



REPUBLIC OF KENYA

THE SENATE

ELEVENTH PARLIAMENT – THIRD SESSION

VOTES AND PROCEEDINGS

WEDNESDAY, JULY 29, 2015 AT 2.30 P.M.

1. The Senate assembled at thirty minutes past Two O'clock.
2. The Proceedings were opened with Prayer.
3. **COMMUNICATION FROM THE CHAIR REGARDING THE RECOGNITION OF HON. SAMUEL ARAP NGENY, FORMER DEPUTY SPEAKER OF THE NATIONAL ASSEMBLY FROM 1983-1988**

The Speaker conveyed the following communication from the Chair-

"Honorable Senators,

Allow me to recognize the presence of Hon. Samuel Arap Ngeny who was the Deputy Speaker of the National Assembly from the 1983-1988.

The distinguished former Deputy Speaker was first elected to Parliament in 1979 as MP for Aldai Constituency in Nandi.

As a member he participated in a lot of Parliamentary conferences including CPA in Zambia in 1980 and 1983 in Nairobi.

As the Deputy Speaker, he had the opportunity to represent the Speaker in Wellington, New Zealand in 1984 during the conference of the Speakers and represented the Speaker in the same conference in 1986 in New Delhi.

Honorable Senators,

The former Deputy Speaker attended various parliamentary practices and procedures benchmarking programmes including the 1985 parliamentary Practices and procedures training at the House of Commons and attended the same course in America Congress in May 1987 and similar course in June 1987 in Germany.

Due to his profound and strong belief in the free, fair, transparent and democratic elections, he did not contest the 1988 elections owing to the "mlolongo" voting style championed by the ruling party then.

I wish to commend him for his exemplary service to this republic and invite members to welcome him to the Senate in the usual manner.

I thank you."

4. **PETITION BY Ms. LUCY KACHE NGAO CONCERNING THE PROTECTION OF THE PEOPLE AND THE ECONOMY OF KENYA FROM UNFAIR AND DETRIMENTAL ACTIVITIES OF MOBILE TELEPHONY OPERATOR, SAFARICOM LIMITED**

Pursuant to Standing Order 225 (2) (a), the nominated Senator (Sen. Emma Mburu) presented a petition by Ms. Lucy Kache Ngao on the protection of the people and the economy of Kenya from unfair and detrimental activities of mobile telephony operator, Safaricom limited.

Pursuant to Standing Order 226, the Speaker allowed comments on the petition and directed that the petition be committed to the Standing Committee on Legal Affairs and Human Rights.

5. **PAPERS LAID**

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

- i.) Report of the Sessional Committee on County Public Accounts and Investments on the County Visit to Uasin Gishu from 21st – 22nd May, 2015; and
- ii.) Report of the Sessional Committee on County Public Accounts and Investments on the County Visit to Taita Taveta from 22nd – 24th March, 2015.

(Chairperson, Sessional Committee on County Public Accounts and Investments)

- iii.) Report of the Standing Committee on National Security and Foreign Relations on the assessment of security situation in Mandera County, Laikipia County and Kapado (Border town of Turkana and Baringo Counties) conducted between 19th January and 5th February, 2015.

(Chairperson, Standing Committee on National Security and Foreign Relations)

- iv.) Report of the Standing Committee on Roads and Transportation on a benchmarking visit to Turkey between 29th May – 4th June, 2015; and

- v.) Report of the Standing Committee on Roads and Transportation on visits to Lamu and Nakuru Counties between 14th – 17th May, 2015 and 8th to 10th June, 2015 respectively.

(Vice-Chairperson, Standing Committee on Roads and Transport)

- vi.) Report of Sessional Committee on Implementation on the visit to Mombasa, Kilifi and Kwale Counties to follow up on the resolution to support Coconut industry; and

- vii.) Report of the Sessional Committee on Implementation on its County oversight and engagement to Siaya, Kisumu, Kakamega and Bungoma Counties from 19th to 22nd March, 2015.

(Sen. Daisy Kanainza on behalf of the Chairperson Sessional Committee on Implementation)

6. **NOTICE OF MOTION** - (Vice-Chairperson Standing Committee on Roads and Transportation)

THAT, this House adopts the report of the Standing Committee on Roads and Transportation on visits to Lamu and Nakuru County, Laid on the table of the House on Wednesday 29th July 2015;

7. **NOTICE OF MOTION**- (Vice-Chairperson, Standing Committee on Roads and Transport)

THAT, this House adopts the report of the Standing Committee on Roads and Transport on a benchmarking visit to Turkey, laid on the Table of the House on Wednesday 29th July, 2015.

