

# [EDITED BUT ALIGN THE AMENDMENTS IN CLAUSES]

## NATIONAL ASSEMBLY

### OFFICIAL REPORT

Tuesday 3<sup>rd</sup> December, 2013

The House met at 2.30 p.m.

*[The Temporary Deputy Speaker  
(Hon. Cheboi) in the Chair]*

#### PRAYERS

#### PETITIONS

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Members, hon. David Pkosing has a petition.

#### REDESIGNING OF ISIOLO-KITALE-MARICH HIGHWAY

**Hon. Losiakou:** Hon. Temporary Deputy Speaker, this is a public petition by residents of Chepareria, along the Kapenguria-Lodwar international highway, and specifically the Isiolo-Kitale-Marich (A1) Road. I would like to read it out.

We, the undersigned residents of Pokot South Constituency (Chepareria Road) draw the attention of the House to the following:-

(i) the Northern Corridor Transport Improvement Project, and in particular the Isiolo-Kitale-Marich Road (A1) is currently under design by the Kenya National Highways Authority (KeNHA) and the Kitale-Marich section was built to bitumen standard from 1971 until 1975;

(ii) aware that the said road traverses sharp bends and hilly terrains, and it has not been properly maintained;

(iii) the Kitale-Marich section is a renowned black spot which has occasioned 47 fatalities and 198 injuries;

(iv) efforts by former Members of Parliament to have this matter addressed by the relevant authorities have not been successful; and,

(v) we hereby confirm that this issue, in respect of which this petition is made, is not before any court of law or constitutional or legal body.

Hon. Temporary Deputy Speaker, your humble petitioners pray that the National Assembly, through the Departmental Committee on Transport, Public Works and Housing ensures that:-

(a) the KeNHA considers the realignment of this road at Kamatira Hills, from Tapach to Lelan Market;

(b) the gravelling is done at the internationally acceptable standard of 5 per cent; and,

(c) the realignment is done within the ongoing design, and should not wait any longer.

Hon. Temporary Deputy Speaker, your petitioners will ever pray.

Thank you.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Members, before referring the Petition to the relevant Departmental Committee, I would like to give the Floor to an hon. Member who is interested in speaking to it.

I can see no interest. Therefore, I order that the Petition be referred to the relevant Departmental Committee.

#### PLEA FOR REJECTION OF PROPOSED AMENDMENTS TO BILLS

Hon. Members, there is a second Petition, under Standing Order No.225(2), which requires the Speaker to present to the House any petition other than those Petitions presented to the House through a Member.

Therefore, I wish to convey to the House the message that the Office of the Speaker received a Petition made by a body calling itself “The Civil Society Organisation Reference Group”. The Petition is in connection with the amendment to the Public Benefits Organisation Act, 2013 (Act No.18 of 2013), and the Kenya Information and Communications Act. The Petition, dated 21<sup>st</sup> November, 2013, is signed by citizens drawn from 47 counties. They are praying that the National Assembly rejects the proposed amendments to the Public Benefits Organisation Act, 2013 and the Kenya Information and Communications (Amendment) Bill, 2013.

Hon. Members, as you are aware, the first prayer relates to the amendment contained in the Statute Law (Miscellaneous Amendments) Bill, 2013, while the second one relates to a Bill that has been considered by the House, and whose Presidential Memorandum is scheduled for consideration by this House later in the week. This Petition, therefore, shall stand committed to the Departmental Committee on Justice and Legal Affairs, and the Departmental Committee on Energy, Information and Communication for consideration. The Committees are requested to consider the respective prayers in the Petition and report their findings in accordance with Standing Order No. 227(2). The two Committees are at liberty to consider the respective Petitions while considering the two Bills.

Next Order!

#### PAPERS LAID

The following Papers were laid on the Table:-

Sessional Paper No.2 of 2013 on National Industrial Training and Attachment Policy.

Sessional Paper No.3 of 2013 on National Productivity Policy.

Sessional Paper No.4 of 2013 on Employment Policy and Strategy for Kenya.

Sessional Paper No.8 of 2013 on National Values and Principles of Governance.  
Sessional Paper No.9 of 2013 on National Cohesion and Integration  
Financial Statement of Ewaso Nyiro South River Basin Development Authority,  
2012.

*(By hon. (Dr.) Shaban)*

## REQUESTS FOR STATEMENTS

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Members, if you look at the tentative requests for Statements, we have 10 Members asking for Statements. I think the best way to go about it is to give them very few minutes so that we can make progress. You realise that we have a Supplementary Order Paper and it is quite thick. So, we have a lot in our hands. So, I want every Member who will have the opportunity to use two minutes because they will still have the opportunity at the time the Statements are being responded to. So, let us start with hon. Melly.

### INSECURITY IN TINDERET CONSTITUENCY

**Hon. Melly:** Thank you, hon. Temporary Deputy Speaker, Sir. Pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Administration and National Security concerning insecurity in my constituency.

Hon. Temporary Deputy Speaker, in the recent past there have been rampant cases of insecurity in the country and particularly in Tinderet Constituency. There have been a number of murders; three people have been killed and up to today the police have been indicating that they are going to resolve the issue. I would request the Chairperson to inform this House what action they have taken to resolve the murder of Mr. Kimalael of Taptengeli Shopping Centre, Mr. William Nyangai of Kibukwo Village and the rape of several women.

In the Statement, I request that the Chairperson needs to inquire and report on one, the steps the Government is taking to curb insecurity, violence and robberies and two, the steps the Government is taking to establish a police station at Taptengeli Shopping Centre.

Thank you, hon. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well. I see the Chair of the Departmental Committee on Administration and National Security. How long realistically will you be able to bring the Statement before the House?

**Hon. Abongotum:** Hon. Temporary Deputy Speaker, I am asking for two weeks to be able to address the issues of murder, rape cases and violent robberies in that constituency. On the issue of opening a police station, I think we can share it with the Cabinet Secretary so that it can be opened. We do not have to wait for the Statement.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Melly, are you happy?

**Hon. Melly:** Hon. Temporary Deputy Speaker, I think this is a response to what has happened and it has taken long now. It is almost two months and I have not seen any action. If he gives me that Statement in one week, it will be better.

**The Temporary Deputy Speaker** (Hon. Cheboi): In all fairness, I think this is coming before the House today. Probably you made the formal process of requesting a little earlier but it is now before the House. Hon. Chairman, I do not know how you wish to respond to that, that the Member wants one week instead of two. I do not know whether that will make any difference because I am trying not to anticipate any debate. Proceed.

**Hon. Abongotum:** Thank you, hon. Temporary Deputy Speaker. I know how we have been working with the Ministry and the bureaucracy between it and the other departments of police, it needs some time. Maybe let us reduce it to 10 days.

**The Temporary Deputy Speaker** (Hon. Cheboi): I can see hon. Melly nodding in appreciation. Now, let us go to the next one. Hon. Manson Nyamweya.

#### SHORTAGE OF FOOD IN THE COUNTRY

**Hon. Nyamwea:** Thank you, hon. Speaker, Sir. Pursuant to Standing Order 44(2)(c) I wish to request for a Statement from the Chairperson, Departmental Committee on Finance, Planning and Trade regarding the instances of food insufficiency in various parts of the country. Some areas in the country are facing starvation and lack food, especially due to inadequate rains. As such, there is need to ensure that the citizens in these areas are provided for because there is risk of losing life. In his Statement, the Chairperson should inquire into and report on; how many districts countrywide are susceptible to food insufficiency, the mechanisms the Government has put in place to ensure adequate availability of food, including transport and other logistics and the arrangements required to get the required supplies to the affected people. He should also say whether the affected public has been informed of this issue to prepare adequately. Are there any plans in place to ensure that surplus food from other districts is taken to other areas to avoid importing food which is more expensive?

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well. I see that is a matter for the Committee on Finance, Planning and Trade.

**Hon. Langat:** I want to seek your guidance, because the question seems to me like it should be directed to the Departmental Committee on Agriculture, Livestock and Cooperatives. I can do it but it seems like a question that should be directed to this Committee.

**The Temporary Deputy Speaker** (Hon. Cheboi): Well, if you can do it why would you not make a decision on how long you will take. You have admitted that your Committee can handle it.

**Hon. Langat:** I want to request the hon. Member to give us two weeks, but I will also liaise with the Committee on Agriculture.

**The Temporary Deputy Speaker** (Hon. Cheboi): I think that will be better. Let us hear from hon. Nyamwea.

**Hon. Nyamwea:** I wish to inform hon. Langat that special programme is under devolution and is correctly in the docket of the Department on Finance, Planning and Trade, as I had requested in my question.

**The Temporary Deputy Speaker** (Hon. Cheboi): He has accepted that he is going to answer. The issue I want you to speak to is whether two weeks is reasonable to you or otherwise.

**Hon. Nyamwea:** I hope he keeps to that because there is a question I asked, they had committed to answer it in two weeks and they have not responded to. I do not know whether I can trust them now. This is the second question I am asking from the same Chair that has not been replied to. So, what do I do Chair?

**The Temporary Deputy Speaker (Hon. Cheboi):** Tell us hon. Langat if you are more trustworthy this time.

**Hon. Langat:** I think the Member is taking advantage of his time to damage my goodwill. I want to promise him that he will get an answer before the end of the week, unless there is anything pending.

**The Temporary Deputy Speaker (Hon. Cheboi):** I think that is okay, hon. Nyamwea agrees to two weeks with a small rider. Let us have hon. Lekuton!

He is absent and therefore, that request is dropped. Hon. Odera.

#### CURATIVE AND PREVENTIVE MEASURES PRACTISED IN HEALTH CARE FACILITIES

**Hon. Odera:** Thank you, Temporary Deputy Speaker. I rise pursuant to Standing Order 44(2)(c) to make a Statement request from the Chairperson of the Departmental Committee on Health, regarding the curative and preventive measures practised in the health care field and standards of health generally. The health care situation in this country appears to have focused primarily on curative measures, at the expense of working to prevent occurrence of those ailments in the first place. Our citizens are therefore placed at a disadvantage given the current high cost of diagnosis and treatment, especially for chronic and terminal ailments.

In the Statement, the Chairperson should inquire into and report on; one, the statistics of those who seek treatment, that is, the percentage of patients who recover fully, those who die of their ailments and the percentage that continues to live with the effects of those ailments. Two, when will the Government improve services in public hospitals, by providing equipments, deploying sufficient medical staff and ensuring adequate bed and ward space? Three, what standard of service patients seeking medical attention in public hospitals should expect in terms of waiting time, quality of attention and availability of drugs and equipment for testing and examination?

Lastly, why is it that Kocholia District Hospital in Teso North Constituency refers patients to other district hospitals and when will steps be taken to resolve the acute shortage of medical personnel, drugs, wards and equipment?

**The Temporary Deputy Speaker (Hon. Cheboi):** Very well, that is a matter for the Departmental Committee on Health. Okay, the Vice-Chairman is available. How long do you think you will take, hon. Pukose?

**Hon. (Dr.) Pukose:** Thank you, Temporary Deputy Speaker. Considering that the named functions have been devolved, what remains under the national Government is the referral facilities and the aimed policy. The question is not well structured because do I ask the Governor or the Minister concerned?

*(Laughter)*

That question needs to be well structured, because putting it the way he has, it is an open question.

**The Temporary Deputy Speaker** (Hon. Cheboi): You say you want a closed question, what kind of a question---

**Hon. (Dr.) Pukose:** When you ask how many patients, are you talking about outpatients or inpatients? Are you talking of patients who visit national referral facility, health centres or district hospitals? So, the question is actually not well structured.

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. (Dr.) Pukose, I think you are taking advantage of the fact that you were once a Medical Officer of Health and a medical doctor. Let us hear hon. Odera. Can you work on the structure, if you agree with him? What is it that is---

**Hon. Odera:** It is not clear to me what structure would be in a question such as this? The content is clear. Now, it is the answer that needs to be structured to answer the question. I think the Member attempts---

**The Temporary Deputy Speaker** (Hon. Cheboi): What is it that you aim to get from this Statement?

**Hon. Odera:** What I seek to get are the statistics of people. I am interested in understanding the effectiveness of medical care in this country and that is why I am asking for statistics; how do we measure effectiveness? It is through people who have ailments, either they recover or continue to ail or they die. That is the bottom line of medical care. Now, how do I structure that question to sound better and fit the mindset of the Vice-Chair? I am not sure that I can answer the question on who the Committee should ask. This is a House of Representatives of the people and when we seek answers, we should get answers. It is the Committees' responsibility to seek those answers and bring them to us.

**The Temporary Deputy Speaker** (Hon. Cheboi): Is it any better hon (Dr.) Pukose?

**Hon. (Dr.) Pukose:** With due respect to the hon. Member, are we asking the patients presenting at the health centre? You know, there are various levels of hospitals and for the record purposes, patients will either present to the dispensary, health centre, district hospital and to the former provincial hospitals, so where are we asking?

**The Temporary Deputy Speaker** (Hon. Cheboi): So that we avoid the exchange between the two Members who believe that they are correct, I think the best position would be you give us an approximate time which you think you can work it out, then the Member can come to the Committee and present his question in a more structured way so that we can make progress.

**Hon. (Dr.) Pukose:** If you allow me, we can ask the Member to present his question to the Committee on Thursday so that we can discuss it before we can take it up. We do not want just to promise the House that we want to take a question for the sake of it. We want to take a question that we think can help the House.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us be clear hon. (Dr) Pukose, this is a Statement, Question Time is long gone.

**Hon. (Dr.) Pukose:** Let him present before the Committee so that we know where his interest is.

**The Temporary Deputy Speaker** (Hon. Cheboi): That makes a lot of sense. Let us hear something from you, hon. Odera as we wind up. We do not want to take too much time.

**Hon. Odera:** Hon. Temporary Deputy Speaker, Sir, my understanding is that the request is presented to the House and the Committee takes it up. I am happy to appear before the Committee and clarify whatever needs to be clarified.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us say that you will take two weeks. You can come and report to the House that you did not find issues that are within your Committee. I think that will be perfect.

**Hon. Odera:** That is fine, hon. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us move on to the next request for a Statement by Hon. Diriye. He is also absent. Therefore, that Statement also faces the axe. Let us move on to the next request for Statement by Hon. Simba Arati.

#### GRABBING OF LAND/PUBLIC UTILITIES BY PRIVATE DEVELOPERS

**Hon. Simba:** Thank you, hon. Temporary Deputy Speaker, Sir. Pursuant to Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Lands regarding alleged grabbing of land and public utilities by private developers.

In the recent past, some private developers have allegedly grabbed public land especially land belonging to public schools. For instance, in my constituency, they have grabbed land belonging to Lavington Primary School, Milimani Primary School where seven acres have been hived off, Kilimani Primary School, Kileleshwa Primary School and Kawangware Primary School.

The Chairperson should, therefore, inquire into and report on the current status of these parcels of land stating the number of acres owned by each school---

*(Loud consultations)*

Hon. Temporary Deputy Speaker, if you save me from a heckler called "Wanjohi" I will proceed very well!

**The Temporary Deputy Speaker** (Hon. Cheboi): Well, I assume that I did not hear what you have said.

**Hon. Simba:** Hon. Temporary Deputy Speaker, Sir, I will continue. The steps the Government is taking to recover the alleged grabbed land and the action the Government is taking against such grabbers.

I am requesting that this Statement be brought in form of a report so that it can be discussed in this Parliament because all the parcels of land belonging to the schools in this city have been grabbed.

**The Temporary Deputy Speaker** (Hon. Cheboi): The request at the end is fairly sweeping. That is when you say that all the parcels of land belonging to the schools in the city have been grabbed. I think you had specific properties you talked about. Let us have the Chair, Departmental Committee on Lands, hon. Alex Mwiru. I cannot see him. Is there anybody from that Committee? Where is the Vice-Chair? Hon. Otuoma, I believe you are not the Vice-Chair but you are the ranking Member in that Committee, if there was to be that---

**Hon. (Dr.) Otuoma:** Thank you, hon. Temporary Deputy Speaker, Sir. Because of the details that are required, could we request for four weeks to inquire into the matter?

**Hon. Simba:** Hon. Temporary Deputy Speaker, Sir, I agree that this Statement could take four weeks but when do these four weeks start and end? That is something that we need to know.

**The Temporary Deputy Speaker** (Hon. Cheboi): Four weeks start today. If you are okay with the four weeks' period, they start now. So, let us proceed.

**Hon. Simba:** It is all right, hon. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us have the next request on Statement No.214 by hon. Sammy Mwaita.

#### CRITERIA FOR CLASSIFYING ROADS IN THE COUNTRY

**Hon. Mwaita:** Thank you, hon. Temporary Deputy Speaker, Sir. Pursuant to Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson, Departmental Committee on Transport, Public Works and Housing regarding the classification of roads in the country.

The Fourth Schedule of the Constitution assigns county governments certain functions of roads. I would like the Committee to inquire and report on the following: - The definition of county roads; the criteria used by the Ministry in classifying various roads throughout the country and finally, provide the list of all classified roads in this country to the House.

**The Temporary Deputy Speaker** (Hon. Cheboi): Very well. Let us have the Chair, Departmental Committee on Transport, Public Works and Housing, Hon. Kamanda; in his absence, let us have the Vice-Chairperson. In the absence of the Vice-Chairperson, let us have any Member from the Committee.

Yes, hon. Mahamud.

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Speaker, Sir, this is a very important matter. In fact, we are meeting the Ministry of Transport and Infrastructure over the weekend to look at that issue which is very urgent. As soon as we are through with the Ministry, we will respond most likely after recess.

**The Temporary Deputy Speaker** (Hon. Cheboi): Let us not anticipate the recess. Tell us how long you require.

**Hon. (Eng.) Mahamud:** Two weeks, hon. Temporary Deputy Speaker, Sir.

**The Temporary Deputy Speaker** (Hon. Cheboi): I think that is okay with you, hon. Mwaita.

*(Hon. Mwaita nodded his head)*

I can see you nodding. So, let us move on to the next request for a Statement by hon. Irungu Kang'ata.

#### LEGALITY OF *BONYEZA USHINDE* PROMOTION

**Hon. Kang'ata:** Hon. Temporary Deputy Speaker, Sir, pursuant to Standing Order No.44(2)(c), I hereby request for a Statement from the Chairperson of the Departmental Committee on Finance, Planning and Trade concerning the ongoing *Bonyeza Ushinde* Promotion run by Safaricom Limited.

Thousands of Kenyans have participated in this promotion and the process is not transparent. It is not clear to the public how much of the earnings from this promotion will be ploughed back to the society by way of charity as provided by the law.

Hon. Temporary Deputy Speaker, Sir, in the Statement, the Chairperson should investigate and report on the following:-

(i) the legality of the promotion;

(ii) how much on average Safaricom Limited promotion *Bonyeza Ushinde* is earning per day since the day of the commencement of the promotion and how much of the earnings of the ongoing promotion will be expended to charitable courses;

(iii) how much Safaricom Limited earned from previous promotions of the same nature and the list of charitable course supported.

