



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (FOURTH SESSION)
THE SENATE

VOTES AND PROCEEDINGS (AFTERNOON SITTING)

TUESDAY, MAY 19, 2020 AT 2:30 PM

1. The Senate assembled at Thirty Minutes past two O'clock.
2. The proceedings were opened with Prayer said by the Temporary Speaker (Sen. (Prof.) Margaret Kamar, MP).

3. **PAPERS**

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

- a) The Sixth Progress Report of the Ad-hoc Committee on COVID-19 Situation in Kenya.

(Sen. Abshiro Halake, on behalf of the Chairperson, Ad-hoc Committee on COVID-19 Situation in Kenya)

- b) Report of the Standing Committee on Agriculture, Livestock and Fisheries on Locust Invasion in Parts of the Country.

(Chairperson, Standing Committee on Agriculture, Livestock and Fisheries)

4. **NOTICE OF MOTION** – (Chairperson, Ad-hoc Committee on COVID – 19 Situation in Kenya)

THAT, the Senate **adopts** the Sixth Progress Report of the Ad-hoc Committee on COVID – 19 Situation in Kenya, laid on the Table of the Senate on Tuesday, 19th May, 2020.

5. **NOTICE OF MOTION** – (The Senate Majority Whip)

THAT the Senate resolves that Sen. (Prof.) Kithure Kindiki be removed from the office of the Deputy Speaker of the Senate.

6. STATEMENTS**(a) Pursuant to Standing Order 47(1)**

- (i) Nominated Senator (Sen. (Dr.) Isaac Mwaura, MP) made a statement on an issue of National concern, namely, the effects of COVID-19 pandemic on Micro and Small Enterprises (MSEs).

In the Statement, the Senator stated that in the wake of the COVID-19 pandemic, Micro and Small Enterprises (MSEs) were staring at mass closure across the 47 counties that would lead to unprecedented increase in job losses and unemployment. He stated that MSEs were a critical sector of the economy that could not be ignored due to the fact that the sector provided jobs to millions who were not absorbed in the formal sector and observed that the devastating effects of the COVID-19 on business environment had hit the MSEs hard and breadwinners could no longer provide for their families. As a consequence, poverty levels were in the short term, expected to rise as COVID-19 persists.

As a way of rendering support the MSEs sector during this difficult time, the Senator called upon county governments to suspend the renewal of single business licences, charges for accessing open air markets as well as cess for agricultural produce for at least three months, or even waive them altogether for the remaining part of the year, particularly for any businesses with an annual turnover of less than a million Shillings.

The Senator appealed to the Standing Committee on Tourism, Trade and Industrialization to engage the Council of Governors (CoG) and the County Assemblies Forum (CAF) to ensure that the county governments provided appropriate reliefs to MSEs. He further suggested that the county assemblies consider taking legislative interventions to give legal effect to the specified relief measures.

- (ii) The Senator for Nyamira County (Sen. Okong'o Mogeni, SC, MP) made a statement regarding the judgement of the Supreme Court Ref. No. 3 of 2019 on an Advisory Opinion sought by the County Government of Kakamega and 46 others.

The Senator informed the Senate that the Council of Governors had sought an Advisory Opinion from the Supreme Court on questions regarding the matter of Division of Revenue, the mandate of the Senate in the legislative process and questions on public finance in general. The Senator stated that the Supreme Court had delivered a precedent-setting judgment reinforcing the role of the Senate in division of revenue and in its role as the defender of the counties. Sen. Mogeni proceeded to apprise the House on the details of the arguments presented on behalf of the Speaker of the Senate and the general role of the Senate with regards to the Division of Revenue Bill and the Appropriation Bill.

The Senator further informed the Senate that the Supreme Court had upheld Parliament's legislative role by finding that the legislative authority

of Parliament must be safeguarded by requiring that Parliament pay due regard to the recommendations of the Commission on Revenue Allocation but without being bound by the recommendations. He observed that Parliament was allowed to deviate from the recommendations of the Commission on Revenue Allocation, noting that not every deviation must be explained and that an explanation would only be required where there was a significant deviation from the proposals by the Commission on Revenue Allocation.

Sen. Mogeni noted that the Supreme Court had affirmed the position of the Senate that the National Assembly could not enact the Appropriation Act before the Division of Revenue Act and if the National Assembly does enact the Appropriation Act before there is a Division of Revenue Act, the resulting Act would be of doubtful constitutional validity. He concluded by reminding Senators that they must zealously guard and protect their role as a House of Parliament and to protect the county governments. He stated that challenges continue and that Senators had other legal proceedings in which the Senate seeks to defend its mandate. He called upon Senators to keep up the fight, and to appear in court when called upon to.

Other Senators commented and praised the Supreme Court for issuing a timely and judicious Advisory Opinion.