8. **NOTICE OF MOTION** - (Sen. Daisy Kanainza on behalf of the Chairperson Sessional Committee on Implementation)

THAT, this House adopts the report of the Sessional Committee on Implementation on its visit to Mombasa, Kilifi and Kwale Counties to follow up on the resolution of the House to support the coconut industry, undertaken between 25th and 28th April 2015 laid on the table of the House on Wednesday 29th July 2015.

9. **NOTICE OF MOTION**- (Sen. Daisy Kanainza on behalf of the Chairperson Sessional Committee on Implementation)

THAT, this House adopts the report of the Sessional Committee on Implementation on its County oversight and engagement to Siaya, Kisumu, Kakamega and Bungoma Counties from 19th to 22nd March, 2015 laid on the table of the House on Wednesday 29th July 2015.

10. STATEMENTS PURSUANT TO STANDING ORDER 45 (2) (b)

- i) The Senator for Bomet County (Sen. (Prof.)Lesan) sought a statement from the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries regarding the cost of fertilizer for tea farmers;
- ii) The Senator for Bomet County (Sen. (Prof.) Lesan) sought a statement from the Chairperson of the Standing Committee regarding the Criteria on the selection and placement of students to Medical Training Centers (MTCs);
- iii) The Senator for Murang'a County (Sen. Kembi-Gitura) sought a statement from the Chairperson Standing Committee on Land and Natural Resources regarding the ongoing property development at the junction of Loresho Ridge Road and Lower Kabete on both sides of the river near the Spring Valley Police Station
- iv) The Chairperson of the Standing Committee on Education issued a statement sought by the nominated Senator (Sen. Nabwala Mukiite) regarding the rampant cases of child abuse by teachers in Kenya schools.

The Chairperson informed the Senate that most of the cases of child molestation are not reported directly to the Ministry of Education but to the school heads and law enforcement agencies for action. The Senate was also informed that the Ministry has issued several circulars to schools urging school heads to ensure that the learning is made secure and conducive for the children and further that those circulars have resulted to a drop in the number of cases of abuse and molestation reported.

The Chairperson provided data from the Teachers Service Commission (TSC) on the reported cases of molestation and disciplinary action taken for the last five years and further informed the Senate that some cases are settled out of court and never brought to the attention of the Ministry.

The Chairperson assured the Senate that the Ministry has put in place measures to ensure that offences against pupils in schools are eradicated and disciplinary measures taken against those involved and further that the Ministry in collaboration with TSC and other stake holders will continue to put in place appropriate measures that will deter and eradicate abuse of pupils by teachers.

- v) The Vice- Chairperson of the Standing Committee on Health issued a statement sought by the Senator for Vihiga County (Sen. George Khaniri) regarding malaria outbreak in western Kenya.

The Vice – Chairperson informed the Senate that the Ministry of Health and the county Governments from western Kenya region have taken several measures including supplying anti- malaria drugs, and distributing 330,000 long lasting insecticidal nets.

The Vice- Chairperson further informed the Senate that the Ministry has sent experts to provide technical assistance to the affected areas; in addition to enhanced public health awareness campaigns through print and electronic media.

The Vice- Chairperson assured the Senate that the Ministry in collaboration with county governments and other partners has taken action to prevent spread of malaria in the country mainly through strengthening surveillance skills and capacity building among health care workers and provision of mechanisms for co-ordination of health issues through the intergovernmental forum for health.

- vi) The Vice- Chairperson of the Standing Committee on Health issued a statement sought by the Senator for Migori County (Sen. (Dr.) Wilfred Machage) regarding the Medical status of children in Busia County who suffered after they were administered with malaria drugs.

The Vice- Chairperson informed the Senate that the Ministry sent a multidisciplinary team of experts who assessed 21 of the affected children and found out that 8 of the children had foot drop while 13 had pain of the calf muscles.

The Senate was also informed that all the affected children had previously received an intramuscular injection in one of four different health facilities in the county since December 2014 namely, Akichelesit Dispensary, Ang'urai Health center, Moding Health center and St. Mary's Chelelemu Mission.

The Vice- Chairperson assured the Senate that an assessment and management center has been established at Akichelesit Dispensary for further assessment and regular follow-up of the affected children.

11. **COMMITTEE OF THE WHOLE:**

Order for Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. (Dr.)Machage – in the Chair)

The Public Appointments (County Assemblies Approval) Bill (Senate Bill No. 20 of 2014)

Progress Report.

