

#### REPUBLIC OF KENYA

#### TWELFTH PARLIAMENT

#### THE SENATE

#### **VOTES AND PROCEEDINGS**

## TUESDAY, MAY 11, 2021 AT 2.30 PM

- **1.** The Senate assembled at half past Two O'clock.
- **2.** The proceedings were opened with a prayer said by the Speaker.

# 3. COMMUNICATION ON OCCURRENCE OF VACANCY IN A MEMBER OF THE SENATE

The Speaker conveyed the following Communication from the Chair-

"Honourable Senators,

I have the following Communication to make. During the lunch break, I received a copy of the Special Issue of the Kenya Gazette No. 102, dated 10<sup>th</sup> May, 2021, containing Gazette Notice No. 4597 communicating the occurrence of a vacancy in a Member of the Senate elected through a party list.

In the Gazette it is notified for the information of the general public that pursuant to Article 103 (1) (e) (i) of the Constitution and Section 37 of the Elections Act, the seat of the Member of the Senate elected under Article 98 (1) (d) of the Constitution and held by Senator Isaac Mwaura Maigua became vacant, with effect from the 7<sup>th</sup> May, 2021.

#### Honourable Senators.

It is important to note that the publication of this Gazette came to my notice for the first time during the lunch break this afternoon. This explains why in the morning Sitting no issue was raised about the participation of Senator Isaac Mwaura in the proceedings, including voting at Second Reading of the Constitution of Kenya (Amendment) Bill, 2020.

Honourable Senators,

The question then is what happens to the vote taken at Second Reading of the Constitution of Kenya (Amendment) Bill, 2020 in which Sen. Mwaura participated. The Constitution of Kenya, at Article 124 is explicit on this matter. For clarity Article 124(3) provides as follows-

The proceedings of either House are not invalid just because of—

- a) a vacancy in its membership; or
- b) the presence or participation of any person not entitled to be present at, or to participate in, the proceedings of the House.

However, henceforth the Senate is notified of the vacancy.

I thank you".

# 4. PAPERS LAID

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

- i) The Central Bank of Kenya Annual Report 2019;
- ii) Report of the Auditor General on the Financial Statements of the County Executive of Kwale for the year ended 30<sup>th</sup> June, 2019;
- iii) Report of the Auditor General on the Financial Statements of the County Assembly of Kwale for the year ended 30<sup>th</sup> June, 2019;
- iv) Report of the Auditor General on the Financial Statements of the County Executive of Kirinyaga for the year ended 30<sup>th</sup> June, 2019;
- v) Report of the Auditor General on the Financial Statements of Kirinyaga County Assembly for the year ended 30<sup>th</sup> June, 2019;
- vi) Report of the Auditor General on the Financial Statements of County Executive of Marsabit for the year ended 30th June, 2019;
- vii) Report of the Auditor General on the Financial Statements of the County Assembly of Marsabit for the year ended 30<sup>th</sup> June, 2019;
- viii) Report of the Auditor General on the Financial Statements of the County Executive of Mombasa for the year ended 30<sup>th</sup> June, 2019;
- ix) Report of the Auditor General on the Financial Statements of the County Assembly of Mombasa for the year ended 30<sup>th</sup> June, 2019;

- x) Report of the Auditor General on the Financial Statements of County Executive of Isiolo for the year ended 30th June, 2019;
- xi) Report of the Auditor General on the Financial Statements of County Assembly of Isiolo for the year ended 30<sup>th</sup> June, 2019;
- xii) Report of the Auditor General on the Financial Statements of County Executive of Busia for the year ended 30<sup>th</sup> June, 2019;
- xiii) Report of the Auditor General on the Financial Statements of County Assembly of Busia for the year ended 30<sup>th</sup> June, 2019;
- xiv) Report of the Auditor General on the Financial Statements of County Executive of West Pokot for the year ended 30th June, 2019;
- xv) Report of the Auditor General on the Financial Statements of County Assembly of West Pokot for the year ended 30th June, 2019;
- xvi) Report of the Auditor General on the Financial Statements of County Assembly of Kakamega for the year ended 30<sup>th</sup> June, 2019; and
- xvii) Report of the Auditor General on the Financial Statements of County Executive of Kakamega for the year ended 30th June, 2019.

