



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – FOURTH SESSION

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, APRIL 20, 2016

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 Member for Shinyalu (Hon. Silverse Anami) presented a Petition on the delayed rehabilitation of Kisumu-Kakamega/Kisumu Kaburengu roads;

Petition referred to the Departmental Committee on Transport, Public Works and Housing pursuant to Standing Order 227(2)

5. **PAPERS LAID**

The following Papers were laid on the Table –

- (i) The Reports and Resolutions adopted by the East African Legislative Assembly at its 5th Meeting of the Fourth Session of the Third Assembly as follows –
 - (a) The report of the Committee on Legal, Rules and Privileges on the Oversight Activity on the Approximation and Harmonization of National Laws in the EAC content;
 - (b) The report of the Committee on accounts on the Oversight Activity undertaken by the EAC institutions on Governance, Project Performance and Implementation of the Assembly Recommendations;
 - (c) Resolutions of the Assembly congratulating the Republic of South Sudan upon joining the EAC;
 - (d) Resolutions of the Assembly to bid farewell to Hon. (Amb) Dr. Richard Sezibera, the outgoing Secretary General of the East African Community;
 - (e) Resolutions of the Assembly thanking the former first ladies of the founders of the East African Community (1967-1977);
 - (f) The East African Community Disaster Risk Reduction and Management Bill, 2013;
 - (g) The East African Community Customs Management Act (Amendment) Bill, 2016;

- (h) The East African Community Supplementary Appropriation Bill, 2016;
- (i) The East African Community Counter-Trafficking in Persons Bill, 2016.
- (ii) The Office of the Controller of Budget first half County Governments Budget Implementation Review Report for the Financial Year 2015/2016;
- (iii) The Reports of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30th June, 2015 and the certificates therein –
 - (a) Council of Government Secretariat;
 - (b) Non-Governmental Organizations Co-ordination Board;
 - (c) National Council for Population and Development;
 - (d) Kenya National Bureau of Statistics; and,
 - (e) Tana Water Services Board.
- (iv) The Anti-Doping Policy and the Anti-Doping Rules from the Anti-Doping Agency of Kenya.

(The Leader of the Majority Party)

The above Reports and Resolutions adopted by the East African Legislative Assembly at its 5th Meeting of the Fourth Session of the Third Assembly were referred to the Committee on Regional Integration.

The Report of the Office of the Controller of Budget first half County Governments Budget Implementation Review for the Financial Year 2015/2016 was referred to the Liaison Committee.

6. STATEMENTS

The Chairperson of the National Constituencies Development Fund Committee apprised the House on the Status of the Business pending before the Committee.

The Reports by the Chairpersons of the Departmental Committee on Transport, Public Works and Housing Committee; and Committee on Regional Integration were deferred to another day.

7. MOTION - APPROVAL OF THE FIRST SUPPLEMENTARY ESTIMATES FOR 2015/2016

Motion made and Question proposed -

THAT, this House adopts the Report of the Liaison Committee on the First Supplementary Estimates for 2015/2016, laid on the Table of the House on Tuesday, April 19, 2016 and in accordance with the provisions of Article 223 of the Constitution, **approves** the issuance of a sum of **Ksh.25,968,239,099** from the Consolidated Fund to meet the expenditure during the year ending 30th June 2016 in respect of the various Votes, as indicated in the Schedule.

Vote		Programmes		Proposed Supplementary Changes (Kshs Millions)		
No.	Details	No.	Details	Current	Capital	Total
1011	The Presidency		Total	1,460.6	(806.0)	654.6
		0702000	P.2 Cabinet Affairs	276.3	(586.1)	(309.8)

Vote		Programmes		Proposed Supplementary Changes (Kshs Millions)		
No.	Details	No.	Details	Current	Capital	Total
		0703000	P.3 Government Advisory Services	(74.5)	-	(74.5)
		0704000	P.4 State House Affairs	648.6	(129.0)	519.6
		0734000	P.6 Deputy President Services	610.2	(90.9)	519.3
1021	State Department for Interior		Total	5,197.7	1,261.6	6,459.2
		0601000	P.1 Policing Services	694.6	763.0	1,457.6
		0602000	P.2 Planning, Policy Coordination and Support Service	3,979.2	148.6	4,127.8
		0603000	P.3 Government Printing Services	(69.2)	-	(69.2)
		0605000	P.4 Population Management Services	593.0	350.0	943.0
1022	State Department for Coordination of National Government		Total	616.3	(400.0)	216.3
		0604000	P.1 Correctional services	619.0	(388.0)	231.0
		0623000	P.2 General Administration, Planning and Support Services	(2.2)	(12.0)	(14.2)
		0624000	P.3 Betting Control, Licensing and Regulation Services	(0.5)	-	(0.5)
1031	State Department for Planning		Total	(350.2)	(7,108.0)	(7,458.2)
		0706000	P.1 Economic Policy and National Planning	58.3	206.4	264.7
		0707000	P.2 National Statistical Information Services	(29.4)	2.9	(26.5)
		0708000	P.3 Monitoring and Evaluation Services	(0.4)	(0.0)	(0.4)
		0709000	P.4 General Administration Planning and Support Services	(53.3)	(10.0)	(63.3)
		0710000	P.5 Public Service Transformation	(9.5)	2.5	(7.0)
		0711000	P.6 Gender & Youth Empowerment	(316.0)	(7,309.8)	(7,625.8)
1032	State Department for Devolution		Total	470.7	(35.7)	435.0
		0732000	P.3 General Administration, Planning and Support Services	21.8	-	21.8
		0712000	P.7 Devolution Services	91.6	253.5	345.2
		0713000	P.8 Special Initiatives	348.3	337.2	685.6
		0733000	P.9 Accelerated ASAL Development	8.9	(626.5)	(617.6)
1041	Ministry of Defence		Total	(58.8)	34.8	(24.0)
		0801000	P.1 Defence	554.8	34.8	589.6
		0802000	P.2 Civil Aid	-	-	-
		0803000	P.3 General Administration, Planning and Support Services	(613.6)	-	(613.6)
1051	Ministry of Foreign Affairs and International Trade		Total	2,156.7	(198.0)	1,958.7
		0715000	P.2 Foreign Relation and Diplomacy	670.0	(36.0)	634.0
		0714000	P.1 General Administration Planning and Support Services	663.6	(264.0)	399.6
		0716000	P.3 International Trade and Investments Promotion	823.1	102.0	925.1
1061	State Department for Education		Total	(311.1)	(14,007.5)	(14,318.6)
		0501000	P.1 Primary Education	(284.5)	(12,898.4)	(13,182.9)
		0502000	P.2 Secondary Education	(1.3)	(479.5)	(480.8)
		0503000	P.3 Quality Assurance and Standards	(100.9)	(250.6)	(351.5)
		0508000	P.8 General Administration, Planning and Support Services	75.6	(379.0)	(303.4)
1062	State Department of Science and Technology		Total	1,024.6	(940.8)	83.9
		0504000	P.4 University Education	1,366.2	(889.4)	476.8
		0505000	P.5 Technical Vocational Education and Training	(192.3)	(1,375.8)	(1,568.1)
		0506000	P.6 Research, Science, Technology and Innovation	(208.0)	(138.0)	(345.9)

