



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – (THIRD SESSION)

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, NOVEMBER 11, 2015

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **PRESIDING** – the Speaker
4. **PETITION** - **THE ALLEGED DISPLACEMENT OF YALA RESIDENTS**

The Speaker conveyed the following Petition -

"Honourable Members, Standing Order 225(2)(b) requires that the Speaker reports to the House any Petition, other than those presented through a Member. I therefore wish to convey to the House that my office is in receipt of a petition, regarding the alleged displacement of Yala residents who resided in the Yala Swamp land and riverine area.

The Petition, signed by two hundred and three Petitioners alleging that the residents were displaced from their land by artificial change of the River Yala course and subsequent development activities of the Lake Basin Development Authority and the Dominion Farms. The Petitioners are therefore praying that the National Assembly, through the Departmental Committee on Lands:

- (a) Recommends relocation of the inhabitants to their ancestral land held in trust and expedites individual land tenure arrangements; and
- (b) intervenes to ascertain the exact lease acreage and land sizes of each of the investing entities in the swamp region.

Honourable Members,

Pursuant to the provisions of Standing Order 227(1), this Petition stands committed to the Departmental Committee on Lands for consideration. The Committee is encouraged to engage the National Land Commission and the Ministry of Lands and Urban Settlement with a view to exploring a solution to the issues contained in the petition.

Thank you".

5. PAPERS LAID

The following Papers were laid on the Table –

- (i) The Veterinary Surgeons and Veterinary Para-Professionals (Veterinary Medicine Directorate) Regulations, 2015 and the Explanatory Memorandum;
- (ii) The Reports of the Auditor-General on the Financial Statements of the Constituencies Development Fund for the year ended 30th June, 2014 and the certificates therein, in respect of the following Constituencies:-
 - (a) Turbo Constituency;
 - (b) Kuria East Constituency;
 - (c) Moiben Constituency;
 - (d) Sigor Constituency;
 - (e) Soy Constituency;
 - (f) West Mugirango Constituency;
 - (g) Kapseret Constituency;
 - (h) Butula Constituency;
 - (i) Rabai Constituency;
 - (j) Sotik Constituency;
 - (k) Thika Town Constituency;
 - (l) Molo Constituency;
 - (m) Nakuru Town West Constituency;
 - (n) Kangema Constituency;
 - (o) Kitutu Chache South Constituency;
 - (p) Borabu Constituency;
 - (q) Karachuonyo Constituency;
 - (r) Gilgil Constituency; and
 - (s) Buret Constituency.

(The Leader of the Majority Party)

(iii) The Reports of the Departmental Committee on Lands on:-

- (a) Dispute over the ownership of land between Kamae Settlement Scheme Residents and Kenyatta University; and
- (b) The Petition by Twiga Farm Evictees regarding the alleged eviction of over six hundred families from their land.

(Chairperson, Departmental Committee on Lands)

6. NOTICE OF MOTION – ADOPTION OF THE REPORT ON THE DISPUTE OVER THE OWNERSHIP OF LAND

(The Chairperson, Departmental Committee on Lands)

THAT, this House adopts the Report of the Departmental Committee on Lands on the Dispute over the ownership of land between Kamae Settlement Scheme Residents and Kenyatta University, laid on the Table of the House on Wednesday, November 11, 2015

7. STATEMENT - VISIT TO KENYA BY POPE FRANCIS

The Member for Wundanyi (Hon. Thomas Mwadeghu) issued a Statement regarding the upcoming visit to Kenya by the Pope Francis. He reported that for logistical reasons, every person intending to attend the Papal Mass at the University of Nairobi would be required to be accredited. To this end, Members of Parliament intending to attend the Mass were called upon to register with the secretariat of the Catholic Members Association or the Office of the Clerk of the National Assembly.

8. STATEMENT - STATUS OF BUSINESS BEFORE COMMITTEES

In accordance with the Speaker's Communication of October 14, 2015, the Chairperson and Vice-Chairperson of the Departmental Committees on Health and Justice and Legal Affairs respectively appraised the House on the status of the Business pending before their respective Committees.

9. PROCEDURAL MOTION - APPROVAL OF MORNING SITTINGS

Motion made and Question proposed -

THAT, pursuant to the provisions of Standing Order 30(3)(b), this House resolves to hold Sittings on Thursdays Mornings commencing at 9.30 a.m. to 1.00 p.m. as follows:-

- (i) Thursday, 12th November, 2015;
- (ii) Thursday, 19th November, 2015;
- (iii) Thursday, 26th November, 2015; and
- (iv) Thursday, 3rd December, 2015.

(Deputy Leader of the Majority Party)

And there being no Member wishing to debate;

Question put and agreed to.

10. PROCEDURAL MOTION - LIMITATION OF DEBATE ON SESSIONAL PAPERS

Motion made and Question proposed -

THAT, pursuant to the provisions of Standing Order No. 97(1) and notwithstanding the resolution of the House of 11th February, 2015 regarding limitation of time in debates, this House resolves to limit each speech in a debate on any **Sessional Paper during the current part of the Session** in the following manner: - A maximum of sixty (60) minutes, with not more than ten (10) minutes for the Mover in moving and five (5) minutes for any other Member speaking, **including** the Leader of the Majority Party and the Leader of the Minority Party and that five (5) minutes before the expiry of the time, the Mover shall be called upon to reply; and further that priority in speaking shall be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in that Order.

