



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – FIFTH SESSION

THE SENATE

VOTES AND PROCEEDINGS

TUESDAY, FEBRUARY 16, 2021 AT 2.30 P.M.

1. The Senate assembled at thirty Minutes past Two O'clock.
2. The proceedings were opened with a prayer said by the Speaker
3. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following communications from the Chair-

(i) Demise of Senator Mohamed Yusuf Haji, EGH, MP, the Senator for Garissa County

“Honourable Senators,

Today, we mourn the death of a patriot, colleague and friend, the late Honorable Senator Mohamed Yusuf Haji, EGH, MP, the Senator for Garissa County, which occurred on Monday, 15th February, 2021, while he was undergoing treatment at the Aga Khan University Hospital. The late Senator Haji was born on 23rd December, 1940 in Garissa County. He put emphasis on his education during his early years and went on to attain a Degree in Management and Finance Control from the University of Birmingham, in the United Kingdom.

Honourable Senators,

The late Senator was an astute, humble, kind and highly committed leader. He exemplified focused, purpose driven and responsive leadership. He possessed impeccable passion for public service and indefatigably served not only the people of Garissa County, but this nation, Kenya, whenever he was called upon to.

The late Senator Haji had an illustrious career in the wider public service where he held various positions. He began his career as a District Officer in the 1960s, rising to the position of Provincial Commissioner from 1970, serving until his exit from the Provincial Administration in 1997. As an officer in the former Provincial Administration myself, I can confirm that we all looked up to the late Senator Haji as an officer worthy of emulation owing to the dignity and honour with which he undertook his duties.

Senator Haji began his political career in 1998, when he was nominated by KANU as a Member of the Eighth Parliament. In the ensuing General Elections of December, 2002, Senator Haji was elected on a KANU ticket, as the Member of Parliament for Ijara Constituency, a seat he retained in the 2007 General Elections.

Between 1998 and 2001, the late Haji worked as an Assistant Minister in the Office of the President where he also subsequently acted as the Office's Minister of State for Cabinet Affairs. Between 2008 and 2013, the late Senator Haji served as the Minister of State for Defence, a position he served in diligently and selflessly until his election to the Office of Senator for Garissa County in the 2013 General Elections.

Honourable Senators,

The late Senator Haji will be remembered as an icon and steward for peace within the country and across the borders, where he led various peace building processes. On 18th October 2011, the late Haji was part of a Kenyan delegation that met with the Transitional Federal Government of Somalia in Mogadishu to discuss security issues and cooperation between Kenya and Somalia against the Al-Shabaab terrorist group, as part of the coordinated *Operation Linda Nchi* where an agreement to collaborate against the insurgent group was signed. In early June 2012, the late Haji signed another agreement on behalf of the Government of Kenya, officially re-installing Kenya Defence Forces in Somalia under the *AMISOM* general command to bring peace in Somalia and neutralize the threat of terrorism.

You will note that in his most recent assignment, he served as the Chairperson of the Steering Committee to the Building Bridges to a United Kenya Initiative. A process that seeks to unite all Kenyans, on the premise that there is need to *“...create an opportunity to unite the country and set in motion a process to identify the comprehensive changes that will strengthen the rule of law, unite Kenyans, deepen our constitutionalism, and launch a comprehensive reform process...”*

Honourable Senators,

In the Senate, the late Mohamed Yusuf Haji was a pillar of wisdom. He distinguished himself as a peacemaker and fighter for justice in his capacity as Chairperson of the Standing Committee on National Security, Defense

and Foreign Relations, a position that he held from 2013. One of the most notable hallmarks in this capacity was leading a delegation of Senators to Laikipia, Turkana and Baringo Counties in 2015, to address security issues arising out of incidences of cattle rustling, and in Mandera County, following attacks by the Al-Shabaab terrorist group.

This passion for peace and concern on the plight of local communities earned him respect and admiration, and through such efforts, he made a significant contribution to the search for a lasting solution to the perennial problem of cattle rustling and regional terrorism.

Honourable Senators,

We have indeed lost a humble man, a true patriot, a selfless leader and a statesman. On behalf of the Senate and on my own behalf, I take this opportunity to condole with the family of the late Senator Mohamed Yusuf Haji, the people of Garissa County, and all his friends, in this most difficult time.

Honourable Senators,

In honour of our departed colleague, I request that we all stand and observe a moment of silence.

May his soul rest in eternal peace.