Vote		Programmes		Proposed Supplementary Changes (Kshs Millions)		
No.	Details	No.	Details	Current	Capital	Total
		0507000	P.7 Youth Training and Development	179.0	204.4	383.4
		0508000	P.8 General Administration, Planning and Support Services	(120.3)	1,258.0	1,137.7
1071	The National Treasury		Total	(9,508.4)	13,871.9	4,363.5
		0717000	P.1 General Administration Planning and Support Services	(9,682.5)	1,503.4	(8,179.1)
		0718000	P.2 Public Financial Management	47.4	12,622.1	12,669.5
		0719000	P.3 Economic and Financial Policy Formulation and Management	106.7	(253.6)	(146.9)
		0720000	P.4 Market Competition	20.0	-	20.0
1081	1081 Ministry of Health		Total	409.2	(1,025.2)	(616.0)
		0401000	P.1 Preventive & Promotive Health Services	262.5	193.7	456.2
		0402000	P.2 Curative Health Services	(75.9)	495.4	419.5
		0403000	P.3 Health Research and Development	0.8	-	0.8
		0404000	P.4 General Administration, Planning & Support Services	219.3	(1,427.0)	(1,207.7)
		0405000	P.5 Maternal and Child Health	2.5	(287.2)	(284.7)
1091	State Department for Infrastructure		Total	11,673.4	(1,776.9)	9,896.5
		0202000	P.2 Road Transport	11,673.4	(1,776.9)	9,896.5
1092	State Department for Transport		Total	(0.3)	6,096.0	6,095.7
		0201000	P.1 General Administration, Planning and Support Services	(11.3)	(45.0)	(56.3)
		0203000	P.3 Rail Transport	-	(57.7)	(57.7)
		0204000	P.4 Marine Transport	10.4	1,630.0	1,640.4
		0205000	P.5 Air Transport	(6.8)	4,568.7	4,561.9
		0206000	P.6 Government Clearing Services	7.8	-	7.8
		0216000	P.7 Road Safety	(0.4)	-	(0.4)
1101	Ministry of Environment, Natural Resources and Regional Development Authorities		Total	646.3	1,448.2	2,094.5
		1010000	P.1 General Administration, Planning and Support Services	(65.4)	(12.8)	(78.3)
		1011000	P.2 Environment and Natural Resources Management and Protection	156.9	(1,200.1)	(1,043.2)
		1012000	P.3 Meteorological Services	17.9	(270.0)	(252.1)
		1005000	P.5 Integrated Regional Development	536.9	2,931.1	3,468.0
1102	Ministry for Water and Irrigation		Total	(196.4)	12,952.3	12,756.0
		1001000	P.1 General Administration, Planning and Support Services	(21.0)	(35.0)	(56.0)
		1004000	P.4 Water Resources Management	(29.7)	1,834.6	1,804.8
		1005000	P.5 Integrated Regional Development	(594.2)	(3,399.1)	(3,993.3)
		0110000	P.4 Irrigation and Drainage Infrastructure	448.6	14,551.9	15,000.4
1111	Ministry of Lands, Housing and Urban Development		Total	(158.7)	(3,539.5)	(3,698.2)
		0101000	P.1 Land Policy and Planning	(108.5)	365.6	257.1
		0102000	P.2 Housing Development and Human Settlement	(8.5)	(157.6)	(166.1)
		0103000	P.3 Government Buildings	(7.5)	(510.0)	(517.5)
		0104000	P.4 Coastline Infrastructure and Pedestrian Access	(2.3)	(57.0)	(59.3)
		0105000	P.5 Urban and Metropolitan Development	(9.8)	(2,949.5)	(2,959.2)
		0106000	P.6 General Administration Planning and Support Services	(22.0)	(231.0)	(253.0)
1121	Ministry of Information,		Total	(46.1)	5,579.0	5,532.9
		0207000	P.1 General Administration Planning and	(34.2)	494.7	460.5