(The Deputy Senate Majority Leader)

# 5. THE STREET VENDORS (PROTECTION OF LIVELIHOOD) BILL (SENATE BILLS NO. 7 OF 2021)

(Chairperson, Standing Committee on Tourism, Trade and Industrialization)

Order for First Reading read;

Bill read a First Time and committed to the Standing Committee on Tourism, Trade and Industrialization.

# 6. THE COUNTY HALL OF FAME (SENATE BILLS NO. 9 OF 2021)

(Sen. Kipchumba Murkomen, MP)

Order for First Reading read;

Bill read a First Time and committed to the Standing Committee on Justice, Legal Affairs and Human Rights.

# 7. THE OFFICE OF THE COUNTY PRINTER BILL (SENATE BILLS NO. 13 OF 2021)

(Sen. Petronila Were Lokorio, MP)

Order for First Reading read;

Bill read a First Time and committed to the Standing Committee on Information and Technology.

# 8. THE DISASTER RISK MANAGEMENT BILL (SENATE BILLS NO. 14 OF 2021)

(Sen. Mutula Kilonzo Jr, MP and Sen. Johnson Sakaja, MP)

Order for First Reading read;

Bill read a First Time and committed to the Standing Committee on National Security, Defence and Foreign Relations.

# 9. THE LAW OF SUCCESSION (AMENDMENT) BILL (SENATE BILLS NO. 15 OF 2021)

(Sen. Abshiro Halake, MP)

Order for First Reading read;

Bill read a First Time and committed to the Standing Committee on Justice, Legal Affairs and Human Rights.

# 10. THE PROMPT PAYMENT BILL (SENATE BILLS NO. 16 OF 2021)

(Sen. (CPA). Farhiya Haji, MP and Sen. Johnson Sakaja, MP)

Order for First Reading read;

Bill read a First Time and committed to the Standing Committee on Finance and Budget.

# 11. COMMITTEE OF THE WHOLE

Order for Committee read;

#### IN THE COMMITTEE

(Acting Chairperson of Committees (Sen. Rose Nyamunga, MP) – in the Chair)

# The Constitution of Kenya (Amendment) Bill, 2020

#### Clauses 2 to 74

Motion made and Question proposed;

THAT, Clauses 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74 be part of the Bill.

The Acting Chairperson (Sen. Rose Nyamunga, MP) 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 five minutes, the Acting Chairperson directed that the doors be locked and the bars drawn;

The names of the Tellers were announced as follows;

- 1. Ayes: Sen. Masitsa, Naomi Shiyonga, MP
- 2. Noes: Sen. Milgo, Alice Chepkorir, MP

The Acting Chairperson 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 - 51 NOES - 11 ABSTENTIONS - 1

- 1. Sen. Adan. Dullo Fatuma
- 2. Sen. Ali, Abdullahi Ibrahim
- 3. Sen. Boy, Issa Juma
- 4. Sen. Chebeni, Mercy voted virtually
- 5. Sen. Gona, Christine Zawadi
- 6. Sen. Haji, Abdikadir Mohamed voted virtually
- 7. Sen. Haji, Farhiya Ali
- 8. Sen. Halake, Abshiro Soka
- 9. Sen. Hargura, Godana
- 10. Sen. Inimah, Getrude Musuruve
- 11. Sen. Kajwang', Moses Otieno voted virtually
- 12. Sen. Kamar, Margaret Jepkoech
- 13. Sen. Kasanga, Sylvia Mueni voted virtually
- 14. Sen. Khaniri, George voted virtually
- 15. Sen. Kibiru, Charles Reubenson voted virtually
- 16. Sen. Kilonzo, Mutula Junior
- 17. Sen. Kimani, Wamatangi Paul