**The Temporary Deputy Speaker** (Hon. Cheboi): I am not quite sure that this Statement should be directed to the Departmental Committee on Finance, Planning and Trade. To me, this request should have been directed to the Departmental Committee on Energy, Communication and Information. I think everybody seems to be interested in taking requests to hon. Langat's Committee. Let us hear from hon. Langat before I come to hon. Jamleck.

**Hon. Langat:** I think you are correct, hon. Temporary Deputy Speaker, Sir. I can see my good friend, the Chairperson and I believe that he will give a commitment to deliver that Statement.

**The Temporary Deputy Speaker** (Hon. Cheboi): I think that is a better way. Let us have hon. Jamleck Kamau and I really think it is coming to that particular Committee. You can actually proceed and give the time you want to transact that particular business, if you agree that it is supposed to come to your Committee.

**Hon. Kamau:** Thank you, hon. Temporary Deputy Speaker. Indeed, it is actually under my Committee. We can give a response to that question in two weeks' time.

**Hon. Kang'ata:** Hon. Temporary Deputy Speaker, two weeks is fine, but then I seek directions from the Chair as to whether these questions and maybe petitions will collapse---

**The Temporary Deputy Speaker** (Hon. Cheboi): This is neither a petition nor a question; it is a Statement you are seeking.

**Hon. Kang'ata:** Hon. Temporary Deputy Speaker, I kindly seek your direction as to whether or not this request for a Statement will collapse on Thursday when this Parliament goes on recess.

**The Temporary Deputy Speaker** (Hon. Cheboi): No, they will not collapse. If it does not collapse, I am sure you are saying that two weeks will be fine with you. They will not.

**Hon. Kang'ata:** Thank you.

#### STATUS OF MARKETS BUILT UNDER ECONOMIC STIMULUS PROGRAMME

**Hon. ole Lemein:** Hon. Temporary Deputy Speaker, pursuant to Standing Order 44(2)(c) I wish to request for a Statement from the Chairperson of the Departmental Committee on Transport, Public Works and Housing regarding fresh produce markets across the country that were built under the Economic Stimulus Programme (ESP), particularly the market at Ololua Trading Centre in Narok County.

The construction of Ololua Trading Centre Market started almost seven years ago. It was funded by the defunct Ministry of Local Government. However, the project has totally collapsed greatly impacting the local fresh produce industry.

In the Statement, the Chairperson should inquire into and report on:

- (i) the measures put in place to salvage the market and promote the local economy;
- (ii) the amount of money that was allocated for the project and the amount paid to the contractor so far; and
- (iii) the completion period for the above-mentioned project as per the contract agreement.

**Hon. (Eng.) Mahamud:** Hon. Temporary Deputy Speaker, we will deliver that information in three weeks' time.

**Hon. ole Lemein:** Hon. Temporary Deputy Speaker, I agree.

#### STATUS OF KICC IN KENYA'S CULTURAL AND ARCHITECTURAL HERITAGE

**Hon. Wetangula:** Hon. Temporary Deputy Speaker, pursuant to Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Labour and Social Welfare regarding the status of the Kenyatta International Conference Centre (KICC)---

**The Temporary Deputy Speaker** (Hon. Cheboi): Order, hon. Wetangula. I cannot see you because of a Member standing between you and me against the Standing Orders. Hon. Member from Embakasi, I do not know which Embakasi because you are many nowadays, that is totally out of order.

Proceed, hon. Wetangula.

**Hon. Wetangula:** Hon. Temporary Deputy Speaker, pursuant to Standing Order 44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Labour and Social Welfare regarding the status of the Kenyatta International Conference Centre (KICC) in Kenya's architectural and cultural heritage.

The KICC has for decades been the face and Nairobi's skyline. This is an architectural masterpiece built using public funds and every visitor identifies with this iconic building which depicts the Kenyan culture and the resilience of the Kenyan people.

In the statement the Chairperson should inquire into and report on:

(i) why it has taken long to declare the KICC part of Kenya's cultural heritage as protected building pursuant to the National Museums and Heritage Act, Cap.216 of the Constitution of Kenya;

(ii) whether the current external alteration to the building were approved by the buildings architects;

(iii) the current registered name of the building since it was recently rebranded from the well known Kenyatta International Conference Centre to Kenyatta International Convention Centre and the rationale for the same; and

(iv) the total number of architectural designs and community heritage sites which have not been designated protected area.

**Hon. Were:** Hon. Temporary Deputy Speaker, I ask for two weeks to be able to deliver the Statement.

**Hon. Wetangula:** Two week is fine, hon. Temporary Deputy Speaker. It is a fairly straightforward matter.

**The Temporary Deputy Speaker** (Hon. Cheboi): That is perfect. Hon. Members, that marks the end of Statement requests. I ask you to look at the Supplementary Order Paper because that is what we will use for business this afternoon.

## CONSIDERATION OF REPORT AND THIRD READING

### THE ELECTION CAMPAIGN FINANCING BILL

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Members, that one had almost been finalized. The Mover had not moved the Third Reading. That is the point at which we intend to start. Chairperson of the Departmental Committee on Justice and Legal Affairs you appear to be very busy, but it is your turn now. I want you to move the Third Reading.

**Hon. (Ms.) Kanyua:** Hon. Temporary Deputy Speaker, I beg to move that the Election Campaign Financing Bill, National Assembly Bill No.14 of 2013 be now read a Third Time. I ask hon. Ms. Kajuju to second.

**Hon. (Ms.) Kajuju:** Hon. Temporary Deputy Speaker, I hereby second the Bill and appreciate the efforts that have been put in place by Members in ensuring that we have come to this stage.

**The Temporary Deputy Speaker** (Hon. Cheboi): I also want to congratulate the membership of this House for transacting this until 10.00 p.m.

*(Question proposed)*

*(Question put and agreed to)*

*(The Bill was accordingly read the Third Time and passed)*

## PROCEDURAL MOTION

### EXTENSION OF HOUSE SITTING TIME

**The Temporary Deputy Speaker** (Hon. Cheboi): Yes, Procedural Motion from the Leader of Majority Party. Is hon. (Dr.) Shaban moving it?

**Hon. (Dr.) Shaban:** Yes, hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Cheboi): Yes, proceed.

**Hon. (Dr.) Shaban:** I wish to move the following Procedural Motion:-

THAT, pursuant to the provisions of Standing Order No.33 (1), this House orders that the sitting time of today's sitting be extended until conclusion of business appearing under Order No.11.

We have quite a bit of business to deal with and considering that we are supposed to end this Session by the end of this week, I am asking my colleagues to accept that we can do business today until we complete what is on the Order Paper. The reason being that when you look at Order No.10, which is Committee of the whole House, under 11(ii) the Wildlife Conservation and Management Bill (National Assembly Bill No.21 of 2013),

it has a lot of amendments and is a whole booklet actually. We need to go through it and be able to complete it by the end of today.

I am asking my colleagues to accept to stay on, so that we can complete what is in the business today. I will ask hon. Chris Wamalwa to second this Procedural Motion.

**The Temporary Deputy Speaker** (Hon. Cheboi): Okay, hon. Wamalwa.

**Hon. Wakhungu:** Thank you, hon. Temporary Deputy Speaker. I rise to second the Procedural Motion. Looking at the business at hand which has a constitutional deadline, I rise to second and request hon. Members to avail themselves.

Thank you, hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Cheboi): Yes, Members, I want it to be clear that if the Procedural Motion passes and we are able to transact business, assuming that by or before 6.30 p.m. we are past Order No.11, we will go to the next Order. So this is just in case we are not able to transact the business up to Order No.11.

*(Question proposed)*

Is there any Member who wishes to contribute to this, any Member who wishes to do that---

**Hon. Members:** Put the Question.

**The Temporary Deputy Speaker** (Hon. Cheboi): You want me to put the Question, I will.

*(Question put and agreed to)*

Hon. Jamleck Kamau, I see you have a point of order.

**Hon. Kamau:** Yes, hon. Temporary Deputy Speaker, I stand on a point of order under Order No.10. I want to beg your indulgence and request that you defer Order No.10 and No.11 (i). The reason being that the Committee, in the last two days, has been engaging the media stakeholders and I am happy to report that we have actually found a compromise. As we speak, even today at 5.00 p.m. we are meeting so that we can fine tune what we have agreed, so that we can thereafter consult the Commission for the Implementation of the Constitution and Attorney-General to make sure that whatever we are bringing before the House is constitutional.

I would like we defer this to tomorrow afternoon so that we can mobilize Members of Parliament because any amendment to Order No.10 will require 233 Members.

Hon. Temporary Deputy Speaker, I beg your indulgence on that.

**The Temporary Deputy Speaker** (Hon. Cheboi): That looks reasonable and I therefore order that Order No.10 and No.11(i) be taken to tomorrow afternoon at 2.30p.m. Next Order!

Hon. Jamleck, do you have something else you would like to add?

**Hon. Kamau:** Yes, I really want to thank you very much hon. Temporary Deputy Speaker, for that direction. I request Members to avail themselves tomorrow at 2.30 p.m. so that if we can get the 233 Members in the House, we will be able to move together in the same direction, and I will really be very happy.

Thank you, hon. Temporary Deputy Speaker.

**The Temporary Deputy Speaker** (Hon. Cheboi): That is okay, hon. Ochieng, is there anything that is out of order.

**Hon. Ochieng:** Thank you, hon. Temporary Deputy Speaker. I stand on a point of order. Everything is out of order; this House cannot be seen to be acting in vain. We have just made a decision less than three minutes ago based on what we had on the Order Paper, that we need more time to discuss what is before the House today.

The Chairman of the Committee on Energy, Communication and Information, who has just spoken, was in the House when we made that decision. We were making it based on the fact that we have an issue to discuss, especially on the Kenya Information and Communications (Amendment) Bill. Why would you be allowing this House just to be acting in vain? To extend time for no apparent reason---

**The Temporary Deputy Speaker** (Hon. Cheboi): Hon. Ochieng, we still have a handful really, but if you are speaking specifically---

**Hon. Ochieng:** Yes, specifically, to Order No.10. We have just made a decision that we are going to extend the sitting today and if you look, it was really because of what is appearing in Order No.10.

**The Temporary Deputy Speaker** (Hon. Cheboi): Now that is not the right position hon. Ochieng; we still have quite a lot of work before the House. For as long as the relevant Committee is not sufficiently prepared to proceed, the best way is to give them an opportunity, and they did not ask for too much time. Asking for a day really, is reasonable. So hon. Ochieng, let us leave it at that. A point of order! hon. Wandayi.

**Hon. Wandayi:** I stand on point of order, under Standing Order No.154. I am sure you will recall that the substantive Speaker, on receipt of this Memorandum from the President, did make a ruling that it will be put before the House for consideration. I am not sure at what stage the Committee chaired by hon. Jamleck Kamau was seized of this matter because I do not find anywhere in the Standing Orders or the Constitution where the Committee is supposed to take a matter that has gone through the House to the President for assent, and referred back to the House. So, could we get clarification, so that we can know whether what we are doing is in order or not.

**The Temporary Deputy Speaker** (Hon. Cheboi): I hope hon. Wandayi you do not want to reopen that particular bit. It has been ruled that it will be tomorrow at 2.30 p.m. I just wanted to listen to probably whatever other opinion you had specifically because I did not find anything that was of importance there.

**Hon. Ochieng:** Is it now being taken as a matter of fact or procedure that whenever we receive a memorandum from the President on a Bill which he is not comfortable with for whatever reasons, the relevant Committees will deal with the matter as a way of opening up?

**The Temporary Deputy Speaker** (Hon. Cheboi): For as long as it comes to the House, it will go to the relevant Committee before it comes back to the House. By the way, Committees and the House are one and the same thing. So, that is ruled and we will proceed to the next Order.

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Temporary Deputy Speaker  
(Hon. Cheboi) left the Chair]*

IN THE COMMITTEE

*[The Temporary Deputy Chairman  
(Hon. Kajwang') took the Chair]*

THE WILDLIFE CONSERVATION AND MANAGEMENT BILL

**The Temporary Deputy Chairman** (Hon. Kajwang'): Members, you may resume your seats. I hope I am not going to lose quorum, starting from the Member for Gwassi. The whole country is watching. So, I hope I am not going to lose quorum just because some business has been taken out of the Order Paper. It is the business of this National Assembly to work on Bills. Those of you who are leaving, you can know that those of us who are remaining are doing what we are here for, to make Bills.

This is the Committee of the whole House considering the Wildlife Conservation and Management Bill, (National Assembly Bill No.21 of 2013).

*Clause 3*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -

THAT, Clause 3 of the Bill be amended-

(a) by deleting the definition of "bio-piracy" and substituting therefor the following definition-

"bio-piracy" refers to the exploration of biological resources without the knowledge and non-coercive prior consent of the owners of the resources and without fair compensation and benefit sharing"

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

"bio-prospecting" means the exploration of biodiversity for commercially valuable genetic and biochemical resources"

"biological resources" includes genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity";

"biotechnology" means any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use;

"conservation area" means a tract of land, lake or sea with notable environmental, natural features, biological diversity, cultural heritage, or historical importance that is protected by law against undesirable changes;

"multilateral environmental agreement" means an agreement involving three or more parties regarding sustainable environmental management;

"protected area" means a clearly defined geographical space, recognized, dedicated and managed through legal or other effective

means, to achieve long-term conservation of nature with associated ecosystem services and cultural values Ministry;

“national park” means an area of land and/ or sea especially dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources, and managed through legal or other effective means.

“national reserve” means an area of community land declared to be a national reserve under this Act or under any other applicable written law.

“marine reserve” means a marine protected area where subsistence fishing is permitted;

“marine park” means area of marine protected area where no fishing, construction work or any disturbance is allowed unless written permission has been granted by the Director General;

“weapon” means a tool, implement, firearm, ammunition or any item that may be used to injure or kill a wild animal for any reason;

“wildlife conservation area” means a tract of land, lake or sea that is protected by law for purposes of wildlife and biological diversity conservation and may include a national park, national reserve, game reserve or sanctuary.

(a) by deleting the word “Director” and substituting therefor the words “Director General”

(b) by deleting the definition of the word “Wildlife” and substituting therefor the following new definition-

“Wildlife” means any wild and indigenous animal, plant or microorganism or parts thereof within its constituent habitat or ecosystem on land or in water, as well as species that have been introduced into or established in Kenya”.

The main issue is that when we looked at this Bill, we realised that there were many phrases that were being used in the body of the Bill that had not been defined. So, the Committee is proposing that the Bill be amended by defining all those phrases. We are also proposing to substitute the title “Director of the Service” with “Director-General”. That is a consequential amendment to our amendment. Finally, we propose to delete the definition of “wildlife” that is in the Bill and replace it with the one which is on the Order Paper. So, essentially, the amendment intends to bring on board terms that are used in the body of the Bill that were not initially defined.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): I see requests. Members, we do not want to entertain debates at this point. We just want to go through the amendments as they appear on the Order Paper and if you have further amendments, we will retain them. Hon. Clement Muchiri Wambugu!

**Hon. Wambugu:** Hon. Temporary Deputy Chairman, Sir, I do not have any amendments to move.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Okay, keep your fingers away from the console.

**Hon. Wambugu:** Hon. Temporary Deputy Chairman, Sir, it was off. I do not know how it went on.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Then the digital gadget just likes you, hon. Member.

**Hon. Wambugu:** Hon. Temporary Deputy Chairman, Sir, I think I am very digital.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 3 as amended agreed to)*

*(Clause 4 agreed to)*

#### *Clause 5*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT, Clause 5 be deleted.

Clause 5 purports to establish a conservation directorate at the State Department for the time being responsible for wildlife. The Committee felt that this was an over-legislation and unnecessary clause because the establishment of a directorate is an administrative function that should not be put in a legislation that would require changes should a subsequent Government wish not to have it as a directorate. So, that is the reason for the deletion.

*(Question the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Clause 5 deleted)*

#### *Clause 6*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT, Clause 6 be deleted.

The deletion of Clause 6 is a consequential amendment because Clause 6 stipulates the functions of the directorate, which we have already deleted.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Clause 6 deleted)*

*(Clause 7 agreed to)*

*Clause 8*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT, Clause 8 be amended by inserting the following new paragraphs immediately after paragraph (n)-

“(na) identification and advising on user rights to Cabinet Secretary”;

“(nb) granting of permits”;

“(nc) establish forensic labs”;

“(nd) monitoring and compliance of licence terms and conditions”;

Clause 8 stipulates the functions that are given to the Kenya Wildlife Service. The Committee has reorganized the regulatory regime by proposing this Bill. One of the functions that we have given to the KWS is to give advisory opinions to the Cabinet Secretary who would be the chief regulator. So, we are proposing to add new paragraphs in the functions of the KWS that include identification and advise to the Cabinet Secretary, granting permits, establishment of a forensic laboratory, monitoring and compliance of licence terms and conditions to the function of the Service. For the purposes of this amendment, this Bill tries to ensure that the KWS no longer has the regulatory function by giving the regulatory function to the Cabinet Secretary.

*(Hon. Wakhungu crossed the Floor  
without bowing to the Bar)*

**The Temporary Deputy Speaker** (Hon. Kajwang’): Order! Can you do what you know must be done? I do not expect the leadership to fail to follow the proceedings.

*(Hon. Wakhungu bowed)*

Anyway, he has done what he must be doing. Proceed.

**Hon. (Ms.) Abdalla:** So, these are the additional functions that we have given to the Service so that they are able to help the Cabinet Secretary in their regulatory functions.

Thank you.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 8 as amended agreed to)*

*Clause 9*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -  
THAT clause 9 be amended in sub-clause (2)-

(a) by deleting the words “on the recommendation of the Public Service Commission” appearing in paragraph (a);

(b) by deleting sub-paragraph (i) of paragraph (f);

(c) by deleting sub-paragraph (iii) and substituting therefor the following new sub-paragraph-

“(iii) two representatives, one of whom shall be of the opposite gender from community managed wildlife areas, nominated by an umbrella wildlife conservancy body”.

(d) by deleting the word “Director” appearing in paragraph (g) and substituting therefor the word “Director General”

(e) by inserting the following new sub-clause immediately after sub-clause (4) -

“(4A) The Cabinet Secretary shall appoint one third of the members of the Board under subsection (f) (i) (ii) (iii) and (iv) in a staggered manner so that the respective expiry dates of their terms shall fall at a different time”

The first amendment is to deal with the fact that a chairperson of a board is not a full-time employee and as such no recommendation from the Public Commission is necessary, which is what we are deleting under (a).

We are further deleting sub-paragraph (i) of (f) so that we retain the number of four representatives of non-public officers and add representation from community managed wildlife areas.

Thank you.

*(Question of the amendment proposed)*

**Hon. ole Ntutu:** Thank you, hon. Temporary Deputy Chairman, Sir. I beg to move: -

THAT, Clause 9 be amended by deleting sub-clause (3) and substituting therefor the following new sub-clause-

“(3) The member appointed under subsection (2) (f) (iii) shall be the vice-chairperson of the Board of Trustees.