Vote		Programmes		Proposed Supplementary Changes (Kshs Millions)		
No.	Details	No.	Details	Current	Capital	Total
	Communication and Technology		Support Services			
		0208000	P.2 Information And Communication Services	3.0	(335.0)	(332.0)
		0209000	P.3 Mass Media Skills Development	(15.0)	(13.5)	(28.5)
		0210000	P.4 ICT Infrastructure Development	-	5,432.8	5,432.8
1131	Ministry of Sports Culture and Arts		Total	1,502.1	(1,380.9)	121.2
		0901000	P.1 Sports	920.0	(1,487.9)	(567.9)
		0902000	P.2 Culture	235.9	107.0	342.9
		0903000	P.3 The Arts	(51.3)	-	(51.3)
		0904000	P.4 Library Services	48.0	-	48.0
		0905000	P.5 General Administration, Planning and Support Services	349.5	-	349.5
1141	Ministry of Labour Social Security and Services		Total	(243.3)	(542.0)	(785.3)
		0906000	P.1 Promotion of the Best Labour Practice	71.8	(169.0)	(97.2)
		0907000	P.2 Manpower Development, Employment and Productivity Management	(95.9)	(70.0)	(165.9)
		0908000	P.3 Social Development and Children Services	(9.5)	(59.5)	(69.0)
		0909000	P.4 National Social Safety Net	(235.7)	(243.5)	(479.2)
		0910000	P.5 General Administration Planning and Support Services	26.0	-	26.0
1151	Ministry of Energy and Petroleum		Total	41.1	18,596.4	18,637.4
		0211000	P.1 General Administration Planning and Support Services	42.6	(90.0)	(47.4)
		0212000	P.2 Power Generation	-	(4,114.9)	(4,114.9)
		0213000	P.3 Power Transmission and Distribution	(2.5)	23,365.9	23,363.4
		0214000	P.4 Alternative Energy Technologies	1.0	(106.3)	(105.3)
		0215000	P.5 Exploration and Distribution of Oil and Gas	-	(458.3)	(458.3)
1161	State Department for Agriculture		Total	(2,190.4)	(14,852.8)	(17,043.2)
		0107000	P.1 General Administration Planning and Support Services	12.8	(182.2)	(169.4)
		0108000	P.2 Crop Development and Management	(1,357.1)	(945.0)	(2,302.1)
		0109000	P.3 Agribusiness and Information Management	(7.5)	1,982.3	1,974.9
		0110000	P.4: Irrigation and Drainage Infrastructure	(838.8)	(15,707.9)	(16,546.6)
1162	State Department for Livestock		Total	116.8	(647.4)	(530.6)
		0112000	P.6 Livestock Resources Management and Development	116.8	(647.4)	(530.6)
1163	State Department for Fisheries		Total	(37.7)	(306.6)	(344.3)
		0111000	P.5 Fisheries Development and Management	(37.7)	(306.6)	(344.3)
1171	Ministry of Industrialization and Enterprise Development		Total	402.0	(480.0)	(78.0)
		0301000	P.1 General Administration Planning and Support Services	(24.4)	220.0	195.6
		0302000	P.2 Industrial Development and Investments	(35.1)	(275.0)	(310.1)
		0303000	P.3 Standards and Business Incubation	(16.8)	(425.0)	(441.8)
		0304000	P.4 Cooperative Development and Management	478.3	-	478.3
1181	State Department for Commerce and Tourism		Total	(108.0)	(3,409.0)	(3,517.0)
		0306000	P.2 Tourism Development and Promotion	(69.8)	(3,335.3)	(3,405.1)
		0307000	P.3 Trade Development and Promotion	(46.0)	(23.7)	(69.7)
		0308000	P.4 General Administration, Planning and Support Services	7.7	(50.0)	(42.3)
1182	State Department for East African Affairs		Total	(44.3)	(50.0)	(94.3)
		0305000	P.1 East African Affairs and Regional Integration	(44.3)	(50.0)	(94.3)
1191	Ministry of Mining		Total	9.0	(882.3)	(873.3)

