



REPUBLIC OF KENYA

THE SENATE

TWELFTH PARLIAMENT – FIFTH SESSION

VOTES AND PROCEEDINGS

TUESDAY, JULY 13, 2021 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. **COMMUNICATIONS FROM THE CHAIR**

The Speaker of the Senate conveyed the following Communications from the Chair-

i) **On the 80th Executive Committee Meeting of the Commonwealth Parliamentary Association (CPA) Africa Region**

Honourable Senators,

As you are aware, the Commonwealth Parliamentary Association (CPA) is an organization established in 1911 with the overarching objective of bringing Parliamentarians and parliamentary staff together to exchange ideas among themselves and with experts in various fields, to identify benchmarks of good practices and new policy options that can be adopted in the governance of the people.

The CPA Constitution provides for the establishment of Branches, in the Parliaments of Member States. Each Branch elects Members to the Executive Committee, which is the apex body that manages the affairs of a Branch. In addition to the ten (10) Members from the National Assembly, the following Senators form part of the Executive Committee of the CPA Kenya branch-

- (i) Sen. Kenneth Lusaka, EGH, MP, Speaker of the Senate
- (ii) Sen. Samuel Poghio, EGH, MP, Senate Majority Leader

- (iii) Sen. James Orengo, EGH, SC, MP, Senate Minority Leader
- (iv) Sen. (CPA) Farhiya Ali, MP, Deputy Majority Whip
- (v) Sen. Petronilla Were, MP, CWP Kenya Vice Chairperson
- (vi) Sen. Mohammed Faki, MP

Each Branch elects Members to the regional body which coordinates the activities of the region of the CPA. The CPA Africa Region is one of the nine (9) regional associations of the CPA International that is made up of eighteen (18) Branches from the continent.

The activities of the Africa Region are similarly coordinated by the Executive Committee drawn from three representatives from all CPA African Branches across the Member States.

Honourable Senators,

The CPA Africa Region aims to promote and protect interests of African Parliaments and Countries in the Commonwealth, and to promote, the democratic ideals of the CPA including women empowerment, respect for human rights and freedoms, representative government and good governance. The region undertakes a number of programmes including its Annual Regional Conference geared towards deliberating and arriving at a consensus on pertinent issues.

The CPA Kenya Branch will host the 80th Executive Committee meeting of the CPA Africa Region. The meeting is scheduled to be held from 12th to 18th July, 2021 here in Nairobi. The Parliament of Kenya delegation will be led by the Hon. Justin Muturi, EGH, MP - Speaker of the National Assembly & Chairperson of the CPA Africa EXCO.

Honourable Senators,

On behalf of the Senate and on my own behalf as the Joint President of the CPA – Kenya Branch, I welcome all delegates to Kenya and wish them fruitful deliberations.

I thank you.

ii) On the workshop on proposal for expediting consideration of Senate Bills pending before the House

Honorable Senators,

As you are aware, on 29th October, 2020, the High Court delivered a judgment in Constitutional Petition No. 284 of 2019. In the judgement, the

High Court issued a number of declarations and issued orders that affected a number of Senate Bills pending before both Houses.

In compliance with the Orders, the Senate has republished all Bills for which the resolution contemplated pursuant to Article 110(3), could not be demonstrated. You will also recall that the High Court Ordered that “it is mandatory and a condition precedent for any Bill that is published by either House to be subjected to a concurrence process to determine in terms of Article 110 (3) of the Constitution whether the Bill is special or an ordinary Bill”. As at now, a total of fifty-eight (58) Bills have been published. Out of the 58 Bills, twenty-one (21) are undergoing concurrence pursuant to Article 110(3), thirty (30) are at the Second Reading stage, and three (3) Bills are at the Committee of the Whole stage. One (1) Bill was referred to the National Assembly while three (3) Bills have been Assented to.