Motion made-

That the Committee of the Whole reports progress on its consideration of the Public Appointments (County Assemblies Approval) Bill (Senate Bill No. 20 of 2014) and seek leave to sit again tomorrow.

(Chairperson, Standing Committee on Labour and Social Welfare);

Before the question was put and pursuant to Standing Order 72, the Acting Chairperson of Committees ruled that the question did not affect counties;

Question put and **agreed to.**

12. **HOUSE RESUMED** – Temporary Speaker – (Sen. Murkomen)- in the Chair)

13. **THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLIES APPROVAL) BILL (SENATE BILL NO. 20 OF 2014)**

Progress Reported.

Motion made and Question proposed-

THAT the House do agree with the Committee in the said report.

(Chairperson, Standing Committee on Labour and Social Welfare)

There being no other Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 72, the Temporary Speaker (Sen. Murkomen) ruled that the question did not affect counties;

Question put and **agreed to.**

14. **COMMITTEE OF THE WHOLE:**

Order for Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. (Dr.) Machage – in the Chair)

The Food Security Bill, (Senate Bill No. 23 of 2014)

Clauses 3 and 4

Motion made and Question proposed.-

That, Clauses 3 and 4 be part of the Bill.

Putting of question deferred.

Clause 5

Motion made and Question proposed-

That, Clause 5 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 5 of the Bill be amended in sub-clause (2) by deleting paragraph (j).

(Sen. Beatrice Elachi on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Debate arising;

Putting of question deferred.

Clause 6

Motion made and Question proposed-

That, Clause 6 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 6 of the Bill be amended in –

(a) in sub-clause (2) by –

(i) deleting paragraphs (c), (d) and (e) and substituting therefor the following new paragraph –

(d) advise and collaborate with the relevant agencies and public entities on matters relating to, -

(i) domestic production of diverse foods including the cultivation of traditional crops and the accessibility of food to persons in areas affected by food insecurity;

(ii) production of diverse foods including the cultivation of traditional crops and that such food is accessible to person in areas affected by food security; and

- (iii) establishment of programmes that ensure that famers have adequate farm inputs and implements to carry out food production;
 - (ii) inserting the following new paragraphs immediately after paragraph (j) -
 - (ja) implement, in collaboration with the relevant agencies and public entities, programmes for the support and protection of small scale farmers including the provision of subsidies;
 - (jb) adopt sustainable food security measures so as to graduate food poor persons to persons who are able to participate in food production and distribution;
- (Sen. Beatrice Elachi on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)*

Debate arising;

Putting of question deferred.

Clause 7

Motion made and Question proposed-

That, Clause 7 be part of the Bill.

Putting of question deferred.

Clause 8

Motion made and Question proposed-

That, Clause 8 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 8 of the Bill be amended-

- a) in sub-clause (1) by deleting the word "their" appearing immediately after the words "governments shall to" and substituting therefor the word "the".
- b) in sub-clause (2) by inserting the words "including school feeding programmes," immediately after the words "implement programmes".

(Sen. Beatrice Elachi on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Debate arising;

Putting of question deferred.

Clauses 9-11

Motion made and Question proposed-

That, Clauses 9-11 be part of the Bill.

Putting of question deferred.

Clause 12

Motion made and Question proposed-

That, Clause 12 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 12 of the Bill be amended in sub-clause (1) by –

- a) deleting paragraph (b);
 - b) inserting the following new paragraph immediately after paragraph (g)-
 - (ga) identify food insecure counties and develop affirmative action measures for ensuring that food security is realized in the identified counties; and
 - c) inserting the words “county food security committees” immediately after the words “feedback to all” in paragraph (h).
- (Sen. Beatrice Elachi on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)*

Debate arising;

Putting of question deferred.

Clause 13

Motion made and Question proposed-

That, Clause 13 be part of the Bill.

Putting of question deferred.

Clause 14

Motion made and Question proposed-

That, Clause 14 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT the Bill be amended by deleting clause 14 and substituting therefor the following new clause-

Board of the Authority. **14.**(1) The management of the Authority shall vest in a Board which shall consist of -

- (a) a chairperson appointed by the President with the approval of Parliament;
- (b) the Principal Secretary responsible for matters relating to agriculture or the designated representative;
- (c) the Principal Secretary responsible for matters relating to livestock or the designated representative;
- (d) the Principal Secretary responsible for matters relating to finance or the designated representative;
- (e) the Principal Secretary responsible for matters relating to the co-ordination of national government or the designated representative;
- No. 24 of 2013. (f) the chairperson of the National Social Assistance Authority appointed under section 5(1) of the Social Assistance Act or the designated representative;
- L.N. No. 171 of 2011. (g) one person nominated by the National Drought Management Authority established under paragraph 3 of the National Drought Management Authority Order, 2011;
- (h) two persons nominated by the Non-Governmental Organizations Co-ordination Board established under section 3 of the Non-Governmental Organizations Co-ordination Act from amongst non-governmental organizations which support efforts towards the achievement of food security;
- (i) two persons nominated by the Council of County Governors; and
- (j) the Director General who shall be an *ex-officio* member, the secretary to the Board and the chief executive officer of the Authority.