Vote		Programmes		Proposed Supplementary Changes (Kshs Millions)		
No.	Details	No.	Details	Current	Capital	Total
		1007000	P.1 General Administration Planning and Support Services	20.6	(23.5)	(2.9)
		1008000	P.2 Resources Surveys and Remote Sensing	(15.3)	(585.2)	(600.5)
		1009000	P.3 Mineral Resources Management	3.7	(273.6)	(269.9)
1251	Office of the Attorney General and Department of Justice		Total	(249.9)	(97.0)	(346.9)
		0606000	P.1 Legal Services	(167.2)	(9.0)	(176.2)
		0607000	P.2 Governance, Legal Training and Constitutional Affairs	(224.4)	(65.0)	(289.4)
		0609000	P.4 General Administration, Planning and Support Services	141.8	(23.0)	118.8
1261	The Judiciary		Total	(939.9)	(861.8)	(1,801.7)
		0610000	P.1 Dispensation of Justice	(939.9)	(861.8)	(1,801.7)
1271	Ethics and Anti-Corruption Commission		Total	645.3	(300.0)	345.3
		0611000	P.1 Ethics and Anti-Corruption	645.3	(300.0)	345.3
1281	National Intelligence Service		Total	1,015.0	-	1,015.0
		0804000	P.1 National Security Intelligence	1,015.0	-	1,015.0
1291	Office of the Director of Public Prosecutions		Total	420.4	(181.0)	239.4
		0612000	P.1 Public Prosecution Services	420.4	(181.0)	239.4
1301	Commission for the Implementation of the Constitution		Total	-	-	-
		0613000	P.1 Implementation of the Constitution	-	-	-
1311	Office of the Registrar of Political Parties		Total	27.7	-	27.7
		0614000	P.1 Registration, Regulation and Funding of Political Parties	27.7	-	27.7
1321	Witness Protection Agency		Total	5.0	-	5.0
		0615000	P.1 Witness Protection	5.0	-	5.0
2011	Kenya National Human Rights Commission		Total	-	-	-
		0616000	P.1 Protection and Promotion of Human Rights	-	-	-
2021	National Land Commission		Total	120.2	(150.0)	(29.8)
			P.13 Land Administration and Management	120.2	(150.0)	(29.8)
2031	Independent Electoral and Boundaries Commission		Total	690.8	(71.0)	619.8
		0617000	P.1 Management of Electoral Processes	690.8	(71.0)	619.8
2041	Parliamentary Service Commission		Total	436.0	(1,100.0)	(664.0)
		0721000	P.1 National Legislation, Representation and Oversight	-	-	-
		0722000	P.2 Senate Affairs	397.0	(200.0)	197.0
		0723000	P.3 General Administration, Planning and Support Services	39.0	(900.0)	(861.0)
2042	The National Assembly		Total	300.0	-	300.0
		0721000	P.1 National Legislation, Representation and Oversight	300.0	-	300.0
2051	Judicial Service Commission		Total	-	-	-
		0619000	P.1 General Administration, Planning and Support Services	-	-	-
2061	The Commission on Revenue Allocation		Total	(15.1)	-	(15.1)
		0724000	P.1 Inter-Governmental Revenue and Financial Matters	(15.1)	-	(15.1)

Vote		Programmes		Proposed Supplementary Changes (Kshs Millions)		
No.	Details	No.	Details	Current	Capital	Total
2071	Public Service Commission		Total	(45.5)	(115.0)	(160.5)
		0725000	P.1 General Administration, Planning and Support Services	(36.8)	(115.0)	(151.8)
		0726000	P.2 Human Resource management and Development	(7.4)	-	(7.4)
		0727000	P.3 Governance and National Values	(1.3)	-	(1.3)
2081	Salaries and Remuneration Commission		Total	97.5	-	97.5
		0728000	P.1 Salaries and Remuneration Management	97.5	-	97.5
2091	Teachers Service Commission		Total	6,806.9	(133.0)	6,673.9
		0509000	P.1 Teacher Resource Management	7,960.0	-	7,960.0
		0510000	P.2 Governance and Standards	(46.0)	-	(46.0)
		0511000	P.3 General Administration, Planning and Support Services	(1,107.1)	(133.0)	(1,240.1)
2101	National Police Service Commission		Total	38.0	-	38.0
		0620000	P.1 National Police Service Human Resource Management	38.0	-	38.0
2111	Auditor General		Total	8.5	(247.0)	(238.5)
		0729000	P.1 Audit Services	8.5	(247.0)	(238.5)
2121	Controller of Budget		Total	(51.7)	-	(51.7)
		0730000	P.1 Control and Management of Public finances	(51.7)	-	(51.7)
2131	The Commission on Administrative Justice		Total	-	-	-
		0731000	P.1 Promotion of Administrative Justice	-	-	-
2141	National Gender and Equality Commission		Total	(4.3)	18.2	13.9
		0621000	P.1 Promotion of Gender Equality and Freedom from Discrimination	(4.3)	18.2	13.9
2151	Independent Police Oversight Authority		Total	(23.6)	-	(23.6)
		0622000	P.1 Policing Oversight Services	(23.6)	-	(23.6)
Total Ministerial Expenditure				21,754.1	4,214.2	25,968.2

(Chairperson, Liaison Committee)

Rising in his place under Standing Order 97(1), the Member for Kisumu Town East (Hon. Shakeel Shabbir) claimed to move that notwithstanding the provision of Standing Order No.97(4) and the House Resolution of 10th February, 2016 regarding debate in the Report of a Committee, debate on the Report be limited to a maximum of five (5) minutes for each Member speaking, except for the Leader of the Majority Party and the Leader of the Minority Party who shall be limited to a maximum of Fifteen (15) minutes;

And the Speaker acceding to the Claim;

Question proposed;

Debate arising;

Question put and negatived;

Rising in his place under Standing Order 96(1), the Member for Gem (Hon. Jakoyo Midiwo) claimed to move that "debate on the Motion be now adjourned";

And the Speaker acceding to the claim;

Question proposed;

Debate arising;

Question that "debate on the Motion be now adjourned" put and agreed to;

8. **MOTION - APPROVAL OF THE MEDIATED VERSION OF THE POLITICAL PARTIES (AMENDMENT) BILL, 2014**

Motion made and Question proposed -

THAT, pursuant to the provisions of Article 113 (2) of the Constitution and Standing Order 150, this House adopts the Report of the Mediation Committee on the Consideration of the Political Parties (Amendment) Bill (Senate Bill No. 3 of 2014), laid on the Table of the House on Tuesday, 12th April 2016, and **approves** the Mediated Version of the Political Parties (Amendment) Bill (Senate Bill No. 3 of 2014).

(Hon. Samuel Chepkong'a - Vice-Chairperson, Mediation Committee on the Political Parties (Amendment) Bill (Senate Bill No. 3 of 2014)

(Change of Chair from the Speaker to the Deputy Speaker)

Debate arising;

Rising in his place under Standing Order 95(1), the Member for Gem (Hon. Jakoyo Midiwo) claimed to move "That, the Mover be now be called upon to reply";

And the Deputy Speaker acceding to the claim;

Question that "the Mover be now called upon to reply" put and agreed to;

Thereupon, Mover replied;

Question of the Motion deferred to another day.

