



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – FOURTH SESSION

THE SENATE

VOTES AND PROCEEDINGS

WEDNESDAY, OCTOBER 19, 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**

The Speaker conveyed the following Communications from the Chair:-

**(a) Visiting pupils and teachers from Miangeni International Academy, Makueni County**

"Honourable Senators,

I wish to recognize the presence of visiting pupils and teachers from Miangeni International Academy, Makueni County. They are seated at the Public gallery.

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.

**(b) Visiting pupils and Tteachers from Port Reitz School, Changamwe Sub-County, Mombasa County**

"Honourable Senators,

I wish to recognize the presence of visiting pupils and teachers from Port Reitz School, Changamwe Sub-County, Mombasa County. They are seated at the Speaker's gallery.

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. PAPERS LAID**

The following papers were laid on the Table of the Senate-

- a) Report of the East African Legislative Assembly on the sensitization activities conducted in Partner states in June 2016.
- b) Report of the Committee on Agriculture, Tourism and Natural Resources on the Oversight activity on Hotel classification and preparedness for a single Tourist visa.
- c) Report of the Committee on Accounts on the Audited Financial Statements of the East African Community for the Year ended 30<sup>th</sup> June, 2015.
- d) Resolution of the Assembly urging the EAC partner States to celebrate the International Day of Democracy on 15<sup>th</sup> September 2016
- e) Report of the Committee on Agriculture, Tourism and Natural Resources on the activity on Poaching
- f) Resolution of the assembly congratulating Africans and especially the East African Medal Winners in Athletics in the Olympic games in Rio De Janeiro, Brazil, 2016
- g) Resolution of the Assembly urging EAC Summit to amend the Treaty to make Kiswahili a formal language of the Community
- h) Resolution of the Assembly to invoke Article 59 (3) (b) of the Treaty to revitalize (reinvigorate/revive) the EAC Climate Change adaptation and mitigation programme
- i) Three Bills read a First Time in EALA, namely-
  - i) The East African Community Counter – Trafficking in Persons Bill, 2016;
  - ii) The EAC Prohibition of Female Genital Mutilation Bill, 2016; and
  - iii) The EAC Retirement Benefits for Specified Heads of Organs Bill, 2015.

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

- j) Report of the Regional Colloquium of African Ombudsmen Institutions 2015.

*(Sen. Judith Sijeny, on behalf of the Chairperson, Standing Committee on Legal Affairs and Human Rights)*

- k) The Traffic (Minor Offences) Rules, 2016.

*(Sen. Joy Gwendu, on behalf of the Chairperson, Sessional Committee on Delegated Legislation)*

**5. STATEMENTS****(a) Statements Pursuant To Standing Order 45(2) (b)**

- i) Sen. Ali Bule sought a Statement regarding the ongoing severe drought affecting Tana River County and other arid and semi-arid areas in the country, including Kilifi, Kwale, Taita Taveta, Garissa, Wajir, Mandera, Isiolo, Marsabit, Kitui and Samburu Counties.
- ii) Sen. Moses Kajwang' on behalf of the Chairperson, Standing Committee on Agriculture, Livestock and Fisheries issued a statement on the fate of tea farmers who lost money in the collapse of Imperial Bank and Chase Bank.

The Senator informed the Senate the Board of Directors of KTDA had approved 15 banks, including Imperial Bank and Chase Bank, where the Agency would deposit money. The Senator further informed the Senate that as at 13<sup>th</sup> October, 2015, when Imperial Bank Limited was placed under receivership, KTDA had Kshs. 2.926 billion as deposits compared to its deposit of Kshs. 1.9228 billion held at when Chase Bank Limited as at 7<sup>th</sup> April, 2016, when the Bank was put under receivership.

The Senator also informed the Senate that by spreading cash sales with different banks, KTDA was mitigating the concentration risks through diversification of investments across several banks. The Senate was assured that farmers have been paid their bonus, by KTDA, using borrowings and reallocations of funds set aside for other projects as the Agency awaits the availability of its deposits in the collapsed banks.

