayo: A very decent dress.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Hon. Senators, the Senator has explained that he is putting on decent African attire. Let us proceed. Let us listen to Sen. Olekina.

(Loud consultations)

Sen. Olekina: Mr. Temporary Speaker, Sir, I need your protection.

The Temporary Speaker (Sen. (Dr.) Lelegwe): Order, Hon. Senators. Proceed Sen. Olekina.

STATEMENTS

FACTS ABOUT THE 2019 POPULATION CENSUS

Sen. Olekina: Mr. Temporary Speaker, Sir, I rise pursuant to Standing Order 48(1) to seek a Statement from the Standing Committee on Finance and Budget concerning the recently concluded 2019 Kenya Population and Housing Census by the Kenya National Bureau of Statistics (KNBS). In the Statement, the Committee should -

- (1) Provide the rural to urban population by county based on 2019 census results.
- (2) Provide the rural to urban household by county based on 2019 census results.
- (3) Provide the domestic animal population by county based on 2019 census result.

- (4) Provide the poverty index by county based on 2019 census result.

Mr. Temporary Speaker, Sir, the results that we received were by county. Therefore, it is imperative for us to know how many we are, and how poor we are in Kenya.

Thank you.