9. **PROCEDURAL MOTION – EXTENSION OF SITTING TIME**

Motion made and Question proposed –

THAT, pursuant to the provisions of Standing Order 30(3)(a), this House resolves to extend its sitting time until the conclusion of Business appearing under Order No.10.

(The Deputy Leader of the Minority Party)

There being no debate arising;

Question put and agreed to.

10. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The Second Chairperson in the Chair

The Community Land Bill (National Assembly No.45 of 2015)**Clause 22** - amendment proposed –

THAT, clause 22 of the Bill be amended in sub-clause (2) by deleting the words “at least fifty per cent of members present in a special meeting convened for that purpose, in which at least two thirds of the members of the community are present” and substituting therefor the words “two thirds of the assembly in a special meeting convened for that purpose”.

(Chairperson of the Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further Amendment

THAT, clause 22 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause–

“(2) A community land management committee shall, before the conversion of registered community land into any other category of land, seek and obtain approval from at least two thirds of the members present in a special meeting convened for that purpose, in which at least two thirds of the members of the community are present.”

(Hon. Andrew Mwadime)

Question of the amendment proposed;

Proposed amendment dropped;

Further Amendment proposed

THAT, clause 22 of the Bill be amended in sub-clause (2) by deleting the words “fifty percent of members present in a special meeting convened for that purpose, in which at least two thirds of the members of the community are present” and substituting therefor the words “two thirds of the members of the community present in a special meeting convened for that purpose.”

(Hon. Joyce Emanikor)

Question of the amendment proposed;

Proposed amendment dropped;

Clause 22 - as amended agreed to

Clause 23 - Amendment proposed

THAT, clause 23 of the Bill be amended in sub-clause (2) by deleting the words "land" appearing at the end of the sentence and substituting therefor the words "community land shall be subject to this Act."

(Hon. Tiyah Galgalo)

Question of the amendment proposed;

Debate arising;

Question put and dropped;

Clause 23 - agreed to

Clause 24 - amendment proposed –

THAT, clause 24 of the Bill be amended by inserting the words "as provided in section 22(2)" at the end of paragraph (b).

(Chairperson of the Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 24 - as amended agreed to

Clause 25 - amendment proposed –

THAT, clause 25 of the Bill be amended in sub-clause (2) by deleting the words "and may relate to any category or class of community land".

(Chairperson of the Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 25 - as amended agreed to

Clause 26 - amendment proposed –

THAT, clause 26 of the Bill be amended by inserting the following new paragraph immediately after paragraph (c) —

"(d) operation of any other written law."

(Chairperson of the Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 26 - as amended agreed to

Clause 27 - Agreed to

THAT, clause 27 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2) –

“(3) The Cabinet Secretary shall prescribe regulations to guide the process of setting aside community land for public purposes.”

(Hon. Andrew Mwadime)

Question of the amendment proposed;

Proposed amendment dropped;

Clause 27 - agreed to

Clause 28 - amendment proposed –

THAT, clause 28 of the Bill be amended in sub-clause (2) by deleting the word “an” appearing at the end of paragraph (e) and substituting therefor the word “and”.

(Chairperson of the Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment proposed –

THAT, clause 28 of the Bill be amended in sub-clause (5) by inserting the following new paragraphs immediately after paragraph (c)–

“(d) the member practices activities that threaten or abuse the rights or title of the community on the land;

the member practices activities that are contrary to the approved land use plan in respect of the community land.”

(Hon. Andrew Mwadime)

Question of the further amendment proposed;

Debate arising;

Question put and agreed to

Clause 28 - as amended agreed to

Clause 29 - amendment proposed –

THAT, clause 29 of the Bill be amended–

- (a) in sub-clause (4) by inserting the words “or” at the end of paragraph (a); and
- (b) in sub-clause (6) by deleting the words “one year” and substituting therefor the words “six months”.

(Chairperson of the Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment proposed –

THAT, clause 29 of the Bill be amended in sub-clause (5) by inserting the following new paragraph immediately after paragraph (d)–

“(e) carry out any activity on the land other than lawful grazing of stock, which may prevent or restrict the residents of the traditional community concerned from a reasonable exercise of their grazing rights”

(Hon. Andrew Mwadime)

Question of the amendment proposed;

Debate arising;

Question put and negatived;

Clause 29 - as amended agreed to

Clause 30 - Amendment proposed

THAT, clause 30 of the Bill be deleted.

(Hon. Tiyah Galgalo)

Question of the amendment proposed;

Proposed amendment dropped;

Further Amendment proposed

THAT, clause 30 of the Bill be amended in sub-clause (1) by deleting the words "county government or national government" appearing in paragraph (g).

(Hon. Andrew Mwandime)

Question of the amendment proposed;

Debate arising;

Question put and Negatived;

Clause 30 - agreed to

Clause 31 - amendment proposed –

THAT, clause 31 of the Bill be amended by deleting sub-clause (5) and substituting therefor the following new sub-clause–

"(5) For the avoidance of doubt, every woman married to a member of the community shall gain automatic membership of the community and such membership shall

subsist until the spouses legally divorce and the woman remarries, after the death of the spouse, from another community."