- iii) The Vice-Chairperson of the Standing Committee on National Security and Foreign Relations issued a Statement on the plight of Kenyan refugees from Uganda, who had been camping at the gate of Senate since 10<sup>th</sup> October, 2016.

In the Statement the Vice-Chairperson informed the Senate that the Government was aware of the group of Kenyans who had returned from Uganda where they had fled following the 2007/2008 Post-Election Violence and who camping along Parliament road. The Senate was informed that the Government had established a taskforce to facilitate repatriation of refugees to Kenya. The team and executed their mandate and found only 246 to be genuine returnees. The 246 had since been compensated in cash.

The Vice-Chairperson further informed the House that on further scrutiny of the list provided by the leader of the returnees, the government had noted a discrepancy between the list provided by the returnees and that held by the Government. Consequently, the United Nations High Commissioner for Refugees (UNHCR) was helping the Government to address the discrepancies and ensure unscrupulous persons did not take advantage of the process.

The Vice-Chairperson assured the House that the Government, UNHCR and the leadership of the returnees were sorting out the matter.

**(b) Statements Pursuant To Standing Order 45(2) (c)**

The Senate Minority Leader issued a Statement on the business of the Senate for the week commencing 1<sup>st</sup> November, 2016.

**6. MOTION – ADOPTION OF THE REPORT OF THE SESSIONAL COMMITTEE ON DEVOLVED GOVERNMENT ON TRANSFER OF FUNCTIONS**

Motion made and question proposed;

**THAT**, the Senate adopts the Report of the Sessional Committee on Devolved Government on the Appeals for Transfer of Functions by Various County Governments laid on the Table of the Senate on Tuesday, 18<sup>th</sup> October, 2016.

*(The Chairperson, Sessional Committee on Devolved Government – 18.10.2016)*

Debate interrupted on Tuesday, 18<sup>th</sup> October, 2016 resumed on a Division;

The Temporary Speaker (Sen. (Dr.) Wilfred Machage) directed that electronic voting be taken pursuant to Standing Order 74 (1) and that the Division Bell be rung for two minutes;

After the expiry of two minutes, the Temporary Speaker (Sen. (Dr.) Wilfred Machage) directed that the bar be drawn and the doors be locked and requested Senators to log-in for electronic voting;

The Temporary Speaker (Sen. (Dr.) Wilfred Machage) put the Question and directed Senators to cast their votes by pressing either the **“Yes”**, **“No”** or **“Abstain”** button;

Before the results of the Division were announced and pursuant to the provisions of Standing Order 74 (5), the Temporary Speaker (Sen. (Dr.) Wilfred Machage) allowed three Senators to record their votes verbally.

Thereupon, the following Senators recorded their votes as “Yes”-

1. Sen. Kittony Zipporah – on behalf of Trans Nzoia County Delegation
2. Sen. Machage Wilfred Gisuka
3. Sen. Murungi Kiraitu

The results of the Division were as follows-

AYES - 24

NOES - 0

ABSTENTIONS - 0

**AYES**

1. Sen. Sen. Zani Agnes Philomena – on behalf of Kwale County Delegation
2. Sen. Bule Ali Abdi
3. Sen. Cheruiyot Aaron Kipkirui
4. Sen. Hassan Abdirahman Ali
5. Sen. Kajwang' Moses
6. Sen. Omondi Godliver Nanjira – on behalf of Kakamega County Delegation
7. Sen. Kilonzo Mutula Junior
8. Sen. Wangari Martha – on behalf of Nairobi County Delegation
9. Sen. Adan Dullo Fatuma - on behalf Isiolo County Delegation
10. Sen. Lesan Wilfred Rotich
11. Sen. Leshore Sammy Prisa
12. Sen. Lonyangapuo John Krop
13. Sen. Machage Wilfred Gisuka – voted verbally
14. Sen. Kisasa Mshenga-Mvita – on behalf of Kilifi County Delegation
15. Sen. Chelule Liza - on behalf of Nakuru County delegation
16. Sen. Murkomen Onesmus Kipchumba
17. Sen. Murungi Kiraitu - voted verbally
18. Sen. Mutahi Kagwe
19. Sen. Kittony Zipporah-voted verbally on behalf of Trans Nzoia County Delegation
20. Sen. Ntutu Stephen
21. Sen. Nyong'o Peter Anyang'
22. Sen. Obure Christopher Mogere
23. Sen. Wako Amos Sitswila
24. Sen. Wetang'ula Moses Masika