(b) Pursuant to Standing Order 48(1)

- (i) Nominated Senator (Sen. Petronilla Were Lokorio, MP) sought a Statement from the Standing Committee on Agriculture, Livestock and Fisheries concerning the status of governance for Agricultural State Corporations.
- (ii) Nominated Senator (Sen. Petronilla Were Lokorio, MP) sought a Statement from the Standing Committee on Labour and Social Welfare on the mass recruitment of health workers by the Public Service Commission for vacant positions in the Ministry of Health under the Universal Health Coverage (UHC) programme.
- (iii) Nominated Senator (Sen. (Dr.) Isaac Mwaura, MP) sought a Statement from the Standing Committee on Health on expenditure by the Ministry of Health in the fight against COVID-19 pandemic.
- (iv) The Senator for Wajir County (Sen. (Dr.) Abdullahi Ali, MP) sought a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding alleged police brutality on residents of Bute and Biyamadow areas in Wajir County.
- (v) The Senator for Isiolo County (Sen. Fatuma Dullo, MP) sought a Statement from the Standing Committee on National Security, Defence and Foreign Relations regarding the recent torture and extrajudicial killing of a resident of Isiolo County, Mr. Musa Somo Kanchora, by Kenya Wildlife Service (KWS) Officers.

- (vi) Nominated Senator (Sen. Abshiro Halake, MP) sought a Statement from the Standing Committee on Finance and Budget on the foreseeable challenges of meeting the deadline for filing of 2019 income tax returns by taxpayers in the country.
- (vii) Nominated Senator (Sen. (Dr.) Gertrude Musuruve, MP) sought a Statement from the Standing Committee on Education concerning the learning progression of learners with disability during the current COVID-19 pandemic.

7. **THE PANDEMIC RESPONSE AND MANAGEMENT BILL (SENATE BILLS NO. 6 OF 2020)**

(Chairperson, Ad-hoc Committee on COVID-19 Situation in Kenya)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 12th May, 2020)

(Division)

Order deferred.

8. **THE SACCO SOCIETIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 1 OF 2018)**

(The Senate Majority Leader)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 18th February, 2020)

(Division)

Order deferred.

9. **THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO. 2) BILL (NATIONAL ASSEMBLY BILLS NO. 13 OF 2018)**

(The Senate Majority Leader)

(Second Reading)

(Resumption of debate interrupted on Wednesday, 4th December, 2019)

(Division)

Order deferred.

10. **COMMITTEE OF THE WHOLE
CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE
OFFICE OF THE COUNTY ATTORNEY BILL (SENATE BILLS NO. 3 OF 2018)**

(The Senate Majority Leader)

(Resumption of debate interrupted on Tuesday, 25th February, 2020)

(Division)

Order deferred.

11. **COMMITTEE OF THE WHOLE
CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE
PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL (SENATE BILLS
NO. 22 OF 2018)**

(The Senate Majority Leader)

(Resumption of debate interrupted on Tuesday, 25th February, 2020)

(Division)

Order deferred.

12. **COMMITTEE OF THE WHOLE**
CONSIDERATION OF THE NATIONAL ASSEMBLY AMENDMENTS TO THE
COUNTY EARLY CHILDHOOD EDUCATION BILL (SENATE BILLS NO. 26 OF
2018)

(Chairperson, Standing Committee on Education)

(Resumption of debate interrupted on Tuesday, 25th February, 2020)

(Division)

Order deferred.

13. **MOTION – FOURTH AND FIFTH PROGRESS REPORTS OF THE AD-HOC**
COMMITTEE ON COVID – 19 SITUATION IN KENYA

Motion made and Question proposed;

THAT, the Senate **adopts** the Fourth and Fifth Progress Reports of the Ad-hoc Committee on COVID –19 Situation in Kenya, laid on the Table of the Senate on Tuesday, 5th May, 2020 and on Tuesday 12th May, 2020, respectively.

(Chairperson, Ad-hoc Committee on COVID-19 Situation in Kenya – 12.05.2020)

Debate interrupted on Tuesday, 19th May, 2020 (Morning Sitting) resumed;

Debate arising;

And there being no other Senator wishing to contribute;

Sen. Abshiro Halake, MP, a member of the Ad-Hoc Committee, replied on behalf of the Mover;

Before the Question was put and pursuant to Standing Order 79 (1) the Temporary Speaker (Sen. Rose Nyamunga, MP) ruled that the matter does not affect Counties;

Question put and agreed to.

RESOLVED ACCORDINGLY

THAT, the Senate **adopts** the Fourth and Fifth Progress Reports of the Ad-hoc Committee on COVID –19 Situation in Kenya, laid on the Table of the Senate on Tuesday, 5th May, 2020 and on Tuesday 12th May, 2020 respectively.

14. **THE NATIONAL DROUGHT MANAGEMENT AUTHORITY (AMENDMENT)**
BILL (NATIONAL ASSEMBLY BILLS NO. 26 OF 2019)

(The Senate Majority Leader)

(Second Reading)

Order read;

Order deferred.

15. **THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL (SEN. BILLS NO. 24 OF 2019)**
(Sen. Johnes Mwaruma, MP)

(Second Reading)

Order read;

Order deferred.

16. **THE LAW OF SUCCESSION (AMENDMENT) BILL (SENATE BILLS NO. 1 OF 2020)**
(Sen. Abshiro Halake, MP)

(Second Reading)

Order read;

Order deferred.

There being no other business on the Order Paper, the Temporary Speaker (Sen. Rose Nyamunga, MP) adjourned the Senate at thirteen Minutes past Six O'clock without Question put, pursuant to the Standing Orders.

17. **SENATE ROSE** – at thirteen Minutes past Six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Tuesday, May 26, 2020 at 10:00 a.m.*

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