(Chairperson of the Departmental Committee on Lands)

Proposed amendment withdrawn;

Further Amendment proposed

THAT, clause 31 of the Bill be amended by deleting sub-clause (5) and substituting therefor the following new sub-clause–

"(5) For the avoidance of doubt, every man or woman married to a member of the community and who moves into the community of the other automatically becomes a member of that community and such membership shall subsist unless the spouses legally divorce and the spouse remarries, or unless the man or woman remarries after the death of the spouse."

(Hon. Tiyah Galgalo)

Question of the amendment proposed;

Debate arising;

Proposed amendment dropped

Clause 31 - agreed to

Clause 32 - Amendment Proposed

THAT, clause 32 of the Bill be amended–

- (a) in sub-clause (1) by deleting the words "Subject to such exemptions as may be prescribed, or unless any condition attaching to a community land right or a right of leasehold under this Act provides otherwise,"; and
- (b) in sub-clause (2) by deleting the words "For the purposes of" appearing at the beginning of the sentence and substituting therefor the words "Subject to".

(Hon. Tiyah Galgalo)

Question of the amendment proposed;

Proposed amendment dropped;

Clause 32 - agreed to

Clauses 33 & 34 - agreed to

Clause 35 - amendment proposed –

THAT, clause 35 of the Bill be deleted and substituted therefor by the following new clause–

Existing
rights to use
and occupy
community

land.

35. (1) Any person who immediately before the commencement of this Act, held a right to use and occupy any part of community land, whether by virtue of any authority granted under any law or

otherwise than under a lease, may continue to use and occupy such land under that right, subject to the same terms and conditions until the lease expires, after which the provisions of sections 28 and 29 shall apply.

(2) Any conversion which commenced before the promulgation of the Constitution shall be deemed to have commenced under this Act, while any conversion commenced after the promulgation of the Constitution shall be null and void.

(Chairperson of the Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 35 - as amended agreed to

Clause 36 - agreed to

Clause 37 - amendment proposed –

THAT, clause 37 of the Bill be amended.

- (a) by inserting the words "Subject to any other relevant written law" at the beginning of the opening sentence;
- (b) by renumbering the existing clause as sub-clause (1);
- (c) by inserting the following new sub-clauses immediately after sub-clause (1)–
 - "(2) An agreement relating to investment in community land shall only be made between the investor and the community.
 - (3) No agreement between an investor and the community shall be valid unless it is approved by two thirds of members at a community assembly meeting called to consider the offer and at which a quorum of two thirds of the members of that community is obligatory.
 - (4) The community may request the guidance and assistance of the county government or any other relevant stakeholders in considering the offer of investment."

(Chairperson of the Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further Amendment proposed

THAT, clause 37 of the Bill be amended–

- (a) by renumbering the existing provisions as sub-clause (1); and
- (b) by inserting the following new sub-clause immediately after sub-clause (1)–
 - "(2) An agreement made between the community and an investor shall not be valid unless it is ratified by at least two thirds of the members of the registered community."

(Hon. Andrew Mwadime)

Question of the amendment proposed;

Debate arising;

Proposed amendment dropped;

Clause 37 - as amended agreed to

Clause 38 - Amendment proposed

THAT, Clause 38 be amended by deleting the word "bye-laws" whenever it appears and substituting therefore the word "bye-law".

(Chairperson of the Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 38 - as amended agreed to

Clause 39 - amendment proposed –

THAT, clause 39 of the Bill be amended in the opening sentence in sub-clause (2) by inserting the words “and county” immediately after the words “subject to national”.

(Chairperson of the Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 39 - as amended agreed to

Clause 40 - amendment proposed –

THAT, clause 40 of the Bill be amended in sub-clause (2) by deleting the word “constitutions” appearing at the end of the sentence and substituting therefor the word “by-laws”.

(Chairperson of the Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further Amendment Proposed

THAT, clause 40 of the Bill be amended in sub-clause (4) by deleting the words “repugnant to justice and morality and”.

(Hon. Tiyah Galgalo)

Question of the amendment proposed;

Proposed amendment dropped;

Clause 40 - as amended agreed to

Clause 41 - agreed to

Judicial proceedings. **42A.** (1) Where all efforts of resolving a dispute under this Act fail, a party to the dispute may refer the matter to court.
 (2) The Court may—
 (a) confirm, set aside, amend or review the decision which is the subject of the appeal; or
 (b) make any order in connection therewith as it may deem fit.

(Chairperson of the Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 42 - as amended agreed to

Clause 43 - agreed to

Clause 44 - amendment proposed –

THAT, clause 44 of the Bill be deleted and substituted therefor the following new clause—

General penalty. **44.** A person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months or to both.

(Chairperson of the Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and negatived;

Clause 44 - agreed to

Clause 45 - agreed to

Clause 46 - amendment proposed –

THAT, clause 46 of the Bill be amended by in sub-clause (6) by deleting the words "such time as the Cabinet Secretary may determine" and substituting therefor the words "five years of the enactment of this Act";

(Chairperson of the Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

THAT, clause 46 of the Bill be amended by deleting sub-clause (7) and substituting therefor the following new sub-clause– “(7) If at the expiry of the five years specified in subsection (6) the adjudication is not concluded, such land shall be deemed to be community land and shall be dealt with in terms of the provisions of this Act.”

(Chairperson of the Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Proposed amendment **withdrawn**

THAT, clause 46 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (8)– “(9) The provisions of this section shall be subject to the provisions of Article 63(4) of the Constitution and the legislation providing for the review of grants and dispositions.”

(Chairperson of the Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 46 - as amended agreed to

Clause 47 - amendment proposed –

THAT, clause 47 of the Bill be amended by deleting the word “relevant” and substituting therefor the words “provisions of this”.