Honourable Senators,

As you will note, in Order No. 6 in the Supplementary Order Paper, the Senate Minority Leader will issue a Notice of Motion of condolence on the demise of our departed colleague. The Motion has also been listed in Order No. 9 for debate. Although this is unprecedented in our Parliament, such Motions have precedence in the Commonwealth and elsewhere such as the parliaments of Australia, New Zealand and Scotland where similar motions are utilized to relay the condolences of a legislature on the demise of its member or other notable members of society. Indeed, as you may recall, we had a similar Motion on 10th February, 2020 when the Senate debated a Motion of Condolence on the demise of the Second President of the Republic, the late Daniel Toroitich Arap Moi.

Honourable Senators,

Accordingly, in departure from previous practice, when we have lost a colleague, any condolences by Senators will be made during the debate on the Motion of Condolence listed at Order No. 9.

I hope that the House is well guided on this matter. I thank you.”

(ii) Demise of Hon. John Oroo Oyioka, Member of Parliament for Bonchari Constituency

“Honourable Senators,

It is with deep sorrow that I wish to inform you of the untimely demise of Hon. John Oroo Oyioka, MP, the Member for Bonchari Constituency in the National Assembly, who passed away yesterday, Monday 15th February 2021 while undergoing treatment at Aga Khan Hospital, Kisumu. He was born on 5th May 1950 in Bonchari, Kisii County.

Honourable Senators,

The late Hon. John Oroo Oyioka attended Cardinal Otunga Mosoch High School where he obtained his “O” Level certificate in 1970. He proceeded to Strathmore School for “A” Level and thereafter joined the University of Nairobi where he graduated with a Bachelor of Education (Science Option) in 1976. He worked as a high school teacher in various stations, including Cheptenye High School, Kaaga High School and Kericho Day High School. His excellence enabled him to rise to the position of Education Officer and served in that capacity in Uasin-Gishu, Nandi, Nanyuki, Siaya and Kisii districts.

In 1996, he rose up the ranks to become an Assistant Director for Education at the Ministry of Education Headquarters, a position he held until his retirement in 1999. He made his mark in the education sector by establishing the St. Angelic Teacher-Training College in Suneka town, Bonchari Constituency.

Honourable Senators,

The late Hon. Oyioka made his debut in elective politics in 2013 when he contested for and won the Bonchari Constituency parliamentary seat on Kenya African National Union (KANU) party ticket. His stint was however short-lived because he lost the seat in a by-election that was held in 2014, following nullification of the election results by the High Court. The Late Hon. Oyioka reclaimed his parliamentary seat during the 2017 General Elections when he was elected on the People’s Democratic Party (PDP) ticket. Until his demise, he was a dedicated member of the Departmental Committee on Education and Research.

Honourable Senators,

In Parliament, the Late Hon. Oyioka was a devoted legislator who passionately articulated issues of concern to his electorate and relentlessly served the interests of his people. He sponsored the Central Bank of Kenya (Amendment) Bill, 2020, which was read a First Time on 28th July 2020 and is awaiting Second Reading. Through the Bill, the late

Member sought to anchor in law a legal framework that would obligate the Central Bank of Kenya to regulate digital financial lending products and services.

Honourable Senators,

On behalf of all Senators and the staff of the Senate, and indeed on my own behalf, I wish to take this opportunity to condole with the family of the Hon. Oyioka, Members of the National Assembly, the people of Bonchari Constituency, and all his friends in this most difficult time. The Parliament of Kenya has indeed lost a diligent leader.

Honourable Senators,

In honour of our departed colleague, I request that in the usual tradition we all stand and observe a moment of silence.
May his soul rest in eternal peace.

I thank you.”

4. **PAPERS LAID**

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

- i. The Budget Policy Statement, 2021;
- ii. The Medium Term Debt Management Strategy, 2021;
- iii. The Draft Division of Revenue Bill, 2021;
- iv. The Draft County Allocation of Revenue Bill, 2021;
- v. The proposed Senate Calendar (Regular Sessions) for the Fifth Session (February to December, 2021);
- vi. Report of the Auditor General on the Financial Statements of Nyamira County Assembly for the year ended 30th June, 2019; and
- vii. Report of the Auditor General on the Financial Statements of Nyamira County Executive for the year ended 30th June, 2019.

(The Senate Deputy Majority Leader)

5. **COMMUNICATION FROM THE CHAIR - PROCESSING OF THE BUDGET POLICY STATEMENT, 2021**

“Honourable Senators,

As you may have noted, the Senate Majority Leader has tabled the Budget Policy Statement for the Financial Year 2021/2022.

Section 25 of the Public Finance Management Act and Standing Order 180 of the Senate, require the National Treasury to prepare and submit the Budget Policy Statement to Parliament by the 15th of February each year.