(2) The persons nominated under subsection (1)(g), (h) and (i) shall be appointed by the Cabinet Secretary by notice in the Gazette.

(3) A person shall be qualified for nomination and appointment under subsection (1) (g), (h) and (i) if such person has knowledge and experience in matters relating to food security and nutrition.

(4) The designated representatives of the members referred to under subsection (1)(b), (c), (d) and (e) shall have authority to exercise the powers and functions of the designating authority in relation to matters before the Board.

(Sen. Beatrice Elachi on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Debate arising;

Putting of question deferred.

Clause 15

Motion made and Question proposed-

That, Clause 15 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 15 of the Bill be amended-

- (a) in paragraph (a) by deleting the word "masters" appearing immediately after the words "holds a"; and
- (b) by deleting paragraph (c) and substituting therefor the following new paragraph –

(c) has knowledge and experience in matters relating to –

- (i) agriculture or livestock;
- (ii) land and agrarian reforms;
- (iii) public health;
- (iv) public administration; or
- (v) Economics, sociology, disaster management or such other relevant knowledge and experience as may be considered necessary; and

(Sen. Beatrice Elachi on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Debate arising;

Putting of question deferred.

Clause 16

Motion made and Question proposed-

That, Clause 16 be part of the Bill.

Putting of question deferred.

Clause 17

Motion made and Question proposed-

That, Clause 17 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT the Bill be amended by deleting clause 17 and substituting therefor the following new clause-

Remuneration **17.** There shall be paid to the members of the Board such of the Board. remuneration, fees or allowances as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission, shall determine.

(Sen. Beatrice Elachi on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Debate arising;

Putting of question deferred.

Clauses 18-22

Motion made and Question proposed.

That, Clauses 18-22 be part of the Bill.

Putting of question deferred.

Clause 23

Motion made and Question proposed.

That, Clause 23 be part of the Bill.

Amendment proposed.

Motion made and Question proposed.

THAT clause 23 of the Bill be amended in sub-clause (2) by –

(a) deleting the word “doctorate” appearing immediately after the words “holds a” in paragraph (a) and substituting therefor the word “masters”; and

(b) deleting the word “security” appearing immediately after the words “the food” paragraph (b).

(Sen. Beatrice Elachi on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Debate arising;

Putting of question deferred.

Clauses 24-31

Motion made and Question proposed-

That, Clauses 24-31 be part of the Bill.

Putting of question deferred.

Clause 32

Motion made and Question proposed-

That, Clause 32 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 32 of the Bill be amended-

(i) in sub-clause (1) by deleting paragraphs (b) and (c) and substituting therefor the following new paragraphs –

(b) the county executive committee member responsible for matters relating to agriculture who shall be the secretary to the committee;

(c) the county executive committee member responsible for matters relating to livestock;

(ca) the county executive committee member responsible for matters relating to social services;

(cb) the county commissioner or a designated representative of the commissioner;

(ii) in sub-clause (2) by deleting paragraph (a) and substituting therefor the following new paragraph –

(a) holds a certificate of secondary education;

(Sen. Beatrice Elachi on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Debate arising;

Putting of question deferred.

Clause 33

Motion made and Question proposed-

That, Clause 33 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 33 of the Bill be amended-

(a) in sub-clause (1) by deleting paragraph (i) and substituting therefor the following new paragraph -

(i) spearhead the formation and operationalization of food and nutrition committees at the sub-county and ward levels and in schools and health centres within the county;

(b) by inserting the following new sub-clause immediately after sub-clause (1)

-

(1A) The county food security committee shall, in the performance of its functions under subsection (1), decentralize its services to the lowest administrative unit within the county as it shall consider appropriate for the purpose of ensuring food security within the county.

(Sen. Beatrice Elachi on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Debate arising;

Putting of question deferred.

Clause 34

Motion made and Question proposed.

That, Clause 34 be part of the Bill.

Putting of question deferred.