When you look at the board members, all of them are State appointees. Therefore, I am proposing that we should give the community an opportunity to appoint vice-chairperson of that particular board.

Hon. Temporary Deputy Chairman, when you look at this board, it is purely owned by the people who have been appointed by the President. Those are the Principal Secretary (PS) in the department for the time being in charge of wildlife and also the PS of the National Treasury. Therefore, I am proposing that we need to give the communities that own wildlife this one slot so that they become the vice-chairperson of the board. I propose that we must have a vice-chairman coming from the community.

Thank you.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Members, you need to understand where we are. We are on page 537 of the Supplementary Order Paper and the proposition of the hon. Member is at the foot of the Order Paper. The effect of this amendment is to speak to page 649 of the Bill seeking to change subclause (3), “one representative from community managed wildlife areas” so as to make law that a person nominated under that subsection therefore becomes the first chairperson of the Board of Trustees. I always like hon. Members to understand where we are when we make decisions in this House.

**Hon. Ganya:** Hon. Temporary Deputy Chairman, I really want to support that further amendment by hon. Ntutu. Our communities live with wildlife and they are the heart of conservation. Therefore, for our communities to have a human face, we should ensure that we have a role, where we can make key decisions.

All the other members are either---

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Order, hon. Members, as you consult, there is a caucus on my left which is very evident to be very happy in the House. Please, consult sparingly.

**Hon. Ganya:** Our communities who live with wildlife need to have a prime role in the conservation of our wildlife. Up to now, what we have had is an illusion of conservation. Having this member will ensure that they will be consulted and they will be key in decision making.

I support.

**Hon. ole Lemein:** Thank you, hon. Temporary Deputy Chairman. I rise on the same amendment. As it has been put clearly, these communities need to be recognized and it is indeed, important for them to get that position.

**Hon. Mati:** Thank you, hon. Temporary Deputy Chairman. I also wish to support and further say that, as this Bill changes and things change about the KWS, there will be more concerns and cognizance of the needs and the problems of the people who live near and within the national parks and reserves.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Thank you. I can hear consensus building in the House. Hon. Abdalla, do you have a contrary opinion to this?

**Hon. (Ms.) Abdalla:** No, hon. Temporary Deputy Chairman, I do not.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Yes, hon. Zuleikha Hassan. Is she not in? The amendment is dropped.

*(Proposed amendment by hon. (Ms.) Juma dropped)*

Hon. Millie Odhiambo, are you in the Chamber? The amendment is dropped.

*(Proposed amendment by hon. (Ms.) Odhiambo-Mabona dropped)*

Hon. Committee Chairman, the hon. Members are not here to move their amendments. So, the Questions have been dropped.

*(Clause 9 as amended agreed to)*

*(Clauses 10 and 11 agreed to)*

*Clause 12*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -  
THAT, clause 12 be amended-

(a) by deleting the word “Director” whenever it appears and substituting therefor the words “Director-General”;

(b) by inserting the following new sub-clause immediately after sub-clause (3)

“(4) A person shall qualify for appointment as a Director General if the person-

(i) holds a minimum qualification of a post-graduate degree in a relevant field, from a university recognized in Kenya;

(ii) has at least fifteen years of working experience in a relevant profession; and meets the requirements of Chapter six of the Constitution.

*(Question of the amendment proposed)*

*(Question, that the word to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in  
place thereof be inserted, put and agreed to)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Order! Order, hon. Members!

Hon. Jomo and the other hon. Member approaching the Bar, this House cannot be a place where you walk around and greet people across the Bar as you like. Please, can we have decorum and order? We are on serious parliamentary business.

*(Clause 12 as amended agreed to)*

*Clause 13*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Andrew Mwadime, you have an amendment to this clause.

**Hon. Mwadime:** Hon. Temporary Deputy Chairman, I am sorry. My intervention unit just made some error. My amendment is on Clause 29. However, I support the amendment.

Hon. Members, we are looking at page 539 of the Supplementary Order Paper. If you have it, look at Notice No.4.

**Hon. Mwadime:** Thank you, hon. Temporary Deputy Chairman. I have seen it. I have an amendment on that clause.

I beg to move: -

THAT clause 13 be amended by inserting the following new sub-clause immediately after sub-clause (5)-

“(6) The Board may appoint persons from the communities living in wildlife areas to undertake wildlife protection activities for the effective carrying out of the provisions of this Act”

**The Temporary Deputy Chairman** (Hon. Kajwang’): Can you explain yourself, so that hon. Members can follow you?

**Hon. Mwadime:** Hon. Temporary Deputy Chairman, as it is now, this Act is based on the principles of devolution. Therefore, it should be devolved to the lowest level. As it is now, communities are not engaged in protecting wildlife. Therefore, I find it important to involve the communities in looking after wild animals. Therefore, my amendment is intended to ensure that as the KWS Board is established, persons from communities living in wildlife areas are appointed for the effective carrying out of the activities of KWS.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Thank you very much, hon. Andrew Mwadime. We now have the gist of what you are talking about.

Hon. Members, we are considering the amendment by the hon. Member, which seeks to provide for a specific role to communities living in wildlife areas in terms of undertaking wildlife protection activities.

*(Question of the amendment proposed)*

Yes, hon. Lay.

**Hon. (Ms.) Lay:** Hon. Temporary Deputy Chairman, hon. Mwadime’s amendment reads “the Board may appoint persons from the communities living in the wildlife areas”. So, the contentious word is “may”. So, the further amendment to his amendment should have been “the board shall appoint persons” to make it mandatory for the Board to appoint persons from the communities living in wildlife areas.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Thank you, hon. Lay. You may have been proposing a further amendment but when you change the word “may” to “shall”, you will have negated directly what the hon. Member had proposed. He intended to have an amendment which carries with it discretion. If you put one which is obligatory, then you are coming with a different amendment altogether. So, it may not

come as a further amendment. It can only come as an amendment, if you choose to bring a notice for that reason.

Yes, hon. Charles Njagagua.

**Hon. Njagagua:** Thank you, hon. Temporary Deputy Chairman. I am inclined to support what hon. Mwadime has proposed. However, as I was about to rise, I heard your sentiments about the two words, the first one being discretionary and the second one being obligatory on the part of the Board. So, I am still musing about those two issues, but I believe that it is very necessary that members of the communities living in wildlife areas should and must, of necessity, be part of the board of management. We must appreciate that it is the wearer of the shoe who knows where it pinches most.

**The Temporary Deputy Chairman** (Hon. Kajwang’): I really do not have a problem, except if you bring an amendment that negates what a Member had proposed, it becomes a whole fresh amendment, for which notice must be given in good time.

**Hon. Njagagua:** Hon. Temporary Deputy Chairman, therefore, I propose that the Mover of the amendment proposes a further amendment to make it mandatory.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Njagagua, again, it is not for you to say so. Every hon. Member here has a mouth with which to speak.

Yes, hon. Ganya.

**Hon. Ganya:** Hon. Temporary Deputy Chairman, I am a member of this Committee and we have worked very hard on this Bill. While I support the spirit of the sentiments raised by my colleague in terms of devolving this role to the county level, we have done that in our Committee. We have even set up institutions at the county level where members of the county will actually sit and make those decisions. So, I strongly feel it is unnecessary because we have taken care of it as a Committee, if you look at Clauses 15 and 16.

**The Temporary Deputy Chairman** (Hon. Kawjang’): Thank you, hon. Korir Wesley.

**Hon. Korir:** Thank you, hon. Temporary Deputy Chairman. As I stand here, I support the amendment because we need the blessings of the community to be able to take care of wildlife. Without the blessing of the community, there is no way we are going to succeed in anything we will try to do.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Chair, you have the last bite of the cherry.

**Hon. (Ms.) Abdalla:** Thank you, hon. Temporary Deputy Chairman. I would like to say that I would not be opposing the amendment from the hon. Member because what he is essentially proposing is to set up something like the police reserve component that we have. Community rangers can be recruited. However, I would have a problem with changing the word “may” to “shall” because as it is, this amendment would constitute additional funds. So, if we add the word “shall” we will be imposing an extra cost on the Service which we should be careful not to, given the constraints they have. I will not object the use of the word “may” and I urge Members to support this amendment.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Jones Mlolwa, we do not want to turn this into debate. This is a proposition which we need to pick very quickly, but you have not spoken for a long time and so I will have sympathy for you.

**Hon. Mlolwa:** Hon. Temporary Deputy Chairman, I think that amendment is very necessary for us. People who live with this wildlife have been neglected for a long time

especially in Taita Taveta County. I think the word “shall” should be incorporated in that and not “may”.

**The Temporary Deputy Chairman** (Hon. Kajwang’): All right. Hon. Members, we now know where we are. I, therefore put the Question.

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. (Ms.) Kajwang’): All right. Hon. Nyokabi, I see you are on a point of order.

**Hon. (Ms.) Kanyua:** Thank you, hon. Temporary Deputy Chairman. I rise on a point of order on Clause 13(5)(a) that the wardens will have such functions as may be prescribed by rules under this Act. That is fairly questionable drafting and very questionable allocation of functions. Usually, the law would allocate functions on the face of it. The law does not save functions to be provided later. If you are going to appoint people, you appoint them with the function that you want them to serve. So, I think that, that particular section has a problem and maybe if the Chair could address it, the easiest might be to delete that whole part. Otherwise, if you have not thought of the functions, then you cannot think of the functions after the law has passed. That particular section would have needed to be worded on the face of the law. Those functions would have needed to be here and not to be made later.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Well, thank you. That is a diligent lawyer at her legislative best career practice. Members, we are looking at page 650 and the Member has just said that Clause 13 (5) (a) actually does not make sense to her. I am seeking the Chair to address this because it says; “Cabinet Secretary may, on the recommendation of the Board of Trustees appoint suitable persons to be honorary wardens for the purposes of assisting in the carrying out of the provisions of this Act.”

“(6)(c) have such functions as may be prescribed by rules made under this Act.” I think we need to be clear so that we know the intention of this legislation.

Chair, I am allowing you to consult here at the Bar so that you address me on this on HANSARD. As the Chair is doing that, can hon. Nyokabi quickly do a correction to provide sufficient good English so that we can correct it?

**Hon. (Ms.) Kanyua:** Thank you, hon. Temporary Deputy Chairman. I propose that part “(a)” be deleted. Clause 5 in its own way was quite sufficient and covered the issues.

*(Question of the amendment proposed)*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I support that deletion. It must have been an oversight. We have done a lot of amendments of that nature. So, this one was left out but given that the functions of the wardens are known, an honorary warden will only be assigned an allocation.

*(Question, that the words to be left out be  
left out, put and agreed to)*

*(Clause 13 as amended agreed to)*

*(Clauses 14 and 15 agreed to)*

*Clause 16*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -

THAT, Clause 16 be amended-

- (a) in sub-clause (2) by inserting the following paragraph immediately after paragraph (b)-

“(ba) payment of allowances in respect of the County Wildlife Conservation Committees and the Compensation Committees”

- (b) by inserting the following new sub-clause immediately after sub-clause (2) –

“(2A) The members of the County Wildlife Conservation Committees and the Compensation Committees shall be paid such allowances as may be approved by the Cabinet Secretary upon the advice of the Salaries and Remuneration Commission”.

The issue here is that the management of wildlife as per the Constitution is the responsibility of the national Government. So, despite having the County Wildlife and Compensation Committees in all the counties, the payments for their allowances should be done by the national Government which is why we are proposing the insertion of a paragraph after Part “(b)” that says: “Payment of allowances in respect of the County Wildlife Conservation Committees and the Compensation Committees”. That will be done by the national Government and be part of the functions that are paid for under the monies of the board.

Secondly, it is actually the same thing that is happening under Part “2(a)”.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 16 as amended agreed to)*

*(Clause 17 agreed to)*

*Clause 18*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -

THAT, Clause 18 of the Bill be deleted.

The entire Part IV titled “The Wildlife Regulatory Council” is proposed for deletion because the stakeholders and us are of the opinion that there is no need to set up another regulatory regime that would do a function that we believe the Cabinet Secretary should be able to do. So, for that reason we will be proposing deletion of Clauses 18 to 23.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Clause 18 deleted)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Next clause.

*Clause 19*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT, clause 19 of the Bill be deleted.

Clause 19 is providing for the functions of the council that we have already deleted.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Clause 19 deleted)*

*Clause 20*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT, clause 20 of the Bill be deleted.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon Mwaura, are you in the Chamber? Well, he had an amendment but in any case, if hon. (Ms) Amina’s amendment is carried then there will be nothing to amend.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be  
left out, put and agreed to)*

*(Clause 20 deleted)*

*Clause 21*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT, clause 21 of the Bill be deleted.

For the same reasons, I propose the deletion of Clause 21 because it is on the powers of the council.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Order Chair, you know you did not give us notice for Clause 21 on the Order Paper, although you have eloquently told us that it is part of those deletions that the Committee came up with. Can

you speak to the HANSARD just to own up to the fact that we do not have it on the Order Paper?

**Hon. (Ms.) Abdalla:** I apologise that the deletion of Clause 21 is not on the Order paper. I would like to propose its deletion because it is a consequential amendment. Once we delete the establishment of the council, then we cannot have its powers in the Bill. So, I beg that this House allows that amendment to be moved.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Clause 21 deleted)*

*Clause 22*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT, clause 22 of the Bill be deleted.  
I propose that Clause 22 be deleted because it is talking of the staff of the council that has already been deleted.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be  
left out, put and agreed to)*

*(Clause 22 deleted)*

*Clause 23*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT, clause 23 of the Bill be deleted.  
I propose the deletion of Clause 23 because it speaks to the funds of the council that has already been deleted.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Clause 23 deleted)*

*Clause 24*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT, clause 24 be deleted and replaced with the following new clause-

County Wildlife  
Conservation and  
Compensation  
Committee.

24. (1) Each County shall have a County Wildlife Conservation and Compensation Committee, which shall consist of-

- (a) a chairperson appointed by the Cabinet Secretary through a competitive process, who shall have at least ten years of experience in wildlife conservation and management;
- (b) a representative of the county government;
- (c) an agricultural officer based in the county;
- (d) a land use planning officer responsible for the county;
- (e) a livestock officer responsible for the county;
- (f) the officer of the Service for the county who shall be the secretary;
- (g) four persons not being public officers knowledgeable in wildlife matters and nominated by the Community Wildlife Associations within the area through an elective process;
- (h) a medical officer for health for the county; and
- (i) the officer in-charge of the county police matters county environment officer.

The amendment speaks to the fact that the committee and the stakeholders agreed that the Wildlife Compensation and Wildlife Conservation committees should be collapsed into one to form the County Wildlife Conservation and Compensation Committee, whose composition is similar to what was put on the Bill. We have added a medical officer so that he can help with assessment of injuries.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Members I see several amendments proposed to this clause, this is the order that we shall follow---

*(Hon. (Dr) Pukose stood up)*

Please resume your seat hon. (Dr) Pukose. If the amendment by hon. (Ms) Amina is carried, then the amendment proposed by hon. Mwaura would have been taken care of. Notwithstanding the way it goes for hon. Amina, we will still have to deal with amendments proposed by hon. ole Ntutu and hon. Pukose in that order. The two of you; you do not have to press the button we will come to you. When I see them here, they look like intervention.

Order! Just resume your seats.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed)*

**Hon. ole Ntutu:** Hon. Temporary Deputy Chairman, I beg to move: -

THAT, clause 24 be amended in paragraph (a) by deleting the word “ten” appearing immediately after the word “least” and substitute therefor the word “five”.

It is a very simple amendment. When you look at most of our compensation committees in the counties, most of the pastoralist communities will not get somebody who has ten years experience to represent them. This will cater for our youth. We must lower the number of years to accommodate our youth. When you also look at the chairperson, the number of years is not specified. I am asking the hon. Members that in order to actually help our communities who are just starting these conservation parks, we must lower the number of years required. I think this is acceptable, because we are just reducing from ‘ten’ to ‘five’.

**The Temporary Deputy Chairman** (Hon. Kajwang’): I appreciate your contribution, they are very relevant and forceful. But, on hindsight, if hon. (Ms) Amina’s proposal which we have just dealt with now sails through, yours has no feet to stand. It will surprise you that the way things go therefore, yours is unable to be a further amendment to hon. (Ms.) Amina’s. But let me listen to you again Hon. ole Ntutu.

**Hon. ole Ntutu:** Hon. Temporary Deputy Chairman, Sir, we still have the Chairman of the County Compensation Committee. What I am doing is lowering the number of years. Really, this does not affect what the Chairperson is saying. This is because we are still going to have the Compensation Committee.

*(The Temporary Deputy Chairman (Hon. Kajwang’)  
consulted with the Clerks-at-the-Table)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Thank you, hon. Member. I have consulted. I told you last time that only fools refuse to change their minds on any specific thing. I have seen with reflection that you are correct because you are speaking to what the Chair had actually talked about. So, instead of ten years that she proposed, you are proposing five years. So, that is a further amendment by the hon. Member. Let us dispose of the further amendment first.

*(Question of the amendment proposed)*

**Hon. Kato:** Hon. Temporary Deputy Chairman, Sir, I wanted to help you change your mind because I really wanted to emphasize what hon. Patrick ole Ntutu has said. However, let me add that this is a county wildlife forum and the county is the basic unit of communities. If we want to involve communities living in wildlife areas in terms of management and utilization, then we should not raise the bar so much to the extent that, that community will not be able to participate in the management of wildlife. Five years is fairly good. So, I support the further amendment.

**Hon. Gichigi:** Thank you, hon. Temporary Deputy Chairman, Sir. I also support the further amendment by hon. ole Ntutu. We have wildlife where I come from. The people who conserve wildlife got into that sector fairly recently and it will be difficult to get people with ten years of experience. How you even arrive at a decision as to whether that person has ten years of experience or not is difficult. So, I support the amendment.

**Hon. Lempurkel:** Hon. Temporary Deputy Chairman, Sir, I just support my brother, hon. ole Ntutu’s further amendment. This is because where we find this wildlife,

the people who go to school are a bit few. So, if we reduce it to five years, at least, the community that lives in these areas will benefit, bearing in mind that people have developed in these areas. So, I support the hon. Member and the amendment of five years.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Members, I appreciate the requests. It shows that the House is alert and you are following the proceedings. However, we do not want to turn it into a debate. Hon. Chair, do you have any contrary view on this further amendment?

**Hon. (Ms.) Abdalla:** No, hon. Temporary Deputy Chairman, Sir. Given the fact that we are a digital Government, I would like to support this amendment.

*(Question, that the word to be left out be left out, put and agreed to)*

*(Question, that the word to be inserted in place thereof be inserted, put and agreed to)*

**Hon. (Dr.) Pukose:** Hon. Temporary Deputy Chairman, Sir, I beg to move: - THAT, clause 24 be amended by inserting the following new paragraph immediately after paragraph (f)-

“fa” a member of the National Assembly from a constituency that is in an area occupied by wildlife”.