Honourable Senators,

By a letter Ref. No. Conf.MOF83/02TY.5/(30) dated 11th February, 2021, and received in the office of the Clerk on 11th February, 2021, the Cabinet Secretary for the National Treasury submitted the following documents for consideration and approval by Parliament-

- a) The Budget Policy Statement, 2021;
- b) The Medium Term Debt Management Strategy, 2021;
- c) The Draft Division of Revenue Bill, 2021; and
- d) The Draft County Allocation of Revenue Bill, 2021.

Honourable Senators,

The Budget Policy Statement is an important tool as it sets out the broad strategic priorities and policy goals that will guide the national government and county governments in preparing their budgets both for the following Financial Year and over the medium term. It contains, among other things-

- (i) an assessment of the current state of the economy and the financial outlook over the medium term, including the macro-economic forecasts;
- (ii) the financial outlook with respect to Government revenues, expenditures and borrowing for the next financial year and over the medium term;
- (iii) the proposed expenditure limits for the national government, including those of Parliament and the Judiciary and indicative transfers to county governments;
- (iv) the fiscal responsibility principles and financial objectives over the medium term including limits on total annual debt; and the proposed division of revenue, including proposed conditional grants, if any.

In a nutshell it means that any proposal that Senators have regarding the Division of Revenue Bill and the County Allocation of Revenue Bill, including funds for conditional allocations to the counties, should be canvassed and forwarded to the National Treasury for possible factoring in the Budget

Policy Statement, failure to which, it will be difficult for changes to be accommodated later on.

Honourable Senators,

Section 25 (7) of the Public Finance Management Act provides as follows-

Parliament shall, not later than fourteen days after the Budget Policy Statement is submitted to Parliament, table and discuss a report containing its recommendations and pass a resolution to adopt it with or without amendments.

Further Standing Order 180(4) requires the Standing Committee on Finance and Budget to deliberate upon and table a report containing its recommendations on the Budget Policy Statement within twelve days, for this case, being not later than 25th February, 2021. In addition, pursuant to Standing Order 180(5) in considering the Budget Policy Statement, the Standing Committee on Finance and Budget shall consult the Cabinet Secretary Ministry of Finance, the Commission on Revenue Allocation, County Assemblies Forum among other stakeholders.

Honourable Senators,

Based on the importance of the Budget Policy Statement and the above timelines, I direct that, the Budget Policy Statement be considered by all Standing Committees each concentrating on its respective mandate. The Standing Committees will then forward their recommendations to the Standing Committee on Finance and Budget for consolidation, not later than Friday, 19th February, 2021.

To enable Honourable Senators and the Committees to interrogate issues contained in the Budget Policy Statement, the Standing Committee on Finance and Budget has organized a briefing session for all Senators, tomorrow, Wednesday, 17th February, 2021, at 9.00 am, in the Senate Chamber.

I urge the Standing Committee on Finance and Budget to expedite the process and table its report on or before 25th February, 2021, to enable the Senate debate and approve the Budget Policy Statement by Tuesday, 2nd March, 2021.

Honourable Senators,

Please note that, pursuant to section 25 (8) of the Public Finance Management Act and Standing Order 180 (8) of the Senate, the Cabinet Secretary of the National Treasury is expected to take into account resolutions passed by Parliament in finalizing the budget for the relevant Financial Year.

Honourable Senators,

I therefore urge you all to prioritize the scrutiny of the Budget Policy Statement taking into consideration our most important function of safeguarding devolution.

I thank you.”

6. **NOTICE OF MOTION – APPROVAL OF THE SENATE CALENDAR FOR THE FIFTH SESSION**

(The Senate Majority Leader)

THAT, pursuant to Standing Order 29(1), this House approves the Senate Calendar (*Regular Sessions*) for the Fifth Session (February to December, 2021), laid on the Table of the House on Tuesday, 16th February, 2021.

7. **NOTICE OF MOTION OF OF CONDOLENCE – THE LATE SEN. MOHAMED YUSUF HAJI, EGH, MP.**

(The Senate Minority Leader)

THAT the Senate expresses its deep sadness at the death, on 15th February, 2021, of Honourable Mohamed Yusuf Haji, the Senator for Garissa County and Chairperson of the Standing Committee on National Security, Defence and Foreign Relations; records its appreciation for his contribution to public service spanning over six (6) decades; recognizes the high esteem in which he was held by colleagues from all parties and the principled, dedicated and considered manner he undertook his duties; and offers its profound sympathy and condolences to his family, friends and the nation.

8. **MOTION- APPROVAL OF THE SENATE CALENDAR FOR THE FIFTH SESSION**

Motion made and Question proposed:-

THAT, pursuant to Standing Order 29(1), this House approves the Senate Calendar (*Regular Sessions*) for the Fifth Session (February to December, 2021), laid on the Table of the House on Tuesday, 16th February, 2021.