Question, agreed to.

**RESOLVED ACCORDINGLY-**

**THAT**, the Senate adopts the Report of the Sessional Committee on Devolved Government on the Appeals For Transfer of Functions by Various County Governments laid on the Table of the Senate on Tuesday, 18<sup>th</sup> October, 2016.

7. **THE PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) (AMENDMENT) BILL (SENATE BILL NO. 9 OF 2016)**

Order for Second Reading read;

Motion made and Question proposed;

**THAT**, the Public Appointments (Parliamentary Approval) (Amendment) Bill (Senate Bill No. 46 of 2016) be now read a Second Time.

*(Sen. Fatuma Dullo – 04.10.2016)*

Debate interrupted on Tuesday, 4<sup>th</sup> October, 2016 resumed on a Division;

The Temporary Speaker (Sen. (Dr.) Wilfred Machage) directed that electronic voting be taken pursuant to Standing Order 74 (1) and that the Division Bell be rung for two minutes;

After the expiry of two minutes, the Temporary Speaker (Sen. (Dr.) Wilfred Machage) directed that the bar be drawn and the doors be locked and requested Senators to log-in for electronic voting;

The Temporary Speaker (Sen. (Dr.) Wilfred Machage) put the Question and directed Senators to cast their votes by pressing either the **"Yes"**, **"No"** or **"Abstain"** button;

Before the results of the Division were announced and pursuant to the provisions of Standing Order 74 (5), the Temporary Speaker (Sen. (Dr.) Wilfred Machage) allowed four Senators to record their votes verbally.

Thereupon, the following Senators recorded their votes as "Yes"-

1. Sen. Kittony Zipporah – on behalf of Trans Nzoia County Delegation
2. Sen. Machage Wilfred Gisuka
3. Sen. Murungi Kiraitu
4. Sen. Wako Sitswila Amos

The results of the Division were as follows-

AYES - 24

NOES - 0

ABSTENTIONS - 0

#### **AYES**

1. Sen. Sen. Zani Agnes Philomena – on behalf of Kwale County Delegation
2. Sen. Bule Ali Abdi
3. Sen. Cheruiyot Aaron Kipkirui
4. Sen. Hassan Abdirahman Ali
5. Sen. Kajwang' Moses
6. Sen. Omondi Godliver Nanjira – on behalf of Kakamega County Delegation
7. Sen. Kilonzo Mutula Junior
8. Sen. Wangari Martha – on behalf of Nairobi County Delegation
9. Sen. Adan Dullo Fatuma - on behalf Isiolo County Delegation
10. Sen. Lesan Wilfred Rotich
11. Sen. Leshore Sammy Prisa
12. Sen. Lonyangapuo John Krop
13. Sen. Machage Wilfred Gisuka – voted verbally
14. Sen. Kisasa Mshenga-Mvita – on behalf of Kilifi County Delegation
15. Sen. Chelule Liza - on behalf of Nakuru County delegation
16. Sen. Murkomen Onesmus Kipchumba
17. Sen. Murungi Kiraitu - voted verbally
18. Sen. Mutahi Kagwe
19. Sen. Kittony Zipporah-voted verbally on behalf of Trans Nzoia County Delegation
20. Sen. Ntutu Stephen
21. Sen. Nyong'o Peter Anyang'

22. Sen. Obure Christopher Mogere
23. Sen. Wako Amos Sitswila - voted verbally
24. Sen. Wetang'ula Moses Masika

Question, agreed to.