- 18. Sen. Kirinyaga, Ephraim Mwangi Maina
- 19. Sen. Lokorio, Petronila Were
- 20. Sen. Madzayo, Stewart Mwachiru
- 21. Sen. Mahamud, Mohamed Maalim
- 22. Sen. Makori, Beatrice Kwamboka voted virtually
- 23. Sen. Malalah, Cleophas Wakhungu
- 24. Sen. Masitsa, Naomi Shiyonga
- 25. Sen. Mbito, Michael Maling'a voted virtually
- 26. Sen. Mbogo, George Ochilo Ayacko voted virtually
- 27. Sen. Milgo, Alice Chepkorir
- 28. Sen. Mogeni, Erick Okong'o
- 29. Sen. Moi, Gideon Kipsielei Towett
- 30. Sen. Mpaayei, Phillip Salau
- 31. Sen. Mugo, Beth Wambui voted virtually
- 32. Sen. Muthama, Agnes Kavindu
- 33. Sen. Mwangi, Paul Githiomi
- 34. Sen. Mwaruma, Johnes Mwashushe voted virtually
- 35. Sen. Mwinyihaji, Mohamed Faki
- 36. Sen. Nderitu, John Kinyua
- 37. Sen. Ndwiga, Peter Njeru voted virtually
- 38. Sen. Nyamunga, Rose Ogendo
- 39. Sen. Olekina, Ledama voted virtually
- 40. Sen. Ongeri, Samson Kegengo
- 41. Sen. Orengo, James
- 42. Sen. Outa, Frederick Otieno
- 43. Sen. Pareno, Judith Ramaita voted virtually
- 44. Sen. Poghisio, Samuel Losuron
- 45. Sen. Prengei, Victor
- 46. Sen. Sakaja, Johnson Arthur
- 47. Sen. Wako, Sitswila Amos
- 48. Sen. Wambua, Enoch Kiio voted virtually
- 49. Sen. Waqo, Naomi Jilo voted virtually
- 50. Sen. Wetang'ula, Moses Masika
- 51. Sen. Zani, Agnes Philomena

- 1. Sen. Cherarkey, Samson Kiprotich
- 2. Sen. Cheruiyot, Aaron Kipkirui
- 3. Sen. Iman, Falhada Dekow
- 4. Sen. Kang'ata, Irungu
- 5. Sen. Kihika, Susan Wakarura
- 6. Sen. Kindiki Kithure
- 7. Sen. Langat, Christopher Andrew voted virtually
- 8. Sen. Lelegwe, Ltumbesi voted virtually
- 9. Sen. Linturi, Franklin Mithika

- 10. Sen. Murkomen, Onesimus Kipchumba voted virtually
- 11. Sen. Omanga, Millicent

# **ABSTENTION**

Sen. Seneta, Mary Yiane

Clauses 2 to 74 - agreed to

# The First and Second Schedule

Motion made and Question proposed;

THAT, the Second Schedule be part of the Bill

The Acting Chairperson (Sen. Rose Nyamunga, MP) 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 five minutes, the Acting Chairperson directed that the doors be locked and the bars drawn;

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- 7. Sen. Haji, Farhiya Ali
- 8. Sen. Halake, Abshiro Soka
- 9. Sen. Hargura, Godana
- 10. Sen. Inimah, Getrude Musuruve
- 11. Sen. Kajwang', Moses Otieno voted virtually

- 12. Sen. Kamar, Margaret Jepkoech
- 13. Sen. Kasanga, Sylvia Mueni voted virtually
- 14. Sen. Khaniri, George voted virtually
- 15. Sen. Kibiru, Charles Reubenson voted virtually
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- 50. Sen. Wetang'ula, Moses Masika
- 51. Sen. Zani, Agnes Philomena

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- 3. Sen. Iman, Falhada Dekow

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- 4. Sen. Kang'ata, Irungu
- 5. Sen. Kihika, Susan Wakarura
- 6. Sen. Kindiki Kithure
- 7. Sen. Langat, Christopher Andrew voted virtually
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- 9. Sen. Linturi, Franklin Mithika
- 10. Sen. Murkomen, Onesimus Kipchumba voted virtually
- 11. Sen. Omanga, Millicent