Clause 35

Motion made and Question proposed-

That, Clause 35 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 35 of the Bill be amended -

- (a) in sub-clause (1) by inserting the words " agriculture, livestock, meteorology" immediately after the words "disaster management";
- (b) in sub-clause (3) by deleting the words "matters related to special programmes" appearing immediately after the words "responsible for" and substituting therefor the words "the implementation of programmes relating to persons with special needs".

(Sen. Beatrice Elachi on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Debate arising;

Putting of question deferred.

Clause 36

Motion made and Question proposed.

That, Clause 36 be part of the Bill.

Putting of question deferred.

Clause 37

Motion made and Question proposed-

That, Clause 37 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT the Bill be amended by deleting clause 37.

(Sen. Beatrice Elachi on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Debate arising;

Putting of question deferred.

Clauses 38-44

Motion made and Question proposed-

That, Clauses 38-44 be part of the Bill.

Putting of question deferred.

Clause 45

Motion made and Question proposed-

That, Clause 45 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 45 of the Bill be amended by deleting the words "five million" appearing immediately after the words "not exceeding" and substituting therefor the words "ten million".

(Sen. Beatrice Elachi on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Debate arising;

Putting of question deferred.

Clause 46

Motion made and Question proposed-

That, Clause 46 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 46 of the Bill be amended by deleting the words "two million shillings or to imprisonment for a term of three years" appearing immediately after the words "not exceeding" and substituting therefor the words "ten million shillings or to imprisonment for a term not exceeding eight years".

(Sen. Beatrice Elachi on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Debate arising;

Putting of question deferred.

Clauses 47-49

Motion made and Question proposed-

That, Clauses 47-49 be part of the Bill.

Putting of question deferred.

Clause 50

Motion made and Question proposed-

That, Clause 50 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 50 of the Bill be amended by inserting the following new paragraph immediately after paragraph (g)-

(h) promote public awareness on the advancement of food security.

(Sen. Beatrice Elachi on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Debate arising;

Putting of question deferred.

Clause 51

Motion made and Question proposed-

That, Clause 51 be part of the Bill.

Putting of question deferred.

First Schedule and Second Schedule

Motion made and Question proposed-

That, the First Schedule and the Second Schedule be part of the Bill.

Putting of question deferred.

Clause 2

Motion made and Question proposed-

That, Clause 2 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 2 of the Bill be amended in the definition of the term –

- (a) "Cabinet Secretary" by deleting the words "devolution and planning" appearing immediately after the words "related to" and substituting therefor the words "food security";
- (b) "essential foodstuffs and commodities" by inserting the word "meat" immediately after the words "beans, wheat, rice";
- (c) "emergency foods assistance" by deleting the word "humanitarian" appearing immediately after the words "occasioned by".

(Sen. Beatrice Elachi on behalf of the Chairperson of the Standing Committee on Agriculture, Livestock and Fisheries)

Debate arising;

Putting of question deferred.

Title and Clause 1

Motion made and Question proposed-

That, the Title and Clause 1 be part of the Bill.

Progress Report

Motion Made-

That, the committee of the Whole House do report progress on its consideration of the Food Security Bill (Senate Bill No. 23 of 2014) and seek leave to sit again tomorrow.

(Sen. Beatrice Elachi)

Before the question was put and pursuant to Standing Order 72, the Acting Chairperson of Committees ruled that the question did not affect counties;

Question put and **agreed to.**

15. **HOUSE RESUMED** – Temporary Speaker – (Sen. Ongoro - in the Chair)

16. **THE FOOD SECURITY BILL (SENATE BILL NO. 23 OF 2014)**

Progress Reported.

Motion made and Question proposed-

THAT the House do agree with the Committee in the said report.

(Sen. Beatrice Elachi.)

There being no other Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 72, the Temporary Speaker (Sen. Ongoro) ruled that the question did not affect counties;

Question put and **agreed to.**

17. **COMMITTEE OF THE WHOLE:**

Order for Committee read;

IN THE COMMITTEE

(The Acting Chairperson of Committees (Sen. (Dr.)Machage – in the Chair)

The Mining Bill (National Assembly Bill No. 8 of 2014)

Clause 5

Motion made and Question proposed-

That, Clause 5 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 5 of the Bill be amended by inserting the words "and the principles of leadership and integrity set out under Chapter Six of the Constitution" immediately after the words "of the Constitution".

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clause 6

Motion made and Question proposed-

That, Clause 6 be part of the Bill.

Putting of question deferred.

Clause 7

Motion made and Question proposed-

That, Clause 7 be part of the Bill.

Amendment proposed.

Motion made and Question proposed.

THAT, clause 7 of the Bill be amended in sub-clause (2) by inserting the words "in consultation with the Mineral Rights Board" immediately after the words "in the Gazette".