I also want to move an amendment in terms of the membership that a Member of the National Assembly from a constituency that is in an area occupied by wildlife be also a Member of the County Conservation Committee. This is because one of the roles of the Member of Parliament is representation and more often than not when our people get injured by wildlife and they need compensation, they follow it with us and they want to know how far their compensation has gone. This amendment will enable us to represent them and give those views.

There is a further amendment that the following New Clause be added immediately after Clause 24---

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hold on. Just speak to that issue of the Member of Parliament.

**Hon. (Dr.) Pukose:** All right, hon. Temporary Deputy Chairman, Sir.

*(Question of the amendment proposed)*

**Hon. Kemei:** Thank you, hon. Temporary Deputy Chairman, Sir. I support the amendment proposed by hon. (Dr.) Pukose in view of the fact that we take care of the interest of the various communities we represent, especially in non-traditional wildlife areas like Kericho County. We are coming up with wildlife conservation measures and the Member of the National Assembly should be part of the conservation effort.

**Hon. Aden:** Thank you, hon. Temporary Deputy Chairman, Sir. I also wish to support the amendment by the hon. Member because a number of times we are involved in many issues concerning conflict between wildlife and the community. We can address

that best if as Members of Parliament we are part of the organ of the county that addresses conservation issues.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to oppose that amendment. This is a Committee of the Executive and county governments. To put a Member of the Legislature in this Committee will be unconstitutional. So, I will not support this. I am just considering the logistics.

Secondly, there are counties that have 13 Members of Parliament and the entire county has a larger percentage covering protected areas. Seriously, if this amendment goes through, we will be bogging this committee down with numbers. We will also be proposing something that is not constitutional.

Thirdly, we will be denying Members of Parliament the right of appeal. This is because if a compensation committee does not serve you well, you have this Floor to deal with it or you have the opportunity to call the Cabinet Secretary who is, in this new Bill, the person dealing with compensation and not the Kenya Wildlife Service. Hon. Members, I oppose this amendment for those reasons.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Members, before we speak more, I want to recognize the presence of the Member for Kamukunji in the Chamber. Could you please give him a foot thumb?

*(Applause)*

As you are aware hon. Members, this Member is a living example to the National Assembly of insecurity, terrorism and thuggery in Nairobi, East Africa and in Kenya. You can see him walk into the Chamber without the support of the motorized wheelchair. In fact, if I am not asking too much, at some point when you are able to come to the Dispatch Box, we will just love to have you say a word. I think you will have a word at the Third Reading of the Bill.

*(Applause)*

Hon. Members, we are at the level that the Chair is talking about unconstitutionality of the amendment.

Yes, hon. Chachu Ganya.

**Hon. Ganya:** Hon. Temporary Deputy Chairman, Sir, I want to support my Committee Chair on this. As Members of the Committee, we discussed this particular issue and we felt that it will not be constitutional. We will be playing the role of the Executive. Because of that, we felt that we should not be Members of that Committee. I oppose the amendment just because of the law.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Mwadime!

**Hon. Mwadime:** Thank you, hon. Temporary Deputy Chairman. As a House that makes rules and laws for this country, I believe we should not do anything that is unconstitutional. Moreover, our major role is oversight. So, if that is our role and we are sitting in those management boards, who is going to oversee who? When matters are brought here, fingers will be pointed at us for being part of what we did that was unconstitutional. I, therefore, support the Chairperson of that Committee in opposing that amendment.

**Hon. Wangamati:** Hon. Temporary Deputy Chairman, I also rise to support the Chairperson of the Committee. As Members of Parliament, our role is that of oversight. Hon. Members should also learn to trust others. There are people who are elected within our areas and we trust that when they go to these committees, they will do just as well as any other Member of Parliament would do. I oppose the amendment and support the view that Members should not be on that committee.

**Hon. (Dr.) Pukose:** Hon. Temporary Deputy Chairman, when I was drafting this amendment, one of the issues that we agreed upon even with the Chairman was that the Member of the National Assembly be *ex-officio*. That way, you can attend any of the sittings and find out whatever is happening at that level. I do not think that if a Member of Parliament appears there as an *ex-officio* member it is unconstitutional. Then I could further amend it to say that the Member of Parliament appears as *ex-officio*.

**The Temporary Deputy Chairman** (Hon. Kajwang’): You should be able to do that. So, can you speak to the HANSARD?

**Hon. (Dr.) Pukose:** Hon. Temporary Deputy Chairman, I beg to propose a further amendment to my amendment that Member of Parliament of the National Assembly from a constituency that is in an area occupied by wildlife be an *ex-officio* member to the committee.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Thank you, but let me supply you with this English: A Member of the National Assembly from a constituency that is in an area occupied by wildlife will be an *ex-officio* member.

Hon. Members, we now have a further amendment to the amendment proposed by hon. Dr. Pukose which I want us to dispose of.

*(Question of the further amendment proposed)*

**Hon. Katoo:** Hon. Temporary Deputy Chairman, I stand to oppose the further amendment by my good friend, Dr. Pukose. I want to plead with hon. Members that they have to really know the functions of this county wildlife forum. In most cases, it will be to adjudicate conflicts. That is why in its composition there is an agricultural officer, a livestock officer, a medical officer and so on. It will be more about compensation than crops, livestock and the human-wildlife conflict. Some of these claims may really not qualify for compensation.

I want to tell my colleagues that this is not going to be a good forum for you to sit in. You should be the arbiter for everyone. Once somebody fails to get compensated and you sit in that committee, it will actually work against you politically. Please, let us drop that. I want to request my good friend to drop that and we go by the Committee’s recommendation.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Thank you. You are talking about the science of politics.

**Hon. Barua:** Hon. Temporary Deputy Speaker, I would like to oppose the further amendment because, in my opinion, it is subject to abuse. I want to give an example of Nairobi. We have Nairobi National Park in one part of the county. We have hippos in Dandora and birds in Karura Forest. Technically, it means that all Members of the National Assembly from Nairobi constituencies will be members of that committee. There is no county with no wildlife. If we accept that amendment, we will be technically

saying that every Member of the National Assembly or the Senate should be members of this committee.

**Hon. (Ms.) Lay:** Hon. Temporary Deputy Chairman, I support the Chairman of the Committee that Members of Parliament should not sit on that board. The board is well represented. There is a representative from the county governments and there will be four persons not public officers, but knowledgeable in wildlife matters enumerated by the community wildlife association within the area through an electoral process. This is to give a chance to the people who live in the community to be part of this board. Ours is to oversee and ensure that this board is doing the job it has been mandated to do.

**Hon. (Dr.) Pukose:** Hon. Temporary Deputy Chairman, I think I am persuaded to drop the amendment.

*(Applause)*

*(Proposed amendment by Dr. Pukose withdrawn)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Well, that further amendment is dropped. Now, I have to rule that the entire amendment is unconstitutional. To that extent, I am not going to put it to question. I will put the final Question.

Hon. Members, we will need to deal first with the amendments on the substantive clauses and then we will come to the new clauses.

**Hon. (Ms.) Abdalla:** Thank you, hon. Temporary Deputy Chairman for giving me this opportunity. Having passed a Bill that ended up with a typo, I am being careful. I have just noticed that in our amendment appearing on Page 518, Clause 24, (i) states “the officer in charge of county police matters” and then it talks of “county environment officer”. I want to propose a further amendment to my amendment that deletes the words “county environment officer” from (i) and places them in part “(j)”.

**The Temporary Deputy Chairman** (Hon. Kajwang’): This is not an amendment. Thank you very much for raising our attention to that. It can come by what we call corrigenda, but now that it is here we can deal with it. You are actually proposing that on Part “(h)” we delete the word “and” after the semi-colon and then put that semi-colon after the word “matters” on part “(i)” and then cascade to the next one part “(j)” where we will put the word “and” in front of “matters” after the semi-colon and therefore we have “(j)” which is “county environment officer”. Does that sit well with you?

**Hon. (Ms.) Abdalla:** Yes, and thank you, hon. Temporary Deputy Chairman.

*(Clause 24 as amended agreed to)*

*Clause 25*

**Hon. (Ms.) Abdalla:** Thank you, hon. Temporary Deputy Chairman. I beg to move: -

THAT, clause 25 be amended-

(a) by inserting the words “and Compensation” immediately after the word “Conservation”

(b) by inserting the following new paragraphs immediately after

paragraph (g) -

(h) develop and implement, in collaboration with Community Wildlife Associations, mechanisms for mitigation of human wildlife conflict”;

(i) review and recommend claims resulting from loss or damage caused by wildlife for payment of compensation;

(j) undertake education, extension services and public awareness; and

(k) perform such other functions as the Service may require or delegate to it.

(c) in paragraph (g) by deleting the words “national park advisory committee” and substituting therefor the word “Service”

We collapsed the County Wildlife Committee and the County Compensation Committee. In the first amendment, there is a consequential amendment of including the word “and Compensation” after the word “Conservation” and in part “(b)” to add all the new functions of the Compensation Committee that were not there in the Wildlife Conservation Committee. So, that is the gist of the amendment. In part “(c)” there are the words “national park advisory committee”. This is actually the function of the Service. So, we are proposing to delete the words “national park advisory committee”, and substituting them with the word “Service”.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*Question, that the words to be inserted in place thereof be  
inserted, put and agreed to)*

*(Question, that the words to be inserted be  
inserted, put and agreed to)*

*(Clause 25 as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Amina, are you on a point of order.

**Hon. (Ms.) Abdalla:** Yes, hon. Temporary Deputy Chairman, I stand on a point of order. I noticed that our collapsing of the two committees seems to result into having two different titles. The problem starts at Clause 16, where we are referring to the County Wildlife Conservation Committee and the County Wildlife Compensation Committee. The new title of the Committee is County Wildlife Conservation and Compensation Committee. So, I would request that to be reflected throughout the Bill.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Members, I am still here and I need to dispose of that. Chair, Committee on Environment and Natural Resources you should not be giving me problems now, your drafters whom I see very well represented at the bar should be awake as we go through this. I will not allow any law which is not clear to go undone because this is what we are here for.

I just want us to look at Clause 16 and we had made amendments to the effect that the Committee is now called “County Wildlife Conservation and Compensation Committee.” Am I right Chair?

**Hon. (Ms.) Abdalla:** Yes.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Therefore, if you go to Supplementary Order Paper page 517, the new insertion, following the sub-clause immediately after sub-clause 2 which is 2(a) should read, “the Members of the County Wildlife Conservation and Compensation Committee shall be paid---”, is that okay?

**Hon. (Ms.) Abdalla:** Yes.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Okay, therefore I use my discretion as the Chair to order that, that sub-section be amended in those terms. Let us go on.

*(Clauses 26 and 27 agreed to)*

*Clause 28*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -

THAT, clause 28 be amended-

(a) in sub-clause (1) by deleting the word “Service” and substituting therefor the word “Cabinet Secretary on advice of the Service”;

(b) in sub-clause (5) by deleting the words “General Fund” and substituting therefor the words “Wildlife Endowment Fund”;

The regulatory functions have been given to the Cabinet Secretary on advice of the Service. So, we are proposing the deletion of the word “Service” and substituting therefor with the words “Cabinet Secretary on the advice of the Service”.

The second amendment is that we are establishing Wildlife Endowment Fund. We will not be dealing with General Fund. So, we are substituting the phrase “General Fund” with “Wildlife Endowment Fund”. Just for your information, the people sitting in the Public Gallery are from the Ministry of Environment, Water and Mineral Resources, who have been kind enough to help us with a drafter because our drafting department has only three members of staff at the moment.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Although, I rule that you cannot see them however much you try, but thank you for bringing them in. I hope that complements what we have here.

*(Question of the amendment proposed)*

**Hon. Ganya:** Thank you, hon. Temporary Deputy Chairman; I stand on a point of order. Did you skip Clause 27(A)?

**The Temporary Deputy Chairman** (Hon. Kajwang’): You are a seasoned debater and legislator actually for a second time. All those years must have taught you that according to the Standing Orders, we first finish the substantive amendments and then go to the new clauses.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 28 as amended agreed to)*

Next Clause!

*Clause 29*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -

THAT, clause 29 be amended by —

(a) re-numbering the existing provision as sub-clause (1);  
(b) by deleting the word “and Compensation Scheme” appearing at the heading of part V;

(c) by inserting the following new sub-clause immediately after sub-clause (2) –  
“(3) The functions of the Wildlife Endowment and Compensation Fund shall be to—  
(a) develop wildlife conservation initiatives;  
(b) manage and restore protected areas and conservancies;  
(c) protect endangered species, habitats and ecosystems;  
(d) support wildlife security operations;  
(e) facilitate community based wildlife initiatives; and  
(f) such other purposes as may be provided for by rules made under this Act.

The first one is basically a renumbering issue and the second one is to delete the words “and Compensation Scheme” from part “V”. The third is including a new sub-clause 3 after sub-clause 2 that gives the functions of the Wildlife Endowment and Compensation Fund.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted be inserted put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Mwadime, are you on intervention?

**Hon. Mwadime:** Hon. Temporary Deputy Chairman, Sir, on the same Clause 29, I had made some amendments, but unfortunately, they did not arrive in the Chamber in good time. However, I had presented them at the right time. I beg your indulgence to speak on the same.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Mwadime, are you still speaking?

**Hon. Mwadime:** Hon. Temporary Deputy Chairman, Sir, it is the communities who give out their land for these national parks. They are denied---

**The Temporary Deputy Chairman** (Hon. Kajwang’): You have a further amendment to Clause 29?

**Hon. Mwadime:** Yes.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Can you read word for word, so that Members can follow you?

**Hon. Mwadime:** Hon. Temporary Deputy Chairman, Sir, the amendment which is supposed to be captured is that the money appropriated by Parliament to the KWS, 10 per cent shall be paid out to the Board of Trustees of the Endowment Fund solely for them to divide amongst the communities who have given out their land.

**The Temporary Deputy Chairman** (Hon. Kajwang’): I appreciate, but if you are carrying the same sheet of paper that I have, you have several words that I do not see in mine. Can you, please, just read them as they are in the HANSARD?

**Hon. Mwadime:** Hon. Temporary Deputy Chairman, Sir, “the Board of Trustees shall pay out of the Fund, at least, 10 per cent of the money appropriated by Parliament under Section 29(2) annually to communities that have given out land in areas outside the national parks.” Still, in subsection 4, “the amount specified under subsection 3 shall be apportioned to the communities according to the size of the national park as set out in the Tenth Schedule and in such manner and using such criteria as the Cabinet Secretary may prescribe.”

**The Temporary Deputy Chairman** (Hon. Kajwang’): So, you move.

**Hon. Mwadime:** Hon. Temporary Deputy Chairman, Sir, I still had a further amendment. This was captured---

**The Temporary Deputy Chairman** (Hon. Kajwang’): Order! Can you resume your seat? Hon. Members, hon. Mwadime has a further amendment to Clause 29 by including two new subsections. One is that the Board of Trustees will pay at least, 10 per cent of monies appropriated by Parliament under section 29(2)(a) annually to the communities that have given out land. They will be giving people who have given out land at least 10 per cent. Two, which is subsection 4, that the amount that we are talking about will be apportioned to the community according to the size of the national park as set out in the Tenth Schedule.

Members, we have referred this to the relevant Committee which is the Budget and Appropriations Committee to consider the proposal to determine if it is a money Bill or to what extent it affects the Exchequer. I have response from the Chairman of the Budget and Appropriations Committee who recommends the following: -

“THAT, the Committee recommended that the amendment to the legislative proposal be published but with the amendment that the allocation to the communities be used to implement projects to benefit communities neighbouring the national parks”.

The fact is that we have a regular amendment before us because we had this notice in good time. So, I will entertain it as a further amendment to that clause. So, I now propose that Clause 29 be further amended as proposed by the Member for Mwatate by (a) renumbering the existing provision; (b) inserting the following sub-clause-

“The Board of Trustees shall pay out to the Fund at least 10 per cent of the monies appropriated by Parliament under Section 29(2)(a) annually to communities that have given out land to areas occupied by national parks.

(iv) The amount specified under Subsection 3 shall be appropriated to the communities according to the size of the national park as set out in the Tenth Schedule and in such a manner and using such criteria as the Cabinet Secretary may prescribe.”

*(Question of the further amendment proposed)*

Can I, first of all, hear the Members of the Committee, before I hear the Chair on this proposal?

**Hon. Mati:** Hon. Temporary Deputy Chairman, Sir, in the absence of any interest from the Committee, I thought I would gracefully support the amendment.

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Member for Suba, you seem to be very engrossed in consultation with the Member for Homa Bay, which is fine because you come from the same county, but give me some ear also as you give the other ear to the Member for Homa Bay. Go on.

**Hon. Mati:** Hon. Temporary Deputy Chairman, Sir, since there are no Members of the Committee who would like to support hon. Mwadime’s amendment, I thought I should support it and substantiate a little. Many communities have been impoverished by game parks in two ways; one, they give out land and they cannot take it back. Two, wildlife destroys their produce every year and they are not compensated. As a matter of fact, I would even have proposed that the communities decide themselves rather than have the Cabinet Secretary making that decision. When you bureaucratize such a Fund, things are likely to go wrong. I am not hon. Mwadime, but if I was asked, I would not have the Cabinet Secretary.

*(Hon. Mwadime crossed the Floor without bowing to the Bar)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Mwadime, what have you just done? Can you retrace your steps and let us see how you walked to where you are.

**Hon. Mati:** He is excited to help his people. His people have suffered more than anybody else from human-wildlife conflict.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Proceed.

**Hon. Mati:** Hon. Temporary Deputy Chairman, Sir, I was saying that if I was hon. Mwadime – I do not know whether that amendment can be done now – I would have suggested that this money goes straight to the communities rather than the Cabinet Secretary because when we take it to the Cabinet Secretary, we are bureaucratizing the disbursement and utilisation of the Fund. Most communities may not get anything as the money moves from Nairobi to the county, the sub-counties to the village level. Most of the communities that suffer the human-wildlife conflict cannot stand for themselves except through the Members of Parliament. If you bureaucratize it, the Cabinet Secretary will decide how much is to be spent, the governor will decide how much will be disbursed and at every point, they will sit down to budget for the money and appropriate some of it for their sitting allowances and other expenses of going to see the Cabinet Secretary. Most likely, the communities will get nothing. I was going to suggest that the resources go directly to the communities, whether through the constituency offices or the sub-county offices rather than be controlled in Nairobi. There will always be some justification for that money to be used to fuel Land Rovers and buy Land Cruisers.

Nairobi has always got a way of appropriating money on behalf of the communities. Everything is supposed to be done in national interest, even depriving the poor and the disadvantaged who have been impoverished by the wildlife.