Bill read a Second Time and committed to the Committee of the Whole, tomorrow.

8. **THE SELF HELP ASSOCIATIONS BILL (SENATE BILL NO. 2 OF 2015)**

Order for Second Reading read;

Motion made and Question proposed;

**THAT**, the Self Help Associations Bill (Senate Bill No. 2 of 2015) be now read a Second Time.

*(Sen. Martha Wangari – 04.10.2016)*

Debate interrupted on Tuesday, 4<sup>th</sup> October, 2016 resumed on a Division;

The Temporary Speaker (Sen. (Dr.) Wilfred Machage) directed that electronic voting be taken pursuant to Standing Order 74 (1) and that the Division Bell be rung for two minutes;

After the expiry of two minutes, the Temporary Speaker (Sen. (Dr.) Wilfred Machage) directed that the bar be drawn and the doors be locked and requested Senators to log-in for electronic voting;

The Temporary Speaker (Sen. (Dr.) Wilfred Machage) put the Question and directed Senators to cast their votes by pressing either the **"Yes"**, **"No"** or **"Abstain"** button;

Before the results of the Division were announced and pursuant to the provisions of Standing Order 74 (5), the Temporary Speaker (Sen. (Dr.) Wilfred Machage) allowed three Senators to record their votes verbally.

Thereupon, the following Senators recorded their votes as "Yes"-

1. Sen. Kittony Zipporah – on behalf of Trans Nzoia County Delegation
2. Sen. Machage Wilfred Gisuka
3. Sen. Murungi Kiraitu

The results of the Division were as follows-

AYES - 24

NOES - 0

ABSTENTIONS - 0

**AYES**

1. Sen. Sen. Zani Agnes Philomena – on behalf of Kwale County Delegation
2. Sen. Bule Ali Abdi
3. Sen. Cheruiyot Aaron Kipkirui
4. Sen. Hassan Abdirahman Ali
5. Sen. Kajwang' Moses
6. Sen. Omondi Godliver Nanjira – on behalf of Kakamega County Delegation
7. Sen. Kilonzo Mutula Junior
8. Sen. Wangari Martha – on behalf of Nairobi County Delegation
9. Sen. Adan Dullo Fatuma - on behalf Isiolo County Delegation
10. Sen. Lesan Wilfred Rotich
11. Sen. Leshore Sammy Prisa
12. Sen. Lonyangapuo John Krop
13. Sen. Machage Wilfred Gisuka – voted verbally
14. Sen. Kisasa Mshenga-Mvita – on behalf of Kilifi County Delegation
15. Sen. Chelule Liza - on behalf of Nakuru County delegation
16. Sen. Murkomen Onesmus Kipchumba
17. Sen. Murungi Kiraitu - voted verbally
18. Sen. Mutahi Kagwe
19. Sen. Kittony Zipporah-voted verbally on behalf of Trans Nzoia County Delegation
20. Sen. Ntutu Stephen
21. Sen. Nyong'o Peter Anyang'
22. Sen. Obure Christopher Mogere
23. Sen. Wako Amos Sitswila
24. Sen. Wetang'ula Moses Masika

Question, agreed to.

Bill read a Second Time and committed to the Committee of the Whole, tomorrow.