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clause 8

Motion made and Question proposed-

That, Clause 8 be part of the Bill.

Putting of question deferred.

Clause 9

Motion made and Question proposed-

That, Clause 9 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT, clause 9 of the Bill be amended by inserting the following new subclause immediately after subclause (1) –

(1A) The Cabinet Secretary shall, immediately upon receipt of a report under subsection (1) issue to the person an acknowledgement in writing of the receipt of the report.

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clauses 10-15

Motion made and Question proposed.

That, Clauses 10-15 be part of the Bill.

Putting of question deferred.

Clause 16

Motion made and Question proposed.

That, Clause 16 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 16 of the Bill be amended in subclause (3) by inserting the words "in consultation with the Mineral Rights Board" immediately after the words "Cabinet Secretary shall".

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clauses 17-19

Motion made and Question proposed-

That, Clauses 17-19 be part of the Bill.

Putting of question deferred.

Clause 20

Motion made and Question proposed-

That, Clause 20 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 20 of the Bill be amended by inserting the following new after subclause (4) –

(5) A person whose land or property is damaged as a result of the exercise of the powers of the Director of Mines under subsection (1) is entitled to fair, prompt and full compensation for such damage in accordance with this Act.

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clause 21

Motion made and Question proposed-

That, Clause 21 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 21 of the Bill be amended by inserting the following new subsections immediately after subsection (2) –

- (3) In exercising the powers under subsection (2), the Director or a duly authorised officer shall ensure that as little damage or inconvenience as possible is caused to the legitimate owner or lawful occupier of the land in respect of which the powers are exercised.
- (4) A person whose land or property is damaged as a result of the exercise of the powers of the Director of Geology under subsection (1) shall be entitled to fair, prompt and full compensation for such damage in accordance with this Act.

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clauses 22-29

Motion made and Question proposed-

That, Clauses 22-29 be part of the Bill.

Putting of question deferred.

Clause 30

Motion made and Question proposed-

That, Clause 30 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 30 of the Bill be amended by deleting subclause (2) and substituting therefor the following new subclause (2) –

(2) The Mineral Rights Board shall comprise of –

- (a) a chairperson with demonstrable knowledge and experience of the minerals and mining sector, who shall be appointed by the President;
- (b) the Principal Secretary responsible for matters relating to mining;
- (c) the Principal Secretary responsible for the National Treasury;
- (d) one person who shall be nominated by the Council of County Governors from amongst the Governors;
- (e) the Chairperson of the National Land Commission;
- (f) the Director of Mines who shall be the secretary to the Mineral Rights Board;
- (g) the Director of Geological Surveys; and
- (h) two persons with professional qualifications and experience in the mining industry who shall be appointed by the Cabinet Secretary

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clauses 31 and 32

Motion made and Question proposed.

That, Clauses 31 and 32 be part of the Bill.

Putting of question deferred.

Clause 33

Motion made and Question proposed-

That, Clause 33 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 33 of the Bill be amended by deleting subclauses (7) and (8)

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clause 34

Motion made and Question proposed-

That, Clause 34 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT, clause 34 of the Bill be amended in subclause (4) by deleting paragraph (a).

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clauses 35 and 36

Motion made and Question proposed.

That, Clauses 35 and 36 be part of the Bill.

Putting of question deferred.

Clause 37

Motion made and Question proposed-

That, Clause 37 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT, clause 37 of the Bill be amended in subclause (1) by deleting the words "A prospecting and" appearing at the beginning of the subclause.

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clause 38

Motion made and Question proposed-

That, Clause 38 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT, clause 38 be amended in subclause (1) by deleting the word “un-alienated” appearing at the end of paragraph (b) and substituting therefor the word “unregistered”.

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clause 39

Motion made and Question proposed-

That, Clause 39 be part of the Bill.

Putting of question deferred.

Clause 40

Motion made and Question proposed-

That, Clause 40 be part of the Bill.

Amendment proposed.

Motion made and Question proposed.

THAT clause 40 the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause –

(1) The Cabinet Secretary may submit a request under section 107 of the Land Act for the compulsory acquisition of land or rights or interests in land, to vest the land or area in question, or rights or interests in such land or area, in the Government or on behalf of the Government, where the consent required under sections 36, 37 or 38 is—

(a) unreasonably withheld; or

- (b) the Cabinet Secretary considers that withholding of consent is contrary to the national interest.

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clause 41

Motion made and Question proposed-

That, Clause 41 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 41 be amended in subclause (2) by deleting the words "which recognise the uniqueness of procurement and tendering process of minerals" appearing at the end of the subclause.