**Hon. G.W. Omondi:** Hon. Temporary Deputy Chairman, I contribute as a Member of the Budget and Appropriations Committee and I remember hon. Mwadime brought this amendment to us. There are certain things that have been said here that I do not remember being brought to us as the committee. What we agreed is that his amendment be published and we specifically noted that this money should go to specific uses of the community. We said that it should not be disbursed to the community but be used to build schools for the community, supply water and electricity. We were very specific about that, so I do not see where it was said that the money should be disbursed to the community for their own use. It was to be utilized to help them develop infrastructure and economic facilities within the area where they are given the land.

**The Temporary Deputy Chairman (Hon. Kajwang’):** Thank you so much, but you need to realize that your mandate as the Committee is only to consider if a proposal by an hon. Member is a money Bill or not. That is all you need to restrict yourself to. It is not within your powers to go and advise a Member to do something or not to do anything, because that is perfectly his right as a Member. All you need to find out is whether it is a money Bill or it impacts on the Exchequer. To that extent, I have received a recommendation which is positive that you have satisfied yourself that it is not a money Bill.

Therefore, as you are contributing, I would like to ask hon. Ng’ongo to contribute to this as a Member of the Budget and Appropriations Committee, just to confirm that the recommendation I am having from the Chair that this is not a money Bill or has no money effect is the situation. You have no role to advise a Member, for example, to propose legislation. All you need to do is to tell us whether it is a money Bill or not.

**Hon. Ng’ongo:** Thank you hon. Temporary Deputy Chairman. I remember this Bill was actually brought to us and given due consideration. Any communication that you got from the Chair with regard to the position, whether this amendment is touching on money Bill or not, is correct.

**Hon. (Dr.) Ottichilo:** Hon. Temporary Deputy Chairman, much as I sympathize with the hon. Member of Parliament for Taveta, what I would like to note is that we must differentiate between national parks and national reserves. You know very well that national reserves are under county governments. So, any money that is accrued in terms of money received should be filtered through the county government.

As regards to national parks, it is known very well that national parks belong to the nation. Therefore, the only way that national parks help the communities is through community programmes which are then carried out by the Service.

Hon. Temporary Deputy Chairman, if we were to pass these proposed amendments, it would be almost impossible for the Kenya Wildlife Service to provide the money that would be required to give out to all these communities. It would be virtually impossible because you will paralyze their service.

Therefore, I oppose.

**The Temporary Deputy Chairman (Hon. Kajwang’):** Thank you, hon. Ottichilo. Arising from those comments, I want to guide you further. As the hon. Member has correctly pointed out, issues to do with national conservation are divided into national

and county. If you look at the Tenth Schedule, again some other things have been listed there which touch on the county. We need to be careful not to make a legislation which touches on county matters. As you know, under Articles 94, 95, 96 and 101, we need to involve the other House in this discussion. Therefore, following that very good direction from hon. Ottichilo---

Hon. Mwachugu, why are you flying your hands? Is that another appropriate way of catching the eye of the Chair?

**Hon. Mwachugu:** I do not seem to have my card Chair.

**The Temporary Deputy Chairman** (Hon. Kajwang’): You do not have your card; therefore, you have to shout like we used to do before the cards came.

**Hon. Mwachugu:** Hon. Chair, can I use the one next to me.

**The Temporary Deputy Chairman** (Hon. Kajwang’): You are already using it!

*(Laughter)*

**Hon. Mwachugu:** Hon. Temporary Deputy Chairman, with due respect to my brother hon. Ottichilo, let us all agree that we have had a problem in classification of these resources. There has been no justification why Maasai Mara would be a game reserve and Tsavo East and Tsavo West, which occupy two thirds of Taita should be a national park. Amboseli is also a national park. Therefore, communities that are harbouring these national parks are totally disadvantaged. The animals are the same. A child in Narok is going to school on funds generated by elephants, the same elephants migrate to Tsavo and a child in Taita cannot get the benefits of those elephants. Therefore, why are we keeping them?

Hon. Temporary Deputy Chairman, it is my humble submission that communities which are having national parks should either be compensated or classify all national parks as game reserves. Therefore, while I have a lot of respect for hon. Ottichilo as a scientist, we have to find a way of compensating communities which are harbouring these resources.

**Hon. Mohamed Abass:** Thank you, hon. Temporary Deputy Chairman. I rise to support the hon. Member from Taita Taveta. As the Chair is aware, almost 85 per cent in Taita Taveta is actually under wildlife conservation and national parks. Most of the livelihoods have been destroyed especially when they have famine. Sometimes schools are destroyed by elephants. What the hon. Member from Taita Taveta has said is true that national parks and game reserves are not assisting the community.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Abass, I have to interrupt you. We are not opening debate on this. Hon. Ottichilo has brought out a constitutional issue whether this is a matter concerning counties and we need to be clear on it.

Let me hear from the Chair of the Departmental Committee on Environment and Natural Resources.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I do sympathize with communities that live or host national parks, but this amendment on the funds from the Endowment Fund, as hon. Ottichilo has indicated--- If we give 10 per cent to the communities hosting national parks, KWS will come to a halt in terms of service

delivery. I would request that the Chair rules on the issue of constitutionality of the matter.

The national park issue will not be resolved by giving communities the 10 per cent. The national park issue can be pursued by following the de-gazettement route or another route. Thank you.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Members, we have ventilated enough on that matter. I now make the following ruling:

Hon. Mwadime had rightly proposed an amendment to Clause 29 – an amendment which was forwarded to the relevant Departmental Committee for them to consider whether the proposal has financial implications or not. The Committee submitted a report which agreed with hon. Mwadime that the amendment does not concern money matters. However, considering the text by which the amendment has been done, and in view of the Fourth Schedule to the Constitution, particularly paragraphs 10 and 22; it would seem that the effect of the amendment that hon. Mwadime is desirous of may as well be a matter concerning counties. Therefore, under Articles 94, 95 and 96 and 110, it may require the considerations of both Houses of Parliament. Due to that constitutional aspect, I am not prepared to put the matter to vote. Therefore, I rule that this amendment is inadmissible to the extent that it is unconstitutional.

Therefore, I put the Question that Clause 29 as amended by hon. Amina Abdalla be part of the Bill.

*(Clause 29 as amended agreed to)*

*(Clause 30 agreed to)*

*Clause 31*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -

THAT, clause 29 be amended by —

- (a) re-numbering the existing provision as sub-clause (1);
- (b) by inserting the following new sub-clause immediately after the renumbered sub-clause (1) –

“(1A) The compensation for personal injury or death caused under subsection (1) shall be as follows-

- (a) five million shillings in case of death;
- (b) two million shillings in case of permanent disability; and
- (c) one million shillings in case of bodily injury, depending on the extent of the bodily injury.

- (c) by deleting sub-clause (5) and substituting therefor the following new clause-

“(5) A person who is dissatisfied with the award of compensation by either the Compensation Committee or the Service may within thirty days after being notified of the decision and award, file an appeal to the National Environment Tribunal and on a second appeal to the Environment and Land Court”.

- (d) In subclause (2) by-

- (a) Inserting the words “Conservation and” immediately after the word “wildlife”;
- (b) by deleting the expression “32” and substituting therefore the expression “24”
- (c) by deleting the word “service” and substituting therefor the word “Ministry responsible for matters relating to wildlife”.

Hon. Temporary Deputy Chairman, the Committee, in part (a), proposes the re-numbering of sub-clause. In part (b), we are categorising personal injury and differentiating the compensation for death by amending it to Kshs5 million and Kshs2 million in case of permanent disability and, in part (c), to Kshs3 million in case of bodily harm. We are also recommending the deletion of Clause 5 and substituting therefore the following clause: “A person who is dissatisfied with the award of compensation by either the Compensation Committee or the Service may within thirty days after being notified of the decision and award, file an appeal to the National Environment Tribunal and on a second appeal to the Environment and Land Court.”

In part (d), we are proposing insertion of the words “Conservation and” immediately after the word “wildlife” in sub-clause (2); and deletion of the expression “32” and substituting therefore with the expression “24”. This is because of the collapse of the two committees. So, “32” was to deal with compensation, which we have since collapsed and formed the Conservation and Compensation Committee, which is under clause 24.

Finally, we are proposing deletion of the word “Service” and replacing it with the word “Ministry” for matters relating to wildlife due to the fact that the Service should no longer be responsible for compensation.

Thank you.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Wilbur Ottichilo.

**Hon. (Dr.) Ottichilo:** Hon. Temporary Deputy Chairman, the issue of compensation has been of major concern to Kenyans, particularly when it comes to loss of life and permanent injury. Therefore, what the Departmental Committee and hon. Members of this House have proposed is good compensation, in case such calamities occur. Therefore, I wish to support the amendments and hope that the rest of the membership of this House can also support them, so that this issue can be put to rest.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Thank you.

Yes, hon. Gichigi.

**Hon. Gichigi:** Hon. Temporary Deputy Chairman, I also rise to support this particular amendment. The reason as to why we have lost many of our lions and many other wild cats in this country is the inadequacy of the compensation given to the people who had been injured and the crops that had been destroyed by jumbos and other herbivorous animals. The proposed compensation may not be adequate but it is certainly a step in the right direction.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Members, we need to split these amendments, so that we can go step by step. I can see that several hon. Members who have interest in these clauses are proposing some further amendments to them. So, let us consider only paragraph (a), on renumbering of the provision, the

insertion of new clause 1A, the deletion of sub-clause (5) and the insertion of new clause 5. That is the bit I want to put the Question on.

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Members, let us now deal with sub-clause (2) as moved by the Departmental Committee Chairperson.

**Hon. ole Ntutu:** Hon. Temporary Deputy Chairman, I beg to move: -

THAT, Clause 31 be amended by deleting sub clause (2) and substituting therefor the following new sub-clauses—

“(2) The County Wildlife Compensation Committee established under section 32 shall verify a claim made under subsection (1) and upon verification, submit the claim to the Service together with its recommendations thereon.

(2A) The Service shall consider the recommendations made under subsection (2) and where appropriate, within three weeks from the date of receipt of the recommendations, pay compensation to the claimant as follows—

(a) in the case of death, five million shillings;

(b) in the case of injury occasioning permanent disability, three million shillings;

(c) in the case of any other injury, not more than two million shillings, depending on the extent of injury”

Hon. Temporary Deputy Chairman, this is where I need your good English since I know you are a good lawyer. The issue here is the amount and I want to tell the Members of this honourable House that this is the gist of this Bill, that we must be able to compensate handsomely the people around these parks. Otherwise, without these communities, wildlife in Kenya will not be there. So, I am urging Members of this honourable House that let us not mint our words on this one because this is why we have wildlife and the moment we do not compensate a person when he or she is killed by wildlife---

**The Temporary Deputy Chairman** (Hon. Kajwang’): All right, hon. Member. Go back to part “(c)”. What are the words that you are talking about?

**Hon. ole Ntutu:** The words I am talking about and you can help me with your good English as a lawyer is that in case of any other injury, a minimum of Kshs1 million and a maximum of more than Kshs2 million will be paid. Sorry. I am saying not more than Kshs2 million. That is why I said you have to help me there as a lawyer.

**The Temporary Deputy Chairman** (Hon. Kajwang’): No. You need a mathematician and not a lawyer here. When it says not more than, has it not taken care of the minimum that you are talking about?

**Hon. ole Ntutu:** That is right and I think that makes sense. Thank you.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I seem to have the Floor. The light is on.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Yes, but before you have the Floor, I want to propose the Question.

*(Question of the amendment proposed)*

**Hon. Katoo:** Hon. Temporary Deputy Speaker, I want to put this clear because hon. ole Ntutu seems not to be a good lawyer and mathematician. At least, I am a good mathematician. I fully want to support that amendment and agree with the Mover that this is the gist of this Bill for communities living with wildlife. I am very happy that when you look at this Chamber, Members from areas where wildlife is found are all here. We have already lost people as communities living with wildlife and that is the first point. Wildlife is our coffee and tea. When you ruled on the amendment of disability by the Member for Mwatate then that was the first gain of communities living with wildlife. However, on this one, it is good that you pay attention.

**The Temporary Deputy Chairman** (Hon. Kajwang’): No. The Chair is multi-tasking and the Chair is an institution.

**Hon. Katoo:** It is about compensation. That is the biggest issue and I am happy that the Committee did not delete Clause 3 because I want Members to read it. We are talking of compensation of destruction of livestock, crops and death of human beings. I am happy that the clause on livestock and crops still remains but we have to compensate them based on the market value of what has been maimed, destroyed or killed by wildlife. However, the only issue which I want to disagree with the Committee, and which I want to bring to the attention of the Chair of the Committee is on part 1(c) in terms of death and permanent disability. That is clear but on 1(c) which says: “Kshs1 million in case of body injury depending on the extent of the body injury,” this is what I want to draw to the attention of the Members. That is discretionary since it has been left to the authorities. By saying “depending on the extent” it means that whoever is paying can even pay Kshs5,000 and yet you have been maimed or you have a body injury. So, that is why I support the amendment by hon. ole Ntutu by saying a minimum of Kshs1 million and a maximum of Kshs2 million in case of body injury depending on the extent of the body injury such that if you are injured, there is a minimum of Kshs1 million and a maximum of Kshs2 million. So, the authorities can play between those two figures rather than giving it a blanket of Kshs1 million. If it is so they can even pay Kshs5,000 and I can assure you of that.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Thank you. Hon. Metito, I appreciate your contribution. It is very relevant. The only problem is that I did not hear your voice when we were dealing with the Chair’s amendment because I put it to vote. It may well be that hon. Ntutu’s amendment may be carried or not. If it is carried then you need to see how it either conflicts with or contradicts the amendment proposed by hon. Amina but I hope it does not contradict itself because it says: “The Service shall consider the recommendations and in the case of any other injury---” So, when you come to the phrase “depending on the extent of the injury” then it must be understood within the context of the entire clause, which means that hon. Ntutu’s amendment is really part of it. I think that way, we may understand it together. Hon. Njagagua.

**Hon. Njagagua:** Hon. Temporary Deputy Chairman, permit me to voice my little opinion on this matter of compensation. We must be guided by other jurisdictions. Truly speaking, when we come to the Motor Vehicle Injuries Act, when somebody has an accident and he goes to the courts where a competent judge or magistrate does an inquiry,

the victim does not get a minimum of Kshs1 million in case of an injury. Indeed, at best under the quantum laws one gets about Kshs500,000 depending on the limb that is severed. When you talk of a minimum of Kshs2 million for an injury and Kshs5 million for death, you do not even get that under the motor vehicle compensation. We are pushing the bar too high, with a lot of respect. By the time you get a payment of Kshs5 million, you must---

**Hon. Members:** On a point of order, hon. Temporary Deputy Chairman.

**Hon. Njagagua:** Protect me from hon. Members, hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Kajwang’): You are protected. You cannot be aggressive to a Member. Just press that button and that is enough.

**Hon. Njagagua:** Hon. Temporary Deputy Chairman, I come from a constituency where this wildlife is causing havoc to both human beings and crops but we are pushing the bar too high. Can KWS or whichever body which will be in charge of maintaining that mode of payment of Kshs5 million for every death know that crocodiles in Tana River are causing havoc to my people? I am saying for the sake of this country, let us put a reasonable figure that this Government is able to shoulder or we leave it blank.

**The Temporary Deputy Chairman** (Hon. Kajwang’): All right. Thank you. Let me hear also from someone who has not spoken. Richard Moitalele ole Kenta.

**Hon. ole Kenta:** Thank you, hon. Temporary Deputy Chairman. In fact, to understand this issue, you must come from a place where there is wildlife because these communities have sacrificed a lot. They have sacrificed their land, lives, properties and everything else so that we can have this heritage. I believe that the suggestion or the proposals made on the further amendment by hon. Ntutu are reasonable. I believe that if you are going to give somebody Kshs5 million, it is good. I believe Kshs3 million for permanent disability is good because that person is as good as dead anyway.

You cannot put the lower figure of Kshs1 million. This is because if somebody just injured a finger or something like that, is somebody saying that we should also compensate him or her in equal measure with somebody who has lost--- So, we cannot say that a minimum of Kshs1 million but we can say that not more than Kshs2 million. However, let us leave the other one hanging.

Thank you, hon. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Hon. Kajwang’): The problem I am having on this is not what you are debating because you are free to debate. However, hon. ole Ntutu, go back to your proposal. This is on page 538 of the Supplementary Order Paper. Without speaking to all those issues you are debating, Subsection 2 says that the Service shall consider the recommendations made under Subsection 2 and where appropriate within three weeks from the receipt of the recommendations, pay compensation.

For me, to subject a national authority to pay within three weeks is unreasonable. Do you not think that you are persuaded to remove those words so that it just remains that where appropriate, pay compensation to the claimant? That is food for thought and I am coming back to that.

Hon. Musimba, you are an independent Member and I need to recognize you in this House.

**Hon. Musimba:** Thank you, hon. Temporary Deputy Chairman, Sir. I just want to echo and support what hon. Ntutu has said. I just want to conclude about the wording

where we say Kshs1 million and a maximum of Kshs2 million depending on the extent of the body injury under Clause 1(c). I just wanted us to be conclusive about the wording and support the same amendment.

**The Temporary Deputy Chairman** (Hon. Kajwang’): You know it is good to give your people a lot of money but you may also want to leave the judicial machinery to put the chips where they belong. Once you have capped it at Kshs2 million, you may want to allow the judicial machinery to know whether it is now Kshs500,000, Kshs2 million, Kshs20 or Kshs50. I think we want to get out of this.

Hon. Chair, could I hear you on this? That is perhaps the last intervention on this matter. Hon. ole Ntutu will have a right to reply.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I would like to plead with the Hon. Member that I agree with the numbers he has proposed on parts “a” and “b” but I think that once you put Kshs1 million, you will still have the same problem where somebody gets a scratch and asks for Kshs1 million.

Now that I am on the Floor, I would like to propose a subsequent amendment to his amendment, that the fact that we have already amended that these compensations will not be done by the Service makes his proposed Clause 2(a) not possible. This is because it is not the Service that shall compensate, but it is the Cabinet Secretary.

Secondly, even with the Cabinet Secretary and the Compensation Committee asking them to react in three weeks and putting it in legislation, it is a bit getting into the line of administration. The Member will agree with me that it is worthwhile that we remain with a maximum of Kshs5 million in case of death; a maximum of Kshs3 million in case of permanent disability and a maximum of Kshs2 million in case of body injury depending on the extent of the injury. That will cover his amendment of increasing compensation for body injury but not cover the fact that any person who brings a complaint on an injury automatically gets Kshs1 million.

So, I would plead with my brother who has been very active in public consultations that we have had on this Bill to accept the amendments that we have.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Thank you, I have heard you. First, I think that is very brilliant. The Member has said that we now have a phrase “a maximum” meaning that the judicial processes will, within zero to the maximum, decide where it belongs. Secondly, did I hear the Chair to be saying that we change the word “Service” to “Cabinet Secretary” because you said that it is not the Service which is paying but the Cabinet Secretary?