**9. THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL (NATIONAL ASSEMBLY BILL NO. 36 OF 2014)**

Order for Second Reading read;

Motion made and Question proposed;

**THAT**, the Assisted Reproductive Technology Bill (National Assembly Bill No. 36 of 2014) be now read a Second Time.

*(Senate Majority Leader – 04.10.2016)*

Debate interrupted on Tuesday, 4<sup>th</sup> October, 2016 resumed on a Division;

The Temporary Speaker (Sen. (Dr.) Wilfred Machage) directed that electronic voting be taken pursuant to Standing Order 74 (1) and that the Division Bell be rung for two minutes;



After the expiry of two minutes, the Temporary Speaker (Sen. (Dr.) Wilfred Machage) directed that the bar be drawn and the doors be locked and requested Senators to log-in for electronic voting;

The Temporary Speaker (Sen. (Dr.) Wilfred Machage) put the Question and directed Senators to cast their votes by pressing either the **"Yes"**, **"No"** or **"Abstain"** button;

Before the results of the Division were announced and pursuant to the provisions of Standing Order 74 (5), the Temporary Speaker (Sen. (Dr.) Wilfred Machage) allowed three Senators to record their votes verbally.

Thereupon, the following Senators recorded their votes as "Yes" -

1. Sen. Kittony Zipporah – on behalf of Trans Nzoia County Delegation
2. Sen. Machage Wilfred Gisuka
3. Sen. Murungi Kiraitu

The results of the Division were as follows-

AYES - 22

NOES - 2

ABSTENTIONS - 0

#### **AYES**

1. Sen. Zani Agnes Philomena – on behalf of Kwale County Delegation
2. Sen. Cheruiyot Aaron Kipkirui
3. Sen. Hassan Abdirahman Ali
4. Sen. Kajwang' Moses
5. Sen. Kilonzo Mutula Junior
6. Sen. Wangari Martha – on behalf of Nairobi County Delegation
7. Sen. Adan Dullo Fatuma - on behalf Isiolo County Delegation
8. Sen. Lesan Wilfred Rotich
9. Sen. Leshore Sammy Prisa
10. Sen. Lonyangapuo John Krop
11. Sen. Machage Wilfred Gisuka – voted verbally
12. Sen. Kisasa Mshenga-Mvita – on behalf of Kilifi County Delegation
13. Sen. Chelule Liza - on behalf of Nakuru County delegation
14. Sen. Murkomen Onesmus Kipchumba
15. Sen. Murungi Kiraitu - voted verbally
16. Sen. Mutahi Kagwe
17. Sen. Kittony Zipporah-voted verbally on behalf of Trans Nzoia County Delegation
18. Sen. Ntutu Stephen
19. Sen. Nyong'o Peter Anyang'
20. Sen. Obure Christopher Mogere
21. Sen. Wako Amos Sitswila
22. Sen. Wetang'ula Moses Masika

#### **NOES**

1. Sen. Bule Ali Abdi
2. Sen. Omondi Godliver Nanjira – on behalf of Kakamega County Delegation

Question, negatived.

10. THE NATIONAL COHESION AND INTEGRATION (AMENDMENT) BILL  
(SENATE BILL NO. 6 OF 2016)

Order for Second Reading read;

Motion made and Question proposed;

**THAT**, the National Cohesion and Integration (Amendment) Bill (Senate Bill No. 6 of 2016) be now read a Second Time.

*(Sen. Beatrice Elachi – 11.10.2016)*

Debate interrupted on Tuesday, 11<sup>th</sup> October, 2016 resumed on a Division;

The Temporary Speaker (Sen. (Dr.) Wilfred Machage) directed that electronic voting be taken pursuant to Standing Order 74 (1) and that the Division Bell be rung for two minutes;

After the expiry of two minutes, the Temporary Speaker (Sen. (Dr.) Wilfred Machage) directed that the bar be drawn and the doors be locked and requested Senators to log-in for electronic voting;

The Temporary Speaker (Sen. (Dr.) Wilfred Machage) put the Question and directed Senators to cast their votes by pressing either the **"Yes"**, **"No"** or **"Abstain"** button;

Before the results of the Division were announced and pursuant to the provisions of Standing Order 74 (5), the Temporary Speaker (Sen. (Dr.) Wilfred Machage) allowed three Senators to record their votes verbally.