(Chairperson of the Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment proposed –

THAT, clause 47 of the Bill be amended in sub-clause (2) by inserting the words “and the newly registered community shall elect a community land management committee” at the end of the sentence.

(Hon. Andrew Mwadime)

Question of the amendment proposed;

Debate arising;

Question put and negatived

Further amendment proposed –

THAT, clause 47 of the Bill be amended in sub-clause (4) by deleting the words “or other institutions” appearing immediately after the words “respective communities”.

(Hon. Tiyah Galgalo)

Question of the amendment proposed;

Proposed amendment dropped;

Clause 47 - as amended agreed to

Clause 48 - amendment proposed –

THAT, clause 48 of the Bill be amended in sub-clause (2) by inserting the words “ensuring public participation” immediately after the words “Cabinet Secretary”.

(Chairperson of the Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment proposed –

THAT, clause 48 of the Bill be amended–

- (a) in sub-clause (1) by inserting the words “in consultation with county governments” immediately after the words “The Cabinet Secretary may”; and
- (b) in sub-clause (2) by inserting the following new paragraph immediately after paragraph (j)–
 - “(k) procedures for registration of communities and their governance”.

(Hon. Tiyah Galgalo)

Question of the amendment proposed;

Proposed amendment dropped;

Further amendment proposed –

THAT, clause 48 of the Bill be amended in sub-clause (2) by inserting the following new paragraphs immediately after paragraph (j)–

- “(k) the registration of communities as corporate bodies;

- (l) the conversion of illegally acquired community land to community land; and
 (m) the setting aside of community land for public purposes."

(Hon. Andrew Mwadime)

Question of the amendment proposed;

Proposed amendment dropped;

Clause 48 - as amended agreed to

NEW CLAUSES

NEW CLAUSE 7A

THAT, the Bill be amended by inserting the following new clause immediately after clause 7–

Establishment of community land management committees. **7A.** (1) A community land management committee registered under section 7(1) shall be responsible for the adjudication, registration, management and administration of community land.

(2) A community land management committee shall consist of–

- (a) two members, aged thirty five years and above, representing the community elders;
- (b) two persons of female gender representing women;
- (c) two persons, being one man and one woman, representing the youth;
- (d) one person representing special interests in the community; and
- (e) two persons representing the different ethnic, cultural or other community of interest within the community.

(3) There shall be a chairperson of the community land management committee who shall be elected by the members in their first meeting from among themselves.

(4) The membership of the community land management committee shall observe the principle that not more than two-thirds of its members shall be of the same gender.

(5) The community land management committees shall, subject to this Act–

- (a) manage and administer community land on behalf of the community;
- (b) facilitate the recording and issuance of title for the community land by the Commission;
- (c) facilitate land use planning and provision of infrastructure by the government;

- (d) promote co-operation and participation among community members in dealing with matters pertaining to the land; and
- (e) perform such other function as may be assigned under this Act.

(6) The Community land management committee shall regulate its own procedure.

(7) A person ceases to be a member of the community land management committee if that person—

- (a) dies;
- (b) resigns;
- (c) is convicted of a criminal offence and sentenced to imprisonment for a term of not less than six months;
- (d) is declared bankrupt; or
- (e) is unable to perform the functions of the office by reason of mental or physical infirmity.

(Hon. Andrew Mwadime)

Question of the amendment proposed;

Proposed amendment dropped;

SCHEDULE - amendment proposed –

THAT the Schedule to the Bill be amended—

- (a) in paragraph 2 by inserting the words “land use planning” immediately after the words “public health or” appearing in sub-paragraph (2);
- (b) in paragraph 8 by deleting the figure “(1)”; and
- (c) by inserting the following new paragraph immediately after paragraph 8—

“9. Nothing in this Schedule shall be construed as giving exemption to the application of the provisions of Article 63(4) of the Constitution.”

(Chairperson of the Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Schedule - as amended agreed to

NEW SCHEDULE – Amendment proposed**NEW SCHEDULES**

THAT, the Bill be amended by inserting the following new schedules immediately after the Schedule–

SECOND SCHEDULE - (s. 7A)
CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMUNITY LAND
MANAGEMENT COMMITTEES

Meetings
of the
committee.

1. (1) The Committee shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting

(2) The Chairperson shall convene the ordinary meetings of the Committee

(3) Despite the provisions of sub-paragraph (1), the Chairperson shall, upon a written request by at least five members of the Committee, convene a special meeting of the Committee at any time where he considers it expedient for the transaction of the business of the Committee.

(4) Unless three quarters of the total number of the members of the Committee otherwise agree, at least fourteen days written notice of every meeting of the Committee shall be given to every member of the Committee.

(5) The quorum for the conduct of the business of the Committee shall be two thirds of the total number of members including the Chairperson or the person presiding.

(6) The Chairperson shall preside at every meeting of the Committee at which he is present and in his absence, the members of the Committee present shall elect one person from their number to preside over the meeting of the Committee and he shall have all the powers of the Chairperson.

(7) Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairperson or person presiding over the meeting shall have a casting vote.

(8) The proceedings of the Committee shall not be invalidated by reason of a vacancy within its membership.

(9) Subject to this Schedule, the Committee may determine its own procedure and the procedure for any sub-committee of the Committee and for the attendance of other persons at its meetings.

Disclosure
of interest.

2. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Committee and is present at a meeting of the Committee at which the contract, proposed contract or other matter is the subject of consideration, the member shall, at the

meeting and as soon as reasonably practicable after the commencement thereof, disclose his or her interest in the matter and shall not take part in the deliberations over, or vote on, the matter.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(3) Any contract or instrument which if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed on behalf of the Committee by any person generally or specially authorized by the Committee for that purpose.