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clauses 42-45

Motion made and Question proposed.

That, Clauses 42-45 be part of the Bill.

Putting of question deferred.

Clause 46

Motion made and Question proposed.

That, Clause 46 be part of the Bill.

Amendment proposed.

Motion made and Question proposed.

THAT, clause 46 of the Bill be amended in subclause (3) by deleting the words "number of expatriates per capital investment" appearing immediately after the words "shall serve".

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clause 47

Motion made and Question proposed-

That, Clause 47 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT, clause 47 of the Bill be amended in subclause (1) by inserting the words "members of the community and" immediately after the words "in employment to".

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clause 48

Motion made and Question proposed-

That, Clause 48 be part of the Bill.

Putting of question deferred.

Clause 49

Motion made and Question proposed-

That, Clause 49 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT, clause 49 of the Bill be amended in subclause (2) by deleting the word "four" appearing immediately after the words "exchange within" and substituting therefor the word "three".

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clause 50

Motion made and Question proposed-

That, Clause 50 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT, clause 50 of the Bill be amended in paragraph (b) by inserting the words "members of the community and" immediately after the words "offered by".

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clause 51

Motion made and Question proposed-

That, Clause 51 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 51 of the Bill be amended –

- (a) by deleting subclause (2) and substituting therefor with the following new subclause –

- (2) The Cabinet Secretary shall not unreasonably withhold consent to assign, transfer, mortgage or trade a mineral right and shall inform an applicant of the decision within thirty days of receipt of an application to assign, transfer, mortgage or trade a mineral right.

- (b) By inserting the following new subsection immediately after subsection (8)–

(8A) The Cabinet Secretary shall, in consultation with the Mineral Rights Board, prescribe a criteria for the conditions required to be met by an applicant for an assignment, mortgage or trade in a mineral right.

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clause 52

Motion made and Question proposed–

That, Clause 52 be part of the Bill.

Putting of question deferred.

Clause 53

Motion made and Question proposed–

That, Clause 53 be part of the Bill.

Amendment proposed.

Motion made and Question proposed–

THAT clause 53 of the Bill be amended –

- (a) in subclause (1) by inserting the words “and the Kenya Revenue Authority” immediately after the words “the Cabinet Secretary”; and

- (b) inserting the following new subclause immediately after subclause (1) –

(1A) The Cabinet Secretary shall submit to the National Assembly and the Senate, an analysis of the audited annual financial statement submitted under subsection (1).

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clauses 54-66

Motion made and Question proposed-

That, Clauses 54-66 be part of the Bill.

Putting of question deferred.

Clause 67

Motion made and Question proposed-

That, Clause 67 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT clause 67 of the Bill be amended in subclause (1) by deleting paragraph (e) and substituting therefor the following new paragraph –

- (e) inform and consult on an ongoing basis with the national and county government authorities and communities about the reconnaissance operations that require physical entry onto the land within their jurisdiction;

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clauses 68-76

Motion made and Question proposed-

That, Clauses 68- 76 be part of the Bill.

Putting of question deferred.

Clause 77

Motion made and Question proposed-

That, Clause 77 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT, clause 77 of the Bill be amended in subclause (2) by deleting the words "by the Cabinet Secretary" appearing at the end of the subclause and substituting therefor the words "Regulations made under this Act".

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clauses 78-105

Motion made and Question proposed-

That, Clauses 78-105 be part of the Bill.

Putting of question deferred.

Clause 106

Motion made and Question proposed-

That, Clause 106 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT, clause 106 of the Bill be amended by inserting the following new paragraph immediately after paragraph (i) –

- (j) such other information as the Cabinet Secretary may consider necessary.

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clauses 107-116

Motion made and Question proposed-

That, Clauses 107-116 be part of the Bill.

Putting of question deferred.

Clause 117

Motion made and Question proposed-

That, Clause 117 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT, clause 117 of the Bill be amended in subclause (5) by deleting the word "Parliament" appearing immediately after the words "submitted to" and substituting therefor the words "the National Assembly and the Senate".

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clauses 118 and 119

Motion made and Question proposed-

That, Clauses 118 and 119 be part of the Bill.

Putting of question deferred.

Clause 120

Motion made and Question proposed.

That, Clause 120 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT, clause 120 of the Bill be amended in subclause (2) by deleting the word "Parliament" appearing immediately after the words "submitted to" and substituting therefor the words "the National Assembly and the Senate".

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clauses 121-148

Motion made and Question proposed.

That, Clauses 121-148 be part of the Bill.

Putting of question deferred.