(The Leader of the Majority Party)

And there being no Member wishing to debate;

Question put and agreed to.

11. COMMITTEE OF THE WHOLE HOUSE

Order for Committee read;

IN THE COMMITTEE

The First Chairperson in the Chair

(i) The Magistrates' Courts Bill (National Assembly Bill No.40 of 2015)

Clauses 3, 4, 5 & 6 - agreed to

Clause 7 - amendment Proposed

THAT, clause 7 of the Bill be amended in—

- (a) subclause (1) (a) by deleting the word "seven" and substituting therefor the word "twenty";
- (b) subclause (1) (b) by deleting the word "five" and substituting therefor the word "fifteen";
- (c) subclause (1) (c) by deleting the word "four" and substituting therefor the word "ten";
- (d) subclause (1) (d) by deleting the word "three" and substituting therefor the word "seven";
- (e) subclause (1) (e) by deleting the word "two" and substituting therefor the word "five";
- (f) subclause (3) by deleting paragraph (e) and substituting therefor the following paragraph—

"(e) matters affecting status, and in particular the status of widows and children including guardianship, custody, adoption and legitimacy; and"

(Vice Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 7 - as amended agreed to.

Clause 8 - agreed to

Clause 9 - amendment Proposed

THAT, the Bill be amended by deleting clause and substituting therefor the following clause—

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| <p>Claims in employment, labour relations claims; land and environment cases.
Cap. 12A</p> | <p>9. A magistrate's court shall—</p> <ul style="list-style-type: none"> (a) in the exercise of the jurisdiction conferred upon it by section 26 of the Environment and Land Court Act and subject to the pecuniary limits under section 7(1), hear and determine claims relating to— (i) environmental planning and protection, climate issues, land use planning, title, |
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tenure, boundaries, rates, rents, valuations, mining, minerals and other natural resources;

- (ii) compulsory acquisition of land;
- (iii) land administration and management;
- (iv) public, private and community land and contracts, choses in action or other instruments granting any enforceable interests in land; and

(v) environment and land generally;

- (b) in the exercise of the jurisdiction conferred upon it by section 29 of the Industrial Court Act, 2011 and subject to the pecuniary limits under section 7(1), hear and determine claims relating to employment and labor relations.

No. 20 of
2011.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 9 - as amended agreed to.

Clause 10 - amendment Proposed

THAT, the Bill be amended by deleting clause 10 and substituting therefor the following clause—

- Contempt of Court. **10.** (1) Subject to the provisions of any other law, the Court shall have power to punish for contempt.
- (2) A person who, in the face of the Court—
- (a) assaults, threatens, intimidates, or insults a magistrate, court administrator, judicial officer, or a witness, during a sitting or attendance in Court, or in going to or returning from the Court;
 - (b) interrupts or obstructs the proceedings of the Court; or
 - (c) without lawful excuse disobeys an order or direction of the Court in the course of the hearing of a proceeding, commits an offence.
- (3) In the case of civil proceedings, the willful disobedience of any judgment, decree, direction, order, or other process of a court or willful breach of an undertaking given to a court constitutes contempt of court.
- (4) In the case of criminal proceedings, the publication, whether by words, spoken or written, by signs, visible representation, or otherwise, of any matters or the doing of any other act which—

- (a) scandalizes or tends to scandalize, or lowers or tends to lower the judicial authority or dignity of the court
- (b) prejudices, or interferes or tends to interfere with, the due course of any judicial proceeding; or
- (c) interferes or tends to interfere with, or obstructs or tends to obstruct the administration of justice, constitutes contempt of court.

(5) A police officer, with or without the assistance of any other person, may, by order of a judge of the Court, take into custody and detain a person who commits an offence under subsection (2) until the rising of the Court.

(6) The Court may sentence a person who commits an offence under subsection (1) to imprisonment for a term not exceeding five days, or a fine not exceeding one hundred thousand shillings, or both.

(7) A person may appeal against an order of the Court made by way of punishment for contempt of court as if it were a conviction and sentence made in the exercise of the ordinary original criminal jurisdiction of the Court.

(8) The Chief Justice may make Rules to regulate procedures relating to contempt of court.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

QUORUM OF THE HOUSE

Rising in his place on a Point of Order, the Member for Mbita (Hon. Millie Odhiambo) drew the attention of the First Chairperson to the fact that there was no Quorum in the House;

And the Chairperson having counted the Honourable Members present and confirmed that there was no Quorum caused the Division Bell to be rung;

And there being **no** Quorum after expiry of ten minutes;

The House resumed.

12. **HOUSE RESUMED** - the Second Chairperson of Committees in the Chair

Quorum reported -

The First Chairperson reported the lack of Quorum in the Committee of the Whole House pursuant to Standing Order 35(2)(b).

And the time being thirty two minutes past four O'clock, the Second Chairperson adjourned the House without Question put pursuant to the Standing Orders.

13. HOUSE ROSE - at thirty two minutes past four O'clock

MEMORANDUM

The Speaker will take the Chair on
Thursday, November 12, 2015 at 9.30 a.m.

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