**Hon. (Ms.) Abdalla:** Yes, that is a very substantive change in the Bill where we do not expect Members to be coming here to ask why the KWS has not paid. It will be why the Cabinet Secretary has not paid that compensation through the---

**The Temporary Deputy Chairman** (Hon. Kajwang’): No, I think there is also a problem there. This is because when you come to enforcing that under Cap. 40 of the Government Proceedings Act, enforcing the order against the Government will be very difficult. You may now have to enforce it against the Attorney-General. So, it will give members of the public a very difficult time trying to realize their order. Who actually pays this?

**Hon. (Ms.) Abdalla:** It is the Cabinet Secretary through the County Conservation and Compensation Committee. This is because that is what has bogged down the KWS. The Fund is an independent endowment fund that gives the payment.

**The Temporary Deputy Chairman** (Hon. Kajwang’): And the Fund is charged to the Exchequer?

**Hon. (Ms.) Abdalla:** Therefore, it means the Cabinet Secretary is a very substantive---

**The Temporary Deputy Chairman** (Hon. Kajwang’): The Chair of the Committee is proposing that hon. ole Ntutu’s amendment be further amended by deleting the word “Service” and substituting it with “Cabinet Secretary” wherever it appears in his amendment. Hon. Chair, did I also hear you to be saying that you delete these words within three weeks from the date of receipt of the recommendations?

**Hon. (Ms.) Abdalla:** Yes, hon. Temporary Deputy Chairman, Sir. That is in the name of administrative---

**The Temporary Deputy Chairman** (Hon. Kajwang’): So, another of your proposal is to delete those words when they appear in Subsection 2(a) and include the words “a maximum” in paragraph (a) after the word “death” and then the words “a maximum” after the word “disability” on paragraph (d) and then the words “a maximum” in place of the words “not more than.” Are those the amendments?

**Hon. (Ms.) Abdalla:** Yes.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Just hold on your horses because she is proposing amendments which we can speak to. Are those the amendments that we are looking at?

**Hon. (Ms.) Abdalla:** Yes, hon. Temporary Deputy Chairman. I will support him with those amendments.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Thank you. So, there is a further amendment and I want us to do it. Let us dispose of the further amendment that has been brought in by the hon. Chair. Hon. ole Ntutu, you seem to be very passionate about this.

*(Question of the further amendment proposed)*

*(Hon. ole Ntutu nodded his head)*

Hon. ole Ntutu, when you nod your head you are only showing how passionate you are---

**Hon. ole Ntutu:** Yes, I am hon. Temporary Deputy Chairman, Sir. I think I totally agree with my sister. We have done a good job on this Bill. However, we must be definite. When we say “maximum”, we know what the word means. We just want to leave that in the case of death, it should be Kshs5 million. Let us not put a maximum or minimum. Then when we go to part “b”, it must be definite that in the case of injury occasioning permanent disability one should be paid Kshs5 million. I know I am not a lawyer but the moment we put “maximum” or “minimum”, it brings a big difference. We must look at this very carefully. The same case applies to part “c”. I agree with her and we can just leave it that way, that is a maximum of Kshs2 million.

Those are the definite amounts that I want this House to recognize.

**The Temporary Deputy Chairman** (Hon. Kajwang’): What is your discussion on part “c”? Can we change “not more than” to “a maximum of Kshs2 million” which to me means the same thing in English?

**Hon. ole Ntutu:** Yes, that one makes sense. However, parts “a” and “b” are the ones that I have---

**The Temporary Deputy Chairman** (Hon. Kajwang’): Thank you.

**Hon. ole Ntutu:** Hon. Temporary Deputy Chairman, that one makes sense, but it is parts “(a)” and “(b)” that I have an issue with.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Members, there are two things here. First of all, let us dispose of what is not contentious which is the substitution of the word “Service” with “Cabinet Secretary” and then the removal of those words “of three weeks from the date of receipt.”

*(Question, that the words  
to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted  
in place thereof be inserted, put and agreed)*

Hon. Members, let us go to the next one which is “a maximum”. We have heard discussions from hon. Njagagua together with hon. ole Kenta to the fact that we need to compare jurisdictions so that we make law which seems to be consistent. It is, however, your view how you want us to make it.

So, I want to propose the Question on that debate here because we have heard Members on this issue. Hon. Dalmas Otieno, because of ranking order, when I see your request you almost get the Floor immediately. Can I hear you?

*(Question of the further amendment proposed)*

**Hon. Anyango:** Hon. Temporary Deputy Chairman, I was going to request the hon. Member if we put a higher figure, what are we trying to aim at? A precedent will be set and injuries will be classified by the compensation committees. Similarly, if we say death, if you put a very high maximum, the temptation is to go for it from day one. If we put a lower maximum as the Chairperson of the Departmental Committee was proposing, we only remain to review the standards nationally and through the Statue Law (Miscellaneous Amendments) these figures will be increasing periodically as we go.

The temptation of a high maximum of Kshs5 million from the current one of Kshs1million, the risk of depleting the funds will be too much. I am, therefore, pleading that in terms of structuring compensation--- These compensations will be compared with others, say, in the motor vehicle industry where we have gone the direction of fixed amounts. We should not make one type of injury leading to death or permanent disability a bit too high in the scales and you automatically then raise even what the courts will be considering. They will say, Parliament already fixed this figure here and so other liability claims will be pulled up by this compensation recommendation in this particular act. So, I would rather support the cautious approach by the Chairperson of the Committee. We start there and then periodically the stakeholders will be reviewing these compensations and we amend them upwards based on the general trend of the economy.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Thank you. For you first timers, you should know that the Member for Rongo is also an expert on issues of insurance. Hon. Gichigi, I want us to close this. We should not have a discussion on this.

**Hon. Gichigi:** Hon. Temporary Deputy Speaker, I want to give a small insight on what we are discussing. On Sub-clause (b), where we are talking of injury occasioning permanent disability, we may not amend this one now, but at the end of the day this might be an area you can even compensate more than death. This is a person who might lead his or her life without a source of income. If the process would allow me, I would have said up to Kshs5 million in this. Remember we are paying the parents of a child who has been killed – and I am not underrating the value of a child. A person who loses both hands and legs, we pay them Kshs3 million and then we let them live for the rest of their life.

Recently, we passed the law on motor vehicle insurance and third-party risks. It has a schedule of injuries, say, if you lose a finger, eyesight and so on. I would have suggested that we relate compensation to that schedule. This is because it makes it easy for determination of the amount to be compensated.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Members, I hope that you have persuaded or dissuaded each other on this. The conversation is that we need to relate very closely all the legislation that we have discussed on this issue. So, I have to make a decision on this and move on. I only have two hours which are first approaching. Hon. Katoo.

**Hon. Katoo:** Hon. Temporary Deputy Chairman, I want to inform Members something. I have heard from Members with a background of insurance trying to equate wildlife compensation to insurance claims resulting from accidents by motor vehicles. I want to tell them this: There is nobody in this country who is insured against wildlife accidents. There is nobody. The insurance Bill that we passed was on motor vehicles and not wildlife.

In the Ninth Parliament, one Minister told us that in his area the biggest wildlife is a squirrel. So, this brings forth the question: Do people understand what wildlife is? Wildlife is the second biggest foreign exchange earner in this country. At times, it surpasses even earnings from coffee and tea. I want to make the point that currently for deaths caused by wildlife, KWS pays Kshs50,000 and there is nothing for injuries. They are doing it administratively; there is no law. This is an opportunity to come up with clear law and become very definite on what KWS or the Government will be paying when it comes to wildlife-related claims. This is not a judicial scheme. There will be no cases going to court and there is no insurance against wildlife attacks. Therefore, let us be specific and agree with hon. ole Ntutu.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Let me advise you that although it is not a court of law, but just because you have given it the power to make compensation, it automatically becomes a quasi-judicial function. It must, therefore, operate within the tenets of known practices in law.

The implication is that in the case of death, a compensation of Kshs5 million will be paid. We are saying that the amendment in part “(b)” by hon. Ntutu be further amended by including the words “a maximum” after the word “disability”, so as to read that “in case of injury occasioning permanent disability, a maximum of Kshs3 million---”

In part “(c)” the amendment by hon. Ntutu be further amended by deleting the words “not more than” and replacing therefor with the words “a maximum of ”, so as to read: “In the case of any other injury, a maximum of Kshs2 million, depending on the extent of the injury.”

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

Members, going back to business, the effect of the amendments that we have carried mean that hon. Abdalla’s proposed amendment to part “(d)” is hereby dropped. Hon. Lelelit’s amendment is also dropped. Hon. Mwaura’s amendment is also dropped. Hon. Zuleikha, you may move your second amendment on part “(b).”

*(Proposed amendments by Hon. (Ms.) Abdalla, Hon. Lati and Hon. Mwaura dropped)*

Just to guide the Members, we are on page 542.

**Hon. (Ms.) Juma:** Hon. Temporary Deputy Chairman, Sir, I beg to move: - THAT, clause 31 be amended-

(b) by deleting the “proviso” appearing at the end of sub-clause (4).

**The Temporary Deputy Chairman** (Hon. Kajwang’): Members, go back to the Bill itself at page 661. This Member is proposing to remove the proviso -

“provided that no compensation shall be paid where the owner of the livestock, crops or other property failed to take reasonable measures to protect such crops, livestock or property from damage by wildlife or his land use practices are incompatible with the ecosystem-based management plan for the area” so as to leave the words “a compensation committee shall review the claim and award and pay a compensation valued at the ruling market rates”.

*(Question of the amendment proposed)*

**Hon. Kimaru:** Hon. Temporary Deputy Chairman, Sir, I had pressed the intervention button earlier on. However, I am in agreement with that proposed amendment to delete that proviso.

**The Temporary Deputy Chairman** (Hon. Kajwang’): I am sorry you did not speak when we proposed that.

**Hon. (Dr.) Ottichilo:** Hon. Temporary Deputy Chairman, Sir, I want to oppose that amendment for one reason, each one of us must be responsible. We are making a law where we need everybody to be responsible. We appreciate that wildlife is a national resource. This provision was put there purposely so that everybody is responsible. Otherwise, if you do not put that caveat, it means that people will let their livestock into the wildlife areas without caring because they know they will be compensated. Equally, when it comes to crops, people will not put measures in place to deter animals from

coming into their farms because they know they are going to be paid. So, it is important that responsibility is given to Kenyans. Otherwise, we are making a law which is biased.

I oppose.

**Hon. Ganya:** Hon. Temporary Deputy Chairman, Sir, as a Committee we had a lengthy deliberation on this particular issue. We must be responsible citizens. In life, you have to have some level of care, diligence and responsibility. What if we do not fence our farms and the animals get in and destroy the crops? Can we convince all the Kenyans? It is critical that we see wildlife as a resource for this nation and at the same time, also be responsible. It is critical that we fence our farms and because of that, I oppose this amendment. We have to be responsible.

**Hon. (Dr.) Pukose:** Hon. Temporary Deputy Chairman, Sir, I stand to support the amendment. At the end of the day, they are talking of being compatible with the eco-system-based management plan of the area. We know that in many of those areas, even the area I come from, there is no eco-system management plan that has been put in place. So, when we leave this provision, in one way or another, it will be one of the ways of denying those people the compensation. It is a provision to make sure that they do not qualify for compensation, yet you realise that many of the farms bordering wildlife areas have been fenced, but wildlife still gets into the farms. You will put your animals in a cage in your homestead and somebody will come and say that, that cage is not in the same plan of the eco-system that should be within the area.

So, I support.

**Hon. (Ms.) Sunjeev:** Hon. Temporary Deputy Chairman, Sir, I stand to oppose this amendment by my respectable sister, hon. Zuleikha because of one reason.

*(Loud consultations)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Can you consult quietly on my right? The Chair has discretion to recognise Members to speak. Even when you press the button, the Chair still retains the discretion to recognise.

**Hon. (Ms.) Sunjeev:** Hon. Temporary Deputy Chairman, Sir, as I was saying, even as we talk about the eco system, let us look at the logical sense of what this amendment is trying to say. We need to act as responsible citizens. A farmer should act as a responsible citizen. The fact of the matter is that sometimes even my fence is left unchecked and I cannot do anything about it until the last moment. I really plead with hon. Zuleikha that in as much as she is trying to bring the amendment, we should give this responsibility to the people who live in those areas.

**Hon. ole Lemein:** Thank you, hon. Temporary Deputy Chairman. I want to concur with the hon. Member that we need to delete that section. Actually, when you look at the eco-system where we are in, most of the animals are found within the conservancies. When you look at this Bill, it is only taking care of the animals within the parks, and it is not taking care of the animals which are within the conservancies. I actually said that this particular section should be deleted.

**The Temporary Deputy Chairman** (Hon. Kajwang’): All right. Let me hear what the Chair says about this issue and then we can move on.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I would like to oppose this amendment. We have deliberated for long about this proviso which is the basis why

at this point----(*Technical hitch*). The reason why Kenyans are not being compensated for crop damage by KWS is because of abuse. There was a large-scale farmer in Narok who took a helicopter and allowed animals into his wheat farms when the crops failed. We are placing a very serious burden on the Exchequer. When we come up with the budget for the Ministry of Environment, Water and Mineral Resources tomorrow and put a budget line for compensation, we will all be saying that, that is exorbitant. Now we have the opportunity to ensure that we have a proviso so that those with capacity to play around with systems are not able to abuse them.

I am not here to defend the Government's position, but just think of it as a responsible Kenyan. This proviso will protect the Government and will ensure that the Exchequer does not carry a big burden on compensation. *Mwananchi* has reasonable measures to put in place. There are fences on your farms----

**The Temporary Deputy Chairman** (Hon. Kajwang'): All right. Thank you. Order, hon. Members. Let us maintain our reasoning capacity throughout the Bill because we are making a law for the country. Let not pockets of people who come from the wildlife areas be so drawn about their people so as to forget the national picture of being reasonable to the Exchequer, but as well also being reasonable to the people that we represent.

Therefore, you need to handle the two very carefully. I can still feel that a few hon. Members would want to have a word on this.

Let me have hon. Njuki.

**Hon. Njuki:** Thank you, hon. Temporary Deputy Chairman, Sir. It is good for you to have realized that those of us who come from areas neighbouring wildlife conservancy are a bit agitated about the whole thing. But we know that sometimes our people can be a bit funny. We know they would like to get money from the Government without really working for it.

Hon. Temporary Deputy Chairman, if you look at that proviso, it makes the whole issue of compensation null and void. When you put a big clause like "reasonable measures", the Government will use all the means possible to make sure that the word, "reasonable" is used to their advantage. I am saying so because we need substantiation on what kind of measure you need to put in place to stop an elephant from getting into your home. It does not matter what pieces of wood you use the elephant will get there! It should really be a word that can be measureable, but not reasonable.

**The Temporary Deputy Chairman** (Hon. Kajwang'): All right. Let us hear from hon. (Ms.) Juma.

**Hon. (Ms.) Juma:** Thank you, hon. Deputy Chairman. With due respect to all the hon. Members who have spoken I think we are here for all Kenyans and a majority of them who live in these areas of wildlife conservancy are usually living in poverty. I have had an experience like a couple of months ago where an old deaf lady was killed by an elephant. She got into trouble because elephants left Shimba Hills National Park to come to the farms because of ----

**The Temporary Deputy Chairman** (Hon. Kajwang'): Hon. (Ms.) Juma, are you a Member of the Departmental Committee on Environment and National Resources?

**Hon. (Ms.) Juma:** I am not.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Thank you. Did you interrogate this matter at the Committee level?

**Hon. (Ms.) Juma:** No, I did not.

**The Temporary Deputy Chairman** (Hon. Kajwang’): You should have interrogated the matter, but anyway, continue.

**Hon. (Ms.) Juma:** Therefore, what I am saying is that majority of the people who will be affected are not rich enough. For example, in Kwale, how do you tell somebody who is living in a mud house with grass-thatched roof, to have a fence when even getting money to feed themselves is a problem, leave alone buying paraffin and so on? So, telling them to erect electric fence to protect their farms is not fair because that is the responsibility of the Government.

**The Temporary Deputy Chairman** (Hon. Kajwang’): All right. Thank you. We have got the gist of your argument. Hon. Members, I would have to put the Question because I have to make a decision, one way or the other.

*(Question, that the words to be left out be  
left out, put and agreed to)*

Order, hon. Members! It is amusing that this is a very serious engagement. We have passed all those amendments you have brought and so we are now going back to the old Clause 31. If you negate it, that means we will not have Clause 31

*(Clause 31 as amended agreed to)*

*Clause 32*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -  
THAT, Clause 32 of the Bill be deleted.

We note that this is the formation of the County Wildlife Compensation Committee and we have already collapsed it in Clause 24.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be  
left out, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang;): Hon. Members, the amendment proposed by hon. Mary Seneta is therefore dropped in view of the vote you have just taken.

*(Proposed amendment by hon. (Ms.) Seneta dropped)*

*(Clause 32 as amended agreed)*

*(Clauses, 33, 34, 35, 36 and 37 agreed to)*

*Clause 38*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -

THAT, Clause 38 be amended by inserting the following sub-clause (1) -

“(1A) Notwithstanding subsection (1), a notice under Paragraph (1) (a), (b) and (e) shall only be declared by the Cabinet Secretary upon approval by the National Assembly.”

Hon. Temporary Deputy Chairman, this is a substantive amendment because if the Bill remains as it is the dangers that were raised by the hon. Members from Taita Taveta County would arise. The Cabinet Secretary would declare an area “protected area” without the involvement of Parliament, which is the case with the current Act. So, we are proposing that Parliament approves such declarations.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Yes, hon. Chachu Ganya.

**Hon. Ganya:** Hon. Temporary Deputy Chairman, this is a very critical amendment. Our community land can be gazetted as protected areas by the Cabinet Secretary without any reference being made to Parliament, or reference to any other authority in this country. This has never happened in this country since independence. So, as a Committee, we felt that Parliament must have a role in such decisions, so that before any land is made a national park or a national reserve, it gets the approval of Parliament. It is critical for this House to do so.

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 38 as amended agreed to)*

*Clause 39*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Members, let us have some order in terms of dealing with proposed amendments. Let us have the Departmental Committee Chairperson speak to Clause 39, on page 520.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -

THAT, clause 39 be amended in sub-clause (1) by inserting the words “and approval of the National Assembly” immediately after the word “consultation”.

This is, again, to ensure that we do not have declarations in the Gazette without the approval of the National Assembly. Just to note, my Committee is dealing with two Statement requests, where hon. Members are saying that there was no consultation in the gazettelement of some forest reserves. So, we want to avoid a similar scenario for national parks. So, we want to ensure that the powers of the Cabinet Secretary are only exercised upon the approval of the House.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Yes, hon. ole Ntutu.

**Hon. ole Ntutu:** Hon. Temporary Deputy Chairman, I support the amendment. We discussed this issue in the Departmental Committee. I support it because I believe that it will bring order in the management of our national parks. The KWS would just decide to gazette a national park or national reserve. So, it is good for such declarations to be approved by Parliament.

I beg to support.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Yes, hon. Lempurkel.