THIRD SCHEDULE

MATTERS TO BE PROVIDED FOR IN THE CONSTITUTION OF EVERY COMMITTEE

1. The name of the community.
2. A description of the area, being the land in or over which the community has, under recognized customary law, exercised rights of use and occupation.
3. The persons who are the original members of the community.
4. The persons to whom membership is open.
5. The personal particulars of the members of the Committee, term of office, the method and frequency of their election, appointment, suspension and dismissal.
6. The authority for and the method of filling vacancies occurring amongst the officers of the Committee.
7. Payment of allowances to Committee members and other officers of the Committee.
8. The frequency of, quorums for, method of calling and dates of the annual general meetings.
9. The custody and investment of the funds and property of the community, and the designation of the persons responsible.
10. The purposes for which the funds and property of the Committee may be used.
11. The maintenance and inspection of books of account, the register of members and the record of interests, by any member or officer of the community, by or on behalf of the Registrar.
12. The periodic audit of accounts.
13. The manner of making and amending the name, constitution or rules of the community.
14. The manner of the dissolution of the Committee and the disposal of its property on dissolution.

(Hon. Andrew Mwadime)

Question of the amendment proposed;

Proposed amendment dropped;

Clause 2 - amendment proposed –

THAT, clause 2 of the Bill be amended by deleting the definition of the term “community” and substituting therefor the following new definition–

“community” means a consciously distinct and organized group of users of community land who are citizens of Kenya and share any of the following attributes–

- (a) common ancestry;
- (b) similar culture or unique mode of livelihood;
- (c) socio-economic or other similar common interest;
- (d) geographical space;
- (e) ecological space; or
- (f) ethnicity.

- (a) in the definition of the term “communal use of land”, by inserting the words “by a community” at the end of the sentence;
- (b) in the definition of the term “community land registration unit”, by inserting the words “of the Land Registration Act” at the end of the sentence;
- (c) in the definition of the term “Court”, by inserting the words “or any other court having jurisdiction over land matters as may be prescribed by any written law” at the end of the sentence;
- (d) in the definition of the term “Registrar” by inserting the words “of this Act” immediately after the words “section 9”; and
- (e) by inserting the following new definitions in their proper alphabetical sequence–

“certificate of reservation” means a certificate issued in the interim by the Registrar pending the registration of community land and acquisition of the certificate of title;

“county government” means the county government provided for under Article 176 of the Constitution;”

“organised group” includes any or both formal and informal kinds of organization in the community setup;

“registered community” means a community that has completed the registration processes and is recognized under this law;

“vested interest” means absolute and indefeasible ownership.

(Chairperson, Departmental Committee on Lands)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment proposed –

THAT, clause 2 of the Bill be amended– in the definition of “community tenure system” by deleting the words “or controlled by a family, clan or a designated community leader” at the end of the sentence; and

(a) by inserting the following new definition in its proper alphabetical sequence–

“community member” means any and all individuals, male and female, families and groups that live within the defined boundaries of the community land in question and are above the age of eighteen years.

(Hon. Andrew Mwadime)

Question of the further amendment proposed;

Debate arising;

Question put and negatived

Further amendment proposed –

THAT, clause 2 of the Bill be amended

(a) by deleting the definition of “community land” and substituting therefor the following new definition–

“community land” includes all land used as community settlement area, farming area, grazing area, rangelands, fish landing sites, common resource area including watering points, salt licks, wildlife habitats, wildlife corridors, livestock passage routes and cattle dips;

(b) by inserting the following new definitions in their proper alphabetical sequence–

“committee” means a community land management committee;

“community land tenure” means unwritten land ownership practises in certain communities in which land is owned and managed by the community collectively as a group;

“community member” means any individual, families and groups that historically live within the defined boundaries of the community land in question and who are considered as members of the community, with full membership extended to all male and female members above the age of eighteen years”

(Hon. Andrew Mwadime)

Question of the further amendment proposed;

Debate arising;

Question put and negatived

Clause 2 - as amended agreed to

NEW CLAUSE 2A

THAT, the Bill be amended by inserting the following new clause 2A immediately after clause 2–

- Objects and purpose of the Act. **2A.** The objects and purpose of the Act shall be to provide for the–
- (a) recognition, protection and registration of community land rights;
 - (b) documentation and mapping of the existing forms of communal land tenure;
 - (c) vesting of community land in the communities identified on the basis of ethnicity, culture or similar community of interests;
 - (d) management and administration of the registered community; and
 - (e) procedures for conversion of community land to other categories.

(Hon. Andrew Mwadime)

Question of the further amendment proposed;

Debate arising;

Question put and negatived

Title - agreed to

Clause 1 - agreed to

Bill to be reported with amendments.

11. **HOUSE RESUMED** - the Second Chairperson in the Chair

The Community Land Bill (National Assembly No.45 of 2015)

Bill reported with amendments;

Motion made and Question proposed–

THAT, the House does agree with the Committee in the said report

(Chairperson, Departmental Committee on Lands)

Question put and agreed to;

Motion made and Question proposed–

THAT, the Community Land Bill (National Assembly Bill No.45 of 2016) be now read a Third Time

(The Leader of the Majority Party)

Question deferred to another day.

And the time being Eleven Minutes to Nine O'clock, the Second Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

12. HOUSE ROSE - at O'clock _____

M E M O R A N D U M

The Speaker will take the Chair on
Thursday, April 21, 2016 at 9.30 a.m.

--X--