Thereupon, the following Senators recorded their votes as "Yes"-

1. Sen. Kittony Zipporah – on behalf of Trans Nzoia County Delegation
2. Sen. Machage Wilfred Gisuka
3. Sen. Murungi Kiraitu

The results of the Division were as follows-

AYES - 23

NOES - 1

ABSTENTIONS - 0

**AYES**

1. Sen. Sen. Zani Agnes Philomena – on behalf of Kwale County Delegation
2. Sen. Bule Ali Abdi
3. Sen. Cheruiyot Aaron Kipkirui
4. Sen. Hassan Abdirahman Ali
5. Sen. Kajwang' Moses
6. Sen. Omondi Godliver Nanjira – on behalf of Kakamega County Delegation
7. Sen. Kilonzo Mutula Junior
8. Sen. Wangari Martha – on behalf of Nairobi County Delegation
9. Sen. Adan Dullo Fatuma - on behalf Isiolo County Delegation
10. Sen. Lesan Wilfred Rotich
11. Sen. Leshore Sammy Prisa

12. Sen. Lonyangapuo John Krop
13. Sen. Machage Wilfred Gisuka – voted verbally
14. Sen. Kisasa Mshenga-Mvita – on behalf of Kilifi County Delegation
15. Sen. Chelule Liza - on behalf of Nakuru County delegation
16. Sen. Murkomen Onesmus Kipchumba
17. Sen. Murungi Kiraitu - voted verbally
18. Sen. Mutahi Kagwe
19. Sen. Kittony Zipporah-voted verbally on behalf of Trans Nzoia County Delegation
20. Sen. Ntutu Stephen
21. Sen. Nyong'o Peter Anyang'
22. Sen. Obure Christopher Mogere
23. Sen. Wako Amos Sitswila

**NOES**

1. Sen. Wetang'ula Moses Masika

Question, negatived.

11. **COMMITTEE OF THE WHOLE**  
**THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILL NO. 4 OF 2016)**

(Sen. Daniel Karaba)

*(Resumption of Debate interrupted on Wednesday, 5<sup>th</sup> October, 2016)*

*(Division)*

Order deferred.

12. **COMMITTEE OF THE WHOLE**  
**THE REPRODUCTIVE HEALTH CARE BILL (SENATE BILL NO. 17 OF 2014)**

(Sen. Judith Sijeny)

*(Resumption of Debate interrupted on Tuesday, 19<sup>th</sup> July, 2016)*

*(Division)*

Order deferred.

13. **COMMITTEE OF THE WHOLE**  
**THE PHYSICAL PLANNING BILL (NATIONAL ASSEMBLY BILL NO. 46 OF 2015)**

(The Senate Majority Leader)

Order deferred.

14. **THE COUNTY GOVERNMENTS (AMENDMENT) (NO. 2) BILL (SENATE BILL NO. 7 OF 2016)**

(Sen. Mutula Kilonzo Jnr.)

*(Second Reading)*

Order deferred.

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

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

Order deferred.

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

(The Senate Majority Leader)  
(*Second Reading*)

Order deferred.

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

(The Senate Majority Leader)  
(*Second Reading*)

Order deferred.

18. MOTION – ADJOURNMENT OF THE SENATE PURSUANT TO STANDING ORDER NO. 28 (3)

Motion made and question proposed;

**THAT**, pursuant to Standing Order 28 (3), the Senate do adjourn until Tuesday, 1<sup>st</sup> November, 2016.

(*The Senate Minority Leader*)

Debate arising;

And there being no other Senator wishing to contribute;

And the time being forty three minutes past Five O'clock, the Temporary Speaker (Sen. Stephen Sang) adjourned the Senate without Question put, pursuant to the Standing Orders.

19. SENATE ROSE - at forty three minutes past Five O'clock.

**M E M O R A N D U M**

*The Speaker will take the Chair on  
Tuesday, November 01, 2016 at 2.30 p.m.*

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