You will agree with me Honourable Senators, that we have a heavy workload and therefore, under pressure to finish the pending Bills within a very limited time to the end of the term of the 12th Parliament. At its meeting held on Tuesday, 6th July, 2021, the Senate Business Committee considered a paper on “Proposal for expediting consideration of Senate Bills republished pursuant to High Court Judgment in Constitutional Petition No. 284 of 2019” and resolved that a meeting be convened to apprise Senators on the resultant effects of the Judgment and to establish a framework to expedite the legislative business before the Senate.

Honorable Senators,

In this regard, the Senate Leadership has prepared a half-day workshop to be held in Nairobi on Thursday, 15th July, 2021 from 8.00 a.m. to 12.30 p.m. The objective of the event is, inter -alia, to deliberate on;

- a) Implementation of the High Court Judgment in Constitutional Petition No. 284 of 2019; milestones, challenges and opportunities;
- b) Status of Legislative Business: Bills, Motions, Petitions and Statements;
- c) Framework for expediting pending Legislative Business; and
- d) The way forward.

In view of the urgency and importance of this matter, I urge you to attend the workshop. The details regarding the venue shall be communicated through the Office of the Clerk.

4. STATEMENTS**a) Pursuant to Standing Order 48 (1)**

- i. Nominated Senator (Sen. Beatrice Kwamboka Makori, MP), sought a statement from the Standing Committee on Health regarding the status of treatment equipment and facilities at the Mbagathi Referral Hospital;
- ii. Nominated Senator (Sen. Falhada Dekow, MP), on behalf of Nominated Senator (Sen. Millicent Omanga, MP) sought a statement from the Standing Committee on Devolution and Intergovernmental Relations regarding the alleged illegal payment of legal fees to outsourced law firms by the Nairobi City County

b) Pursuant to Standing Order 51(1)(a)

The Chairperson Standing Committee on Agriculture Livestock and Fisheries made a Statement on the state of Mumias Sugar Company Limited and its impending takeover/resuscitation.

The Chairperson informed the Senate that following the request for a statement by Senator for Kakamega County (Sen. Cleophas Malala) the Committee met with the Receiver Manager, Mumias Sugar Company Limited, Mr. Ponangipalli Venkata Ramana (P.V.R.) Rao on Wednesday, 9th June, 2021 and he briefed the Committee as follows-

- a) A restraining order was issued by the courts restraining the sale of immovable assets of the Company on 6th November, 2019, which order was thereafter varied on 12th May, 2021 to include movable assets. The Order has limited debt recovery options and available options to restart the Company's operations;
- b) The Receiver Manager restarted distillery operations in February, 2020, however, this faced several challenges leaving the Receiver Manager with the only option of leasing the Company's assets to revive its operations and progress recovery efforts for the secured creditors and other stakeholders of the Company. The Receiver Manager would continue to run the affairs of the Company until such a time when the full amount owed to the secured lenders was recovered or until his appointment came to an end for any other reason;
- c) As per Audited Financial Statements for the FY 2018, the value of the Company's assets was Kshs. 15.7 billion while its liabilities were Kshs. 30.1 billion. The net assets position stood at a negative 14.4 billion, implying that the Company would not be able to meet its long term and short term financial obligations from its assets and was therefore

insolvent;

- d) The decision to lease the Company's assets was discussed with KCB and the Governor of Kakamega County. Necessary consents were also obtained from the national and county governments, secured lenders and other stakeholders, the government could sell its stake by transferring its shares to any other party for payment or any other consideration, however, as per FY 2018 Audited Financial Statements, the shareholder value in the Company stood at Kshs. 14.4 billion, making it unlikely that any investor would be interested in purchasing a stake in the Company;
- e) On the matter of public participation, private treaty was chosen, however, the proposed leasing was carried in the media for several months. The Governor of Kakamega County has been kept apprised on developments, engagements have been made with area MPs, secured lenders, NSE, CMA and the National Treasury.