#### **ABSTENTION**

Sen. Seneta, Mary Yiane

The First and Second Schedule - agreed to

## The Title and Clause 1

Motion made and Question proposed;

THAT, the Title and Clause 1 be part of the Bill

The Acting Chairperson (Sen. Rose Nyamunga, MP) directed that a roll call voting be taken pursuant to Standing Order 83 (1) and that the Division Bell be rung for five minutes;

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- 11. Sen. Omanga, Millicent

# **ABSTENTION**

Sen. Seneta, Mary Yiane

The Title and Clause 1 - agreed to

# **12. HOUSE RESUMED** – (The Deputy Speaker - in the Chair)

# 13. THE CONSTITUTION OF KENYA (AMENDMENT) BILL, 2020

Bill reported without amendments;

Motion made and Question proposed;

THAT, the Senate do agree with the Committee of the Whole in the said report.

(The Senate Majority Leader)

There being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 79, the Speaker ruled that the Question did not affect counties; Question put and agreed to.

Motion made and question proposed-

THAT, the Constitution of Kenya (Amendment) Bill, 2020 be now read a Third Time.

(The Senate Majority Leader)

There being no Senator wishing to contribute;

The House proceeded to a Division;

The Deputy 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 five minutes, the Acting Chairperson directed that the doors be locked and the bars drawn;

The names of the Tellers were announced as follows;

- 1. Ayes: Sen. Haji, Farhiya Ali, MP
- 2. Noes: Sen. Masitsa, Naomi Shiyonga, MP

The Acting Chairperson 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:-

# $\underline{AYES} - \underline{51} \qquad \underline{NOES} - \underline{12} \qquad \underline{ABSTENTIONS} - \underline{1}$

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- 8. Sen. Lelegwe, Ltumbesi voted virtually
- 9. Sen. Linturi, Franklin Mithika
- 10. Sen. Murkomen, Onesimus Kipchumba voted virtually
- 11. Sen. Omanga, Millicent
- 12. Sen. Wario Golich Juma

#### **ABSTENTION**

Sen. Seneta, Mary Yiane

Question agreed to.

Bill read a Third Time and passed.

# 14. MOTION - DEBATE ON THE ADDRESS TO PARLIAMENT BY HER EXCELLENCY SAMIA SULUHU HASSAN, PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA.

Order read:

Motion made and Question proposed-

**THAT,** pursuant to Standing Order 24 (6), the Thanks of the Senate be recorded for the Address to Parliament, by Her Excellency Samia Suluhu Hassan, President of the United Republic of Tanzania, delivered on Wednesday, 5<sup>th</sup> May, 2021.

(The Senate Majority Leader)

Debate arising;

There being no Senator wishing to contribute;

# 15. MOTION- ADJOURNMENT OF DEBATE PURSUANT TO STANDING ORDER 105(1)

Raising a Point of Order, pursuant to Standing Order 105(1), the Senate Deputy Minority Leader claimed to move-

"THAT the debate be now adjourned"

And the Temporary Speaker (Sen. Judith Pareno, MP), acceding to the claim;

Motion made and Question proposed;

THAT the debate be now adjourned

(Senate Deputy Minority Leader)

There being no Senator wishing to contribute;

Before the Question was put and pursuant to Standing Order 79(1), the Speaker ruled that the Motion did not affect counties.

Question put and agreed to.

# **RESOLVED ACCORDINGLY:**

THAT the debate be now adjourned.

The Temporary Speaker (Sen. Judith Pareno, MP) interrupted the proceedings and adjourned the Senate at fourteen minutes past Six O'clock without Question put, pursuant to the Standing Orders.

**16. SENATE ROSE** – at fourteen minutes past six O'clock.

# MEMORANDUM

The Speaker will take the Chair on Tuesday, May 18, 2021 at 10.00 a.m.