**Hon. Lempurkel:** Hon. Temporary Deputy Chairman, I rise to support the amendment. In some instances, we have seen our land being gazetted by the KWS and people being evicted. As a result, we created this law.

So, I beg to support.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Members, I will now put the Question, which is that Clause 39 be amended as proposed by hon. Amina Abdalla.

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

Yes, hon. Lati.

**Hon. Lati:** Hon. Temporary Deputy Chairman, I want to withdraw my amendment because I have just seen in the Constitution that community land is covered separately from public land. I have realised that both ranches and trust lands are covered under community land. So, I withdraw the amendment.

*(Proposed amendment by hon. Lati withdrawn)*

*(Clause 39 as amended agreed to)*

*(Clause 40 agreed to)*

*Clause 41*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move:-  
THAT, Clause 41 of the Bill be deleted.

This is because, as a Committee, we felt that the Bill needs to be clearer on the establishment of conservancies, national parks and national reserves. So, we have proposed new clauses to deal with these matters and the sequencing. So, we felt that we have to delete Clause 41 for purposes of ensuring that we are clearer in the process of establishing conservancies.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Mwadeghu, could you approach the Dispatch Box and speak from there? Be careful on how you toe the line. You seem not to have your card. Hon. Members are advised to keep their cards with them all the time. Otherwise, you may lose your right to speak here.

**Hon. Mwachugu:** Thank you, hon. Temporary Deputy Chairman, for your consideration. My card just decided to malfunction. So, I have taken it back to the relevant office.

I just wanted to support the amendment that has been moved by the Departmental Committee Chairperson on Clause 39, even though it has been overtaken by events; where they are saying that the KWS should not annex land arbitrarily in the manner they have been doing it. There is an amendment Bill brought to Parliament by one of us to prove the point on what has happened in respect of Tsavo East and Tsavo West National Parks. I support the amendment by the Chair.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Clause 41 deleted)*

*Clause 42*

**Hon. Mlola:** Hon. Temporary Deputy Chairman, I beg to move: -  
THAT, Clause 42 be amended by inserting the following new sub-clause immediately after sub-clause (2)-

“(3) Notwithstanding the provisions of subsection (1), the boundaries of Tsavo East National Park and Tsavo West National Park shall be as declared in Proclamation No.17, Kenya Proclamations, Rules and Regulation 1948 pursuant to section 3 of the National Parks Ordinance, 1945(repealed)”.

I am saying this because over the years, the KWS has been taking our land. We even used to have game reserves. All of them have been taken by the parks` and in fact they are moving closer to the villages now to the extent that we do not have anywhere to graze our animals. So, we are saying KWS is extortionist; we are saying we want to put our boundaries where they belonged as at that time. This can even be supported by Clause 39 which says KWS cannot be taking land without talking to anybody. We have even petitioned the National Land Commission on the same so that we get back our land which is being used by the KWS considering that already 62 per cent of Taita Taveta County is made up of national parks and not game reserves. Local communities do not benefit. So, we need our land back and this is the right time. Thank you.

**Hon. (Ms.) Abdalla:** On a point of order, hon. Temporary Deputy Speaker.

**The Temporary Deputy Chairman** (Hon. Kajwang’): You do not have to bother. I think I can dispose of this. Hon. Members, we are discussing page 539 of the Supplementary Order Paper. Hon. Member, you need to relook at the amendment that you propose and you will see that you have based it on a legislation that is repealed. To that extent therefore, it is no law because you are saying: Notwithstanding the provisions of sub-section (1) the boundaries of Tsavo East National Park and Tsavo West National Park shall be as declared in a repealed legislation. So, to that extent it amounts to no legislation.

Number two, you also see in the Bill that there is a schedule which has kind of gone into details and marked out square metres of the parks. If you were to dispose of this

amendment, you will be contradicting the Tenth Schedule of that Bill. So, allow me to rule it as inadmissible. There shall be no discussions on this hon. Member.

*(Clause 42 agreed to)*

*Clause 43*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -

THAT, Clause 43 be amended in sub-clause (1) by inserting the words “and approval by the National Assembly” immediately after the words “National Land Commission”.

This is to prevent this arbitrary gazettelement of new parks and game reserves.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 43 as amended agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Mwaura, you have not been in the Chamber and you had proposed some amendments before. If the amendment of the Chair is taken, your amendment will have been taken care of.

*Clause 44*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -

THAT, Clause 44 be amended by deleting the words “county park” and substituting therefor the words “national reserve”.

It is in our definition that national reserves are those that have been established in counties under community land. So, we do not see the place for what we talk about county parks. So, we propose that amendment.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Question, that the words to be inserted in place  
thereof be inserted, put and agreed to)*

*(Clause 44 as amended agreed to)*

*(Clauses 45 and 46 agreed to)*

*Clause 47*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -  
THAT, Clause 47 be amended –

- (a) in sub-section (2) by inserting the words “and the Mining Act” at the end of paragraph (f);
- (b) by inserting a new sub-clause immediately after sub-clause (4) as follows-  
“(5) No person shall undertake oil or gas exploration and extraction without the consent of the Cabinet Secretary and the approval of the National Assembly.”  
This is because we had no reference to the Mining Act. The other sub-clause we had inserted concerns protected areas so that we do not think it is outside protected areas.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 47 as amended agreed to)*

*(Clause 48 agreed to)*

#### *Clause 49*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -  
THAT, Clause 49 be amended-

- (a) by re-numbering the existing provision as sub-clause (1);
- (b) by inserting the following new sub-clause immediately after the renumbered sub-clause (1)-  
“(1A) The Service shall update the Sixth Schedule from time to time.”  
This is because the endangered animals will be changing from time to time.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 49 as amended agreed to)*

*(Clause 50 agreed to)*

#### *Clause 51*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT, Clause 51 be amended in sub-clause (4) by inserting the word “biannually” at the end of the clause.

It has been stated that reports on environment come to this House annually and Cabinet Secretaries have been unable to meet that deadline. We think that it is a bit

unrealistic to expect changes in conservation within one year. So, we are proposing to extend that to biannually. With this extension, we hope that they will be able to meet the statutory requirement of providing a report.

*(Question of the amendment proposed)*

*(Question, that the word to be inserted be inserted,  
put and agreed to)*

*(Clause 51 as amended agreed to)*

*(Clauses 52 and 53 agreed to)*

#### *Clause 54*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT clause 54 be amended by re-numbering the existing Clause 54 as clause (53);

Basically, that is the sequence they moved from Clause 52 to Clause 54. So, we are proposing that the existing Clause 54 be renamed Clause 53.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Question, that the word to be inserted  
in place thereof be inserted, put and agreed to)*

*(Clause 54 as amended agreed to)*

*(Clauses 55, 56, 57 and 58 agreed to)*

#### *Clause 59*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT, Clause 59 be amended-

- (a) by deleting the words “any party” and substituting therefor the words “any person”
- (b) by inserting the words “and in accordance with the Regulations” at the end of the clause.

This will enable the Bill to talk about sustainable utilization and exploitation of wildlife resources by any person, whether individual land owner or in a conservation area and wherever else it shall be practised in a manner that is sustainable and in accordance with the regulations.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 59 as amended agreed to)*

*Clause 60*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT, Clause 60 be amended by deleting the word “Council” and substituting  
therefor the words “Cabinet Secretary.”

This is a consequential amendment because we gave the regulatory function to the  
Cabinet Secretary and deleted “Council.”

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 60 as amended agreed to)*

*(Clauses 61 and 62 agreed to)*

*Clause 63*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT, Clause 63 be amended by inserting the following new sub-clauses  
immediately after sub-clause (3) –

“(4) The guidelines on benefit sharing shall comply with the minimum conditions  
that a minimum of five per cent of the benefits from national parks shall be allocated to  
local communities neighbouring a park”.

“(4)” Subject to Article 66 of the Constitution, private investments in  
conservancies shall benefit local communities and investors shall provide such benefits  
by applying various options including infrastructure, education and social amenities”.

This will deal with benefit sharing from parks. We are proposing a new sub-  
clause (4). This addresses the issues hon. Mwadime had tried to propose with regard to  
the 10 per cent. Subsequently, it also puts a responsibility in the new Sub-clause (4) in

adding an amendment to Sub-clause (4) that says “Subject to Article 66 of the Constitution, private investments in conservancies shall benefit local communities and investors shall provide such benefits by applying various options including infrastructure, education and social amenities.” So, this covers both the Government and private conservancies.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Clause 63 as amended agreed to)*

*Clause 64*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT, Clause 64 be amended by inserting the word “authorised” immediately after the word “any” appearing at the beginning of the sub-clause.

This is to ensure that it is only the authorized officers in these institutions that are able to effect those guidelines rather than any officer.

*(Question of the amendment proposed)*

*(Question, that the word to be inserted be inserted,  
put and agreed to)*

*(Clause 64 as amended agreed to)*

*(Clauses 65 and 66 agreed to)*

*Clause 67*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT clause 67 be amended-

- (a) by deleting the word “Council” wherever it appears and substituting therefor the words “Cabinet Secretary”
- (b) by inserting the following new sub-clause immediately after sub-clause (3) –  
“(4) Subject to subsection (1) the wild species in which game ranching may be allowed is as set out in the Eleventh Schedule”

This is just a consequential amendment. The second one is to add a new sub-clause after “3” that talks about wildlife species in which game ranching will be allowed. It should be set out in a schedule.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

**Hon. Waiganjo:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -

THAT, Clause 67 be amended in sub-clause (3) by -

- (a) by deleting paragraph (e); and
- (b) by deleting paragraph (f)

Hon. Temporary Deputy Chairman these are clauses that are dealing with cropping and culling. “Cropping” means harvesting of animals or wildlife for their range of products while “culling” is a selective removal of wildlife based on ecological and scientific principles for management purposes.

My beef with these clauses is on the management and regulation of cropping and culling. As Members know, at this particular point in time we have a problem with poachers and our wildlife are at their lowest ebb. Also, past experiences have shown that these practices of cropping and culling have led to abuse and, indeed, have been abused before. So, by legislating on these two clauses, we shall be opening our parks and national reserves to sport hunting and poachers. I do not think that at this point in time we have the capacity to manage and regulate cropping and culling. So, I would like to tell hon. Members that we can always bring a miscellaneous amendment in time when, at least, the numbers of our wildlife has increased. Let us not open it up for now; rather let us preserve and conserve our wildlife so that we get the right numbers. Legislating on it now when we already have a problem with numbers in our wildlife is also a problem. I ask hon. Members that we delete the two clauses.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Waiganjo where I come from people are fishermen so I do not follow you on culling and cropping and cultural and religious purposes. I will allow hon. Ottichilo who is a scientist on this matter to contribute.

*(Question of the amendment proposed)*

**Hon. (Dr.) Ottichilo:** Hon. Temporary Deputy Chairman, from the outset I am opposing those amendments. These two terms are management tools. “Culling” is a management tool that is practised in national parks, whereby if by any chance wildlife species increase beyond the carrying capacity then it is the responsibility of the competent authority to use scientific means to remove certain animals that are not viable or that will not affect the population of that species. This is purely a management tool.

“Cropping” is also a management tool particularly in ranches and private land where, again, if species increase beyond the carrying capacity then it is the responsibility of the competent authority to give advice to the land owner or the land owner to seek authority from the competent authority to be able to crop and reduce the numbers. This is

a normal practice. Even in a normal ranch, when livestock increases to a certain level there must be off-take so that you continue, otherwise you will completely run down the ecosystem and eventually the whole population will crash and you will lose everything. So, I oppose.

**The Temporary Deputy Chairman** (Hon. Kajwang’): As I told you I am a fisherman and I have nothing to do with wildlife. Wildlife has been described to include vertebrates and invertebrates, but does not include fish except fish in protected areas. You can be sure I will have no opinion in this.

**Hon. (Ms.) Kanyua:** Hon. Temporary Deputy Chairman, I think the only point I wanted to add in support of hon. Waiganjo who wants to delete these two provisions is to the extent that data and statistics are not available even to indicate when the culling should be done. To that extent, I support the deletions as suggested by hon. Waiganjo. Nyeri is very near where he comes from in Nyandarua. We think that the wildlife needs to be supported sufficiently.

**Hon. Katoo:** I stand to oppose the amendment. I do not want to say much. I fully concur with what hon. Dr. Ottichilo has said. If you look at the Eighth Schedule, it describes how cropping and culling will be done. None of this will be done without the authority of the KWS. Part One on the Schedule already addresses what hon. Ms. Kanyua has talked about. It is about the consideration upon which the KWS will license any applicant to undertake cropping and culling. This is well elaborated. For those of us who come from wildlife areas and have seen these management activities carried out, we know that first of all a census of the species to be cropped is carried out by the KWS. This is done in comparison with the acreage of the land available. They may decide to do cropping or move the excess wildlife to another protected area.

I oppose the amendment and support the Committee in retaining those services.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. George Oner Ogalo, I also know that you do not know about culling and cropping, but you have not spoken.

**Hon. Ogalo:** Hon. Temporary Deputy Chairman, you are curtailing my capacity to debate. I am a member of this Committee and we had experts who came to explain to us how these two functions are supposed to help in managing wildlife. We also had activists who raised their points. After deliberations, it is in the interest of wildlife conservation that these mechanisms be retained as a form or a way of managing wildlife. I would ask fellow Members not to conserve wildlife with emotions, but allow proper scientific management of wildlife in our country.

So, without that, I oppose.

**Hon. Kimaru:** Hon. Temporary Deputy Chairman, I come from an area where there is wildlife. In Laikipia North there comes a time when the population of Zebras and even monkeys grows to very large numbers and they become a menace to farms. They are not even restricted to their areas and they invade land.

I, therefore, support the idea of culling and cropping. I oppose the amendment.

**Hon. Lati:** Hon. Temporary Deputy Chairman I would not have liked to oppose anything brought by hon. Waiganjo. However, if I was to take him to Samburu today, there are large communities there that depend on culling of animals because it is very necessary to do that. The main reason is the carrying capacity of the land. In Samburu, there are so many Zebras and if you do not do culling there will be some natural catastrophes that will kill the wildlife and our livestock.

*(Question, that the words to be left out  
be left out, put and negatived)*

*(Clause 67 as amended agreed to)*

*(Clause 68 agreed to)*

*Clause 69*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT, Clause 69 be amended by deleting the word “Council” wherever it  
appears and substituting therefor the words “Cabinet Secretary”  
This is a consequential amendment on who is responsible for regulating the  
sector.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be  
left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Clause 69 as amended agreed to)*

*Clause 70*

**Hon. ole Ntutu:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT, clause 70 be amended by inserting the following new subclause  
immediately after subclause (2)—

“(2A) The Service shall, in every year, audit the number of Government trophies  
in possession of the Government and publish the results of the audit in the Gazette”.

You will agree with me that over the years, we have not known how many  
trophies we have in our wildlife stores. You will remember when His Excellency the  
retired President Moi was given a pile of tasks to light, and the same thing applied to  
President Kibaki, but we do not know how many were left in the stores. We must have  
accountability on the trophies that we have in our stores. So, I am proposing that we need  
to know what we have in our stores. Most of the times, we see these trophies being sold  
by the officers who man those stores. We must bring accountability, so that we can know  
what we have.

*(Question of the amendment proposed)*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I wish to propose,  
for neatness purposes, that we delete the word “Government”, so that the amendment  
shall read “the Service shall in every year audit the number of trophies in possession of

the Government and publish the results of the audit in the Gazette. This is just for neatness purposes.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Just re-read that further amendment.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, that “the Service shall in every year audit the number of trophies in possession of the Government and publish the results of the audit in the Gazette”.

I beg to move: -

THAT, we remove the word “Government” from the proposed amendment. It is double.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Yes, but something does not sit here well with me. How can the Government have trophies in the possession of the Government? These are not Government trophies? Hon. Ntutu, you should be nearer ole Kenta, so that he can polish these things very fast.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, on a light note, I wanted to state that being from the CORD Coalition, you might not have visited State House, but they have trophies in State House.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Re-read it. I am sorry, I was multi-tasking and reflecting on how State House looks from my imagination because I have not been there. Therefore, re-read it for me, exactly how you are proposing the further amendment.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I was proposing the deletion of the word “Government” between the words “of” and “trophies”.

**The Temporary Deputy Chairman** (Hon. Kajwang’): So, number of trophies in possession of the Government and publish the results?

**Hon. (Ms.) Abdalla:** Yes.

**The Temporary Deputy Chairman** (Hon. Kajwang’): So, you remove the word “Government”.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out,  
put and agreed to)*

We will now go back to hon. Ntutu’s amendment and I put the Question.

*(Question, that the words to be inserted be  
inserted, put and agreed to)*

*(Clause 70 as amended agreed to)*

*Clause 71*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -

THAT, Clause 71 be amended in sub-section (2) by deleting the word “Council” and substituting therefor the words “Cabinet Secretary”

This is another consequential amendment from the regulatory function.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 71 as amended agreed to)*

*Clause 72*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: - THAT clause 72 be amended in sub-section (1) by deleting the word “Council” wherever it appears and substituting therefor the word “Service”.

This is still a consequence of the functions of the Council having been deleted.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out, put and agreed to)*

*(Question, that the word to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 72 as amended agreed to)*

*Clause 73*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: - THAT, Clause 73 be amended by deleting the word “Council” and substituting therefor the word “Service”.

It is a consequence of the regulatory function and the Council being deleted.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out, put and agreed to)*

*(Question, that the word to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 73 as amended agreed to)*

Clause 74

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT, Clause 74 be amended by in sub-section (1) by deleting the word “Council” and substituting therefor the word “Service”.  
This is similar to the amendment in Clause 73.

*(Question of the amendment proposed)*

*(Question, that the word to be left out be left out, put and agreed to)*

*(Question, that the word to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 74 as amended agreed to)*

Clause 75

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: -  
THAT, Clause 75 be amended by-

- (a) re-numbering the existing provision as sub-clause (1);
- (b) by deleting the words “and is liable upon conviction to a fine of not less than five hundred thousand shillings or to imprisonment for a term of not less than two years or to both such fines and imprisonment”.
- (c) by inserting the following new sub-clause immediately after the renumbered sub-Clause (1) –
  - “(2) Any person who commits an offence with respect to this section shall be liable upon conviction –
  - (a) to a fine of not less than five hundred thousand shillings or to imprisonment for a term of not less than two years or to both such fine and imprisonment where the offence is committed with respect to a national park, national reserve or national sanctuary;
  - (b) to a fine of not less than one hundred thousand shillings in any other case.

The essence of this amendment is that the Bill was criminalising contravention of management plans and lumping contravention of management plans in conservation areas with parks and national reserves. We are proposing the deletion of the fine proposed under this Bill by deleting the words ‘as is liable upon conviction to a fine of not less than five hundred thousand or to an imprisonment of a term of not less than two years’. We feel that this is too high and especially for conservation areas. It would be unfair for a livestock herder to be charged this kind of figure if he contravenes a management plan. We have therefore, separated this offence to criminalising or providing a fine and imprisonment of Kshs500,000 when the contravention of the management plan is in respect to a national park, national reserve or national sanctuary.