(The Senate Majority Leader)

And there being no other Senator wishing to contribute;

Question put and agreed to.

RESOLVED ACCORDINGLY

THAT, pursuant to Standing Order 29(1), this House approves the Senate Calendar (Regular Sessions) for the Fifth Session (February to December, 2021), laid on the Table of the House on Tuesday, 16th February, 2021.

9. **THE MUNG BEANS BILL (SENATE BILLS NO. 9 OF 2020)**

Motion made and Question proposed;

THAT, the Mung Beans Bill (Senate Bills No. 9 of 2020) be now read a Second Time.

(Sen. Enoch Wambua – 10.02.2021)

Debate interrupted on Thursday, 11th February, 2021 resumed on a Division;

The Speaker directed that a roll call voting be taken pursuant to Standing Order 83 (1) and that the Division Bell be rung for five minutes;

After the expiry of ten minutes, the Speaker directed that the doors be locked and the bars drawn;

The names of the Tellers were announced as follows;

1. Ayes : Sen. Lokorio, Petronilla Were
2. Noes: Sen. Haji, Farhiya Ali

The Speaker put the Question and directed the Clerk to call out the names of the Senators in alphabetical order;

The results of the Division were as follows: -

AYES – 28 NOES – 0 ABSTENTION – 0

AYES

1. Sen. Adan, Dullo Fatuma
2. Sen. Ali Abdullahi Ibrahim
3. Sen. Boy, Issa Juma
4. Sen. Cheruiyot Aaron Kipkirui
5. Sen. Waqo, Naomi Jillo – voted on behalf of Marsabit County Delegation
6. Sen. Imana, Malachy Charles Ekal
7. Sen. Chebeni, Mercy-voted on behalf of Uasin-Gishu County Delegation
8. Sen. Khaniri, George

9. Sen. Kihika, Susan Wakarura
10. Sen. Kirinyaga, Ephraim Mwangi Maina
11. Sen. Lang'at Christopher Andrew
12. Sen. Lelegwe Steve Ltumbesi
13. Sen. Madzayo, Stewart MWachiru
14. Sen. Mahamud, Mohamed Maalim
15. Sen. Masitsa, Naomi Shiyonga –voted on behalf of Kakamega County Delegation
16. Sen. Mbogo, George Ochilo Ayacko
17. Sen. Mpaayei, Philip Salau
18. Sen. Murkomen Onesimus Kipchumba
19. Sen. Mutula, Kilonzo Junior
20. Sen. Mwangi Paul Githiomi
21. Sen. Mwinyihaji, Mohamed Faki
22. Sen. Nderitu, John Kinyua
23. Sen. Olekina, Ledama
24. Sen. Orengo, James
25. Sen. Outa, Fredrick Otieno
26. Sen. Poghisio, Samuel Losuron
27. Sen. Sakaja, Johnson Arthur
28. Sen. Wambua, Enoch Kiio

Question agreed to;

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

10. **MOTION OF CONDOLENCE – THE LATE SEN. MOHAMED YUSUF HAJI, EGH,MP.**

Motion made and Question proposed;

THAT the Senate expresses its deep sadness at the death, on 15th February, 2021, of Honourable Mohamed Yusuf Haji, the Senator for Garissa County and Chairperson of the Standing Committee on National Security, Defence and Foreign Relations; records its appreciation for his contribution to public service spanning over six (6) decades; recognizes the high esteem in which he was held by colleagues from all parties and the principled, dedicated and considered manner he undertook his duties; and offers its profound sympathy and condolences to his family, friends and the nation.

(Senate Minority Leader)

Debate arising;

And there being no other Senator wishing to contribute;

Mover replied;

Question put and agreed to.

RESOLVED ACCORDINGLY

THAT the Senate expresses its deep sadness at the death, on 15th February, 2021, of Honourable Mohamed Yusuf Haji, the Senator for Garissa County and Chairperson of the Standing Committee on National Security, Defence and Foreign Relations; records its appreciation for his contribution to public service spanning over six (6) decades; recognizes the high esteem in which he was held by colleagues from all parties and the principled, dedicated and considered manner he undertook his duties; and offers its profound sympathy and condolences to his family, friends and the nation.

And the time being fifty-one minutes past Six O'clock, the Temporary Speaker (Sen. (Dr.) Isaac Mwaura, MP) adjourned the Senate pursuant to Standing Order 31(2), without Question put.

11. **SENATE ROSE** – at fifty one minutes past Six O'clock

M E M O R A N D U M

*The Speaker will take the Chair on
Wednesday, February 17, 2021 at 2.30 p.m.*

--x--