Clause 149

Motion made and Question proposed-

That, Clause 149 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT, clause 149 of the Bill be amended by deleting subclause (3) and substituting therefor the following new subclauses –

(3) All immovable assets of the holder under the mining licence shall vest in the County Government from the effective date of the surrender or termination of the licence upon payment of the book value of the assets by the County Government.

(3A) Where the County Government is unable to pay for the assets under subsection (3), the assets shall vest in the National Government from the effective date of the surrender or termination of the licence upon payment of the book value of the assets by the National Government.

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clauses 150-225

Motion made and Question proposed-

That, Clauses 150-225 be part of the Bill.

Putting of question deferred.

The First Schedule

Motion made and Question proposed.

That, the First Schedule be part of the Bill.

Putting of question deferred.

The Second Schedule

Motion made and Question proposed.

That, the Second Schedule be part of the Bill.

Putting of question deferred.

Clause 4

Motion made and Question proposed-

That, Clause 4 be part of the Bill.

Amendment proposed.

Motion made and Question proposed-

THAT, clause 4 of the Bill be amended –

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

“community” means a people living in a ward or wards within which minerals are situated and who are affected by the exploration of the minerals or mining operations with respect to the minerals;

(b) by inserting the following new definition immediately after the definition of the word “corporation” –

“Council of County Governors” means the Council of County Governors established under section 19 of the Intergovernmental Relations Act;

(c) by deleting the definition of the word “strategic minerals” and substituting therefor the following new definition –

“strategic minerals” means minerals declared as such by the Cabinet Secretary with the approval of the Cabinet and by notice in the *Gazette*;

(Chairperson, Standing Committee on Land and Natural Resources)

Debate arising;

Putting of question deferred.

Clause 3

Motion made and Question proposed-

That, Clause 3 be part of the Bill.

Putting of question deferred.

Clause 2

Motion made and Question proposed-

That, Clause 2 be part of the Bill.

Putting of question deferred.

Title

Motion made and Question proposed-

That, the Title be part of the Bill.

Putting of question deferred.

Clause 1

Motion made and Question proposed-

That, Clause 1 be part of the Bill.

Putting of question deferred.

Progress Report-

Motion made-

That the Committee of the Whole reports progress on its consideration of the Mining Bill (National Assembly Bill No. 8 of 2014) and seek leave to sit again tomorrow.

(Chairperson, Standing Committee on Land and Natural Resources)

Before the question was put and pursuant to Standing Order 72, the Acting Chairperson of Committees ruled that the question did not affect counties;

Question put and **agreed to.**

18. **HOUSE RESUMED** – Temporary Speaker – (Sen. Ongoro - in the Chair)

19. **THE MINING BILL (NATIONAL ASSEMBLY BILL NO.8 OF 2014)**

Progress Reported.

Motion made and Question proposed-

THAT the House do agree with the Committee in the said report.

(Chairperson, Standing Committee on Land and Natural Resources)

There being no other Senator wishing to contribute;

Before the question was put and pursuant to Standing Order 72, the Temporary Speaker (Sen. Ongoro) ruled that the question did not affect counties;

Question put and **agreed to.**

20. **THE CLIMATE CHANGE BILL (NATIONAL ASSEMBLY BILL NO. 1 OF 2014)**

Order for Second Reading read;

Motion made and Question proposed:-

THAT, the Climate Change Bill (National Assembly Bill No. 1 of 2014) be now read a Second Time.

(The Senate Majority Leader -28.07.2015)

Debate interrupted on Tuesday, 28th July 2015 resumed;

And there being no other Senator willing to contribute;

Mover replied;

Raising a point of order the Senator for Tharaka-Nithi County (Sen. (Prof.) Kindiki) moved that pursuant to Standing Order 54 (3), the putting of the Question be deferred to a later date;

And the temporary Speaker (Sen. Ongoro) acceding to the request, deferred putting of question to Thursday, 30th July 2015.

21. THE COMMUNITY LAND BILL (SENATE BILL NO 38 OF 2014)

Order for Second Reading read;

Motion made and Question proposed:-

THAT, the Community Land Bill (Senate Bill No.38 of 2015) be now read a Second Time.

(The Senate Majority Leader)

Debate Arising;

Pursuant to Standing Order 30 (2), the Temporary Speaker (Sen. Ongoro) interrupted the proceedings and adjourned the Senate at forty minutes past Six O'clock without Question put.

22. SENATE ROSE - at forty minutes past Six O'clock.

M E M O R A N D U M

*The Speaker will take the Chair on
Thursday, 30th July 2015 at 2.30 p.m.*

--X--