In conclusion, the Chairperson informed the Senate that following deliberations and noting the need for transparency and public participation, the Committee resolved that the Receiver Manager should advertise the intention to lease Mumias Sugar Company Limited and submit the technical evaluation report by 31st July, 2021. The Committee further resolved that a follow up meeting would be held on 6th August, 2021.

c) Pursuant to Standing Order 51(1)(b)

- i) The Chairperson, Standing Committee on Information and Technology made a statement relating to the activities of the Committee for the period 9th February to 19th March, 2021.
- ii) The Chairperson, Standing Committee on National Cohesion, Equal Opportunity and Regional Integration made a statement relating to the activities of the Committee for the period 26th March to 13th July, 2021.
- iii) The Vice-Chairperson, Standing Committee on National Security, Defence and Foreign Relations, made a statement relating to the activities of the Committee for the period 1st January to 30th June, 2021.
- iv) Sen. (Dr.) Getrude Musuruve, MP, a Member of the Standing Committee on Tourism, Trade and Industrialization, on behalf of the Chairperson, made a statement relating to the activities of the Committee for the period from February to July, 2021.
- v) Sen. (Eng.) Hargura Godana, MP, a Member of the Standing Committee on Roads and Transportation, on behalf of the Chairperson, made a

statement relating to the activities of the Committee for the period 1st January to 30th June, 2021.

8. **THE COMMUNITY HEALTH SERVICES BILL (SENATE BILLS NO. 34 OF 2020)**

(Sen. (Dr.) Agnes Zani, MP)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 6th July, 2021)

(Division)

Order deferred.

9. **THE INVESTMENT PROMOTION (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2021)**

(Sen. (Dr.) Alice Milgo, MP)

(Second Reading)

(Resumption of debate interrupted on Thursday, 8th July, 2021)

There being no Senator wishing to contribute;

Pursuant to Standing Order 61(2) the Speaker directed that the putting of the question be deferred to another day.

10. **THE PARLIAMENTARY POWERS AND PRIVILEGES (AMENDMENT) BILL (SENATE BILLS NO. 33 OF 2020)**

Order for Second Reading read;

Motion made and Question proposed-

THAT, the Parliamentary Powers and Privileges (Amendment) Bill (Senate Bills No. 33 of 2020) be now read a Second Time.

Sen. (Dr.) Agnes Zani, MP – 08/07/2021)

Debate adjourned on Thursday, 8th July, 2021 resumed;

And there being no other Senator wishing to contribute;

Mover replied;

Raising a point of order, the Mover (Sen. (Dr.) Agnes Zani, MP) requested that pursuant to Standing Order 61 (3), putting of the Question be deferred to a later date.

And the Deputy Speaker acceding to her request deferred putting of the Question to a later date.

11. **THE NATIONAL FLAG, EMBLEMS AND NAMES (AMENDMENT) BILL**
(SENATE BILLS NO. 36 OF 2020)

Order for Second Reading read;

Motion made and Question proposed-

THAT, the National Flag, Emblems and Names (Amendment) Bill (Senate Bills No. 36 of 2020) be now read a Second Time.

Sen. (Dr.) Agnes Zani, MP – 08/07/2021)

Debate adjourned on Thursday, 8th July, 2021 resumed;

And there being no other Senator wishing to contribute;

Mover replied;

Raising a point of order, the Mover (Sen. (Dr.) Agnes Zani, MP) requested that pursuant to Standing Order 61 (3), putting of the Question be deferred to a later date.

And the Temporary Speaker (Sen. (Dr.) Lelegwe Ltumbesi, MP) acceding to her request deferred putting of the Question to a later date.

And the time being twenty-nine minutes past six O'clock the Temporary Speaker (Sen. (Dr.) Lelegwe Ltumbesi, MP) adjourned the Senate without Question put, pursuant to Standing Order 31 (2).

12. **SENATE ROSE** - at twenty-nine Minutes past six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Wednesday, July 14, 2021 at 2:30 p.m.*