Then we propose that a fine of not less than Kshs100,000 be charged to those contravening management plans in any other categories of conservation areas.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 75 as amended agreed to)*

*(Clauses 76, 77, 78 agreed to)*

Clause 79

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Speaker, Sir, I beg to move: -

THAT, Clause 79 be amended by deleting the words “fine of not less than ten million shillings or to imprisonment of not less than fifteen years” and substituting therefore the words “fine of not less than twenty million shillings or imprisonment for life”.

This is enhancement of the fines and length of imprisonment for those found to be involved in an offence of killing an endangered species.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Is it worth life imprisonment?

**Hon. (Ms.) Abdalla:** It was deleting “fine of not less than ten million shillings or to imprisonment of not less than fifteen years”, and substituted therefor with “fine of not less than twenty million shillings or imprisonment for life”.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Let us hear from hon. Chachu Ganya.

**Hon. Ganya:** Thank you, hon. Temporary Deputy Chairman. Few months ago, I moved a Motion urging this House to pass a resolution for very serious penalties and punitive measures for poachers and it was passed by the House.

I am glad to see that through this Bill, that would be a reality. This is a total war we are declaring on poachers in this country.

**Hon. Melly:** Thank you, hon. Temporary Deputy Chairman. I want to seek clarification from the Chair on the herders or the Maasai warriors who at times defend their livestock when they are killed by lions. Is this meant for poachers or for everybody else?

Thank you.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Unfortunately, you have used political terms like “warriors.” Already, you are not on legislative language, but that is alright. It is parliamentary. I do not deny because “Maasai Warriors” is perfect parliamentary language, but it is political rather than legislative.

**Hon. Katoo:** Hon. Temporary Deputy Chairman, I wanted to raise the same issue. I do not know whether there is an amendment to this clause. What happens to those

people who hunt? There are those people who kill wildlife in self defence or in defending property. When an elephant strays into your farm, will you stand there as it destroys your crops? If you kill that elephant you will be charged Kshs100,000 because you killed it outside the protected area while defending yourself or property.

**Hon. (Dr.) Nyikal:** Hon. Temporary Deputy Chairman, I have sort of come in. I thought that what has just been said is, maybe, accidentally killing wildlife. There are other sins that probably may be worse than this and they are imprisoned for 15 years in jail for that kind of offence. Therefore, I would propose that it remains the original version. I am not a lawyer, but I do not know who--

**The Temporary Deputy Chairman (Hon. Kajwang’):** Hon. Member for Seme, I have heard you on the Floor of the House urging the House to send people who are caught with corrupt practices for death sentences. I think I have heard the words “death sentence” coming from you twice on the Floor of the House. Therefore, keep on thinking about that.

Hon. Members, this clause deals with offences relating to endangered or threatened species. This is what we are talking about.

**Hon. (Dr.) Ottichilo:** Hon. Temporary Deputy Chairman, the Committee discussed this matter at length and we consulted very widely with various stakeholders and we came into agreement that we need to put very punitive measures, particularly for endangered species; that is the elephant and the rhino. This is because this country is now being used as conduit for trafficking of ivory and rhino horns. This is done by very serious businessmen from China, Taiwan and Korea. These people are very rich.

Therefore, they have found out that the penalties in Kenya are so lenient that they are able to bring ivory from DRC and from other countries in Central Africa through Kenya.

Most of you, hon. Members who have been reading newspapers have seen every time at the port or even at our Jomo Kenyatta International Airport (JKIA) this is happening every day. Therefore, we need punitive measures otherwise, we are going to lose our endangered species, particularly the elephant and the rhino.

**The Temporary Deputy Chairman (Hon. Kajwang’):** If my memory serves me well, offence for cattle rustling is also life imprisonment, is it not?

**Hon. Members:** No!

**The Temporary Deputy Chairman (Hon. Kajwang’):** It is not. Okay. Let me come to my right. Hon. ole Kenta

**Hon. ole Kenta:** Hon. Temporary Deputy Chairman, I just want to make a few clarifications. One of them is that somebody talked about self-defence. This is provided for under Section 65, which states that it shall not be unlawful for any person to kill a wild animal in defence of himself or any other person, if the killing is absolutely necessary. So, if in the process of defending yourself you kill a wild animal, it is justified.

The other issue is that we have seen our wildlife being disseminated by foreigners. We are now being told that our wild animals are being used to fund terrorist activities. So, we have to ask ourselves whether these provisions are for the benefit of Kenyans. I believe that these penalties are justified. It is not an ordinary Kenyan to kills wild animals. Our wild animals are killed by people from elsewhere, who make billions of shilling from wildlife trophies. So, in order to discourage them, they should be punished accordingly once cornered.

So, I support the Departmental Committee Chairperson on this amendment.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Members, can I now put the Question?

**Hon. Members:** No!

**The Temporary Deputy Chairman** (Hon. Kajwang’): Yes, hon. Lentoimaga.

**Hon. Lentoimaga:** Hon. Temporary Deputy Chairman, if I had the time, I would propose a further amendment to this particular amendment because even though we are claiming that it is other people who are killing our wild animals, those people also use our people.

Secondly, wildlife cannot be contained in the parks only, especially the dangerous ones, including rhinos, elephants and lions. There is no enough land. They stray daily onto our community land. They go there to kill our livestock and attack people. I cannot say much. Therefore, I support the Chairperson with a lot of reservations.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Members, we still have one hour to go but, as you can see from the Order Paper, we have a lot of work to dispose of. So, let us not make this a matter of debate. I feel that there is enough consensus for me to put the Question, which is that Clause 79 be amended as proposed by the Departmental Committee Chairperson, hon. Amina Abdalla.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 79 as amended agreed to)*

*(Clauses 80, 81 and 82 agreed to)*

*Clause 83*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -

THAT, clause 83 be amended-

(a) by re-numbering the existing provision as sub-clause (1);

(b) by deleting paragraph (a) and substituting therefor the following new paragraph-

“(a) a fine of not less twenty million shillings or imprisonment for life”.

(b) by renumbering the existing paragraph (c) as paragraph (b);

(c) by deleting the renumbered paragraph (b) and substituting therefor the following new paragraph-

“(b) a fine of five million shillings, or imprisonment of five years or to both fine and imprisonment”

(d) by renumbering the existing paragraph (d) as paragraph (c);

(e) by deleting the renumbered paragraph (c) and substituting therefor the following new paragraph-

“(c) a fine of one million shillings or imprisonment of two years or to both fine and imprisonment”

This is to enhance the fines and penalties for sport hunting of category “A” animals, so that it can be consistent with the amendment that we have just passed. So that if a person kills category “A” animal, he can be fined not less than Kshs20 million or is imprisoned for life. For category “B” animals, the fine is Kshs5 million or imprisonment of five years or both fine and imprisonment. For category “C” animals, the fine is Kshs1 million or imprisonment of two years or both.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 83 as amended agreed to)*

*(Clause 84 agreed to)*

*Clause 85*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -

THAT, clause 85 be amended by inserting the words “or is in possession of or is dealing in any meat of any wildlife species”, immediately after the word “hunting”.

We felt that this clause was leaving out persons involved in the trade of bush meat. So, we are adding “or in possession of or is dealing with any meat of any wildlife species” so that the individuals involved in that business can also be captured under this clause.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 85 as amended agreed to)*

*Clause 86*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -

THAT, clause 86 be amended-

- (a) in sub-section (1) by deleting the words “Council on recommendation by the”;
- (b) in sub-section (2) by deleting the word “sea” and substituting therefore the word “waters”

I note that we wanted to replace “council on recommendation by” with the words “Cabinet Secretary” but the words “Cabinet Secretary” are not included under amendment (a). So, with your permission, my amendment would read: “by deleting the words “Council on recommendation by the Service” and replacing with the words “Cabinet Secretary.”

In part (b) of the amendment, we are seeking to replace, under sub-clause (2), the word “sea” and substitute therefore the word “waters” because we have territorial waters that are not sea. So, it would be more inclusive if we pass part (b) of the amendment.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Amina Abdalla, the insertion was not on the Order Paper?

**Hon. (Ms.) Abdalla:** Yes, the word “Cabinet Secretary” was not on the Order Paper.

**The Temporary Deputy Chairman** (Hon. Kajwang’): And you want to be like this: Deleting the words “Council on recommendation by the” and inserting the words “Cabinet Secretary”?

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, the amendment should read that we replace the word “Council” and substitute therefore the words “by the Cabinet Secretary on recommendation by the Service under this Act.”

**The Temporary Deputy Chairman** (Hon. Kajwang’): So, you are deleting the word “Council” and replacing it with the words “Cabinet Secretary”?

**Hon. (Ms.) Abdalla:** Yes, hon. Temporary Deputy Chairman.

*(Question of the amendment proposed)*

**Hon. Ogalo:** Hon. Temporary Deputy Chairman, I think the Mover is confusing something. The amendment is actually right the way it is on the Order Paper. We intended that the Service is the one which issues the permit and not the Cabinet Secretary. So, I prefer that the Mover goes back to the amendment on the Order Paper and prosecutes it. Thank you, hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Member, can you come here to the Bar so that you clean up that with the Chair?

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I am sorry that the Member is actually correct because the implementation is by the Service. The action is to be issued by the Cabinet Secretary.

**The Temporary Deputy Chairman** (Hon. Kajwang’): So, the amendment as proposed is correct?

**Hon. (Ms.) Abdalla:** Yes.

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 86 amended agreed to)*

Clause 87

**Hon. Lati:** Hon. Temporary Deputy Chairman, I am withdrawing my amendment of deleting Clause 87.

*(Proposed amendment by hon. Lati withdrawn)*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -  
THAT, Clause 87 be amended by inserting the words “Conservation and” immediately after the word “Wildlife”.

This is a consequence of collapsing the County Wildlife Conservation Committee to County Wildlife and Compensation Committee.

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 87 as amended agreed to)*

*(Clause 88 agreed to)*

Clause 89

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -  
THAT, Clause 89 be amended by-

- (a) re-numbering the existing provision as sub-clause (1);
- (b) by deleting paragraph (f) and substituting therefor the following new paragraph-

“(f) conveys into a protected area or is found within a protected area in possession of any firearm, ammunition, arrow, spear, snare, trap or similar device without authorization;

(c) by inserting the following new sub-clauses immediately after re-numbered sub-clause (1) –

“(2) No person shall enter into a national park with any livestock for any purpose without authorization”;

“(3) Any person who contravenes subsection (2) commits an offence and is liable upon conviction to a fine of not more than one hundred thousand shillings or to imprisonment for a term of not more than six months”.

“(4) The Cabinet Secretary shall make guidelines in consultation with the Service with respect to accessing national parks for purposes of grazing and watering of livestock in times nationally declared as drought and other natural disasters”.

This is a very substantive amendment because it deals with the problems that pastoralists have during drought periods when they have to pay fines for watering their livestock. So, this is a middle ground that takes into account both circumstances and I am

sure my friends behind who are guilty of this offence will find favour with it and support it.

*(Question of the amendment proposed)*

**Hon. Musimba:** Hon. Temporary Deputy Chairman, I wanted to go and offer a further amendment to Clause 89(b) where it will say “conveys into a protected area or is found within a protected area in possession of any unlicensed firearm, ammunition, arrow, spear, snare, trap or similar devices without authorization.” The reason I am saying this is that within parks there are lodges and it is possible for you to enter with your own personal firearm. So, they should be licensed by the Government. I am adding the word “unlicensed”.

*(Question of the further amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Musimba, are you so convinced about your amendment?

**Hon. Musimba:** I want to say that the person in charge of the park is the Kenya Wildlife Service. So, if you are to seek authorisation from the KWS at the gate, whether you are licensed or not, we need to clarify that particular point.

**The Temporary Deputy Chairman** (Hon. Kajwang’): This “without authorization” means authorization from the authority that allows people into these parks. So, it must also mean giving people firearms and licensing or unlicensing firearms. In English, there is what is called tautology. We are repeating ourselves if you look at it.

**Hon. Musimba:** But you see it is all about interpretation which is in law.

**The Temporary Deputy Chairman** (Hon. Kajwang’): No. it is not about interpretation. It is just that the word “unlicensed” is superfluous. Do you think you want to reconsider it?

**Hon. Musimba:** Let me reconsider it. For continuous prose, you can isolate the words “firearms and ammunition”. This is because I think the contentious things are arrows, spears, snares, traps and similar devices.

**The Temporary Deputy Chairman** (Hon. Kajwang’): The question is: Are you holding onto the amendment?

**Hon. Musimba:** Yes, hon. Temporary Deputy Chairman, Sir.

**Hon. Nooru:** Hon. Temporary Deputy Chairman, Sir, I think the amendment reads “unlicensed”. It will be okay if you remove the words “without authorization”.

**The Temporary Deputy Chairman** (Hon. Kajwang’): There is the danger here of bringing amendments on the Floor of the House. You need to be very careful. Hon. Musimba, please listen to this and forget about the firearm. If you put the word “unlicensed” there it is qualifying the whole sentence. It means that even an arrow must be unlicensed because there is nothing that has qualified firearm, ammunition, arrow and spear. These are items that are counted within the same phrase unless you qualify it in some way. However, as it is now, you will need to be unlicensed to carry an arrow, a spear, snare or trap.

Yes, Hon. Musimba. Can you help us on this so that we move on?

**Hon. Musimba:** Hon. Temporary Deputy Chairman, Sir, I will help you by saying that all that we ought to do is simply reword the statement by saying “is found within a protected area in possession of arrow, spear, snare, trap or similar device and any unlicensed firearm and ammunition”.

**The Temporary Deputy Chairman** (Hon. Kajwang’): But the intention of this amendment is that you can also carry an arrow without authorization.

**Hon. Musimba:** No, you must be authorized, hon. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Yes, but the way you have rephrased it, you can easily walk in with an arrow without authorization. Well, think about it because that is the problem of bringing amendments on the Floor. If you do not consider them deeply, just a word may give us problems now.

**Hon. Musimba:** Hon. Temporary Deputy Chairman, Sir, it is pretty clear.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Okay. I have heard you. Just hold your horse now. Let me hear from hon. Ferdinand Kevin Wanyonyi.

**Hon. F.K. Wanyonyi:** Hon. Temporary Deputy Chairman, Sir, I do not know the import of this. However, my understanding is that if you are licensed, then you can walk into the park and hunt. If I am licensed, I can go to the park. This is not the import of the original amendment. I think hon. Musimba is wrong. Let us just remove the word “unlicensed” and the statement stays as it was. This makes sense. The moment you put the word “unlicensed”, it means that if I am licensed then I can do anything. That is what it means.

**The Temporary Deputy Chairman** (Hon. Kajwang’): The reason we have to be clear on this is that there is an offence attached to it. So, the law must be clear and simple.

Yes, hon. George Oner, the Member for Rangwe.

**Hon. Ogallo:** Thank you, hon. Temporary Deputy Chairman, Sir. The offence is in conveying. If you convey into a protected area or you are found in a protected area, whether you have a licensed gun or not, the overall crime is that you have conveyed or you have been found within a protected area. So, being found in a protected area is the main offence. It does not make a difference whether you are found with a licensed or unlicensed gun. You are in a protected area and you are having a gun. We do not want to specify whether it is licensed or unlicensed gun. As long as you are found in a protected area, you have committed an offence. Being in possession of unlicensed gun is another offence in the Penal Code. This is not supposed to be dealt with by the Wildlife Conservation and Management Bill or Act.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Whereas you are correct in the sense that conveying is an essential ingredient in this offence, that firearm can be a rebuttable defence to show that it was a lawful ammunition or arrow.

The issue here is that the words “without authorization” are enough to explain whatever it is you are conveying. That there is no authorization from whichever people who are supposed to authorize it. Can I put the Question?

*(Question, that the words to be inserted be inserted,  
put and negatived)*

Now, we go back to hon. Abdalla's original amendment. I want to put the Question on this amendment.

Yes, hon. Mwadime.

**Hon. Mwadime:** Hon. Temporary Deputy Chairman, Sir, there is Subclause 4(c). It says that the Cabinet Secretary shall make guidelines in consultation. They have forgotten the county government. I think it is also better if the county government is consulted jointly with the Cabinet Secretary and the Service.

**Hon. Members:** That is a national function!

**Hon. Mwadime:** Hon. Temporary Deputy Chairman, Sir, then it seems that this Bill will start a fresh at some stage. There is no need of rushing to finish this Bill. Some of us live in areas where there are wild animals and we understand what it means. For example, in my place, you will find grazers coming from very far. Unless we authorize---

**The Temporary Deputy Chairman** (Hon. Kajwang'): Hon. Mwadime, if you are talking about the national parks, we are talking about national functions. So, it does not relate at all to the county functions. If we begin mixing the two issues, then it becomes a legislation that affects the counties in which case we will have to discuss it in both Houses.

**Hon. Mwadime:** I am guided, hon. Temporary Deputy Chairman, Sir.

**Hon. Mlolwa:** Hon. Temporary Deputy Chairman, Sir, I think Clause 4 can be abused by the Principal Secretary because in most cases there is no water in the parks when it is dry. So, where will they get water to give the animals? This is something that will be abused. We would rather reject it here.

**Hon. Kimaru:** Hon. Temporary Deputy Chairman, Sir, I would like to dwell on the operative word "authorization" in the amendment which in my view is not about licensing a firearm but authorizing people to enter---

**The Temporary Deputy Chairman** (Hon. Kajwang'): Unless you are talking about it in respect to Subsection 2.

**Hon. Kimaru:** I may not have it, hon. Temporary Deputy Chairman, Sir. I know that in that particular section---

**The Temporary Deputy Chairman** (Hon. Kajwang'): Subsection 2 says that nobody will enter into a national park without authorization.

**Hon. Kimaru:** Hon. Temporary Deputy Chairman, Sir, that provides for people in time of need, say, when we have drought to enter a national park.

Personally, I am in support of the amendment.

**Hon. Katoo:** Hon. Temporary Deputy Chairman, I want to bring to the attention of the House sub-clause 4. I want to plead with the Chairperson of the Committee. My problem is that it states in part, "---in times nationally declared as drought or other natural disasters." You see, there could be drought in Taita Taveta County and not in any other part of the country. It is good to confine the circumstances under which sub-clause 4 will be applied, say tailor-made to specific areas. Right now, I know there is a big drought in Garissa County, but it has not been declared a national disaster. "National" means that it is a drought all over the country.

**The Temporary Deputy Chairman** (Hon. Kajwang'): I think you are making perfect sense because even the act of declaring anything is not a legislative function. We cannot control it from the National Assembly. You are, therefore, saying that it is a

function which rests elsewhere. You can only do that by amending. So, can you quickly think on which words you want to be deleted and which ones you want to insert.

**Hon. (Ms.) Mbalu:** Hon. Temporary Deputy Chairman I am rising to support the amendment that hon. Katoo has talked about. My constituency neighbours national parks. I really think there has to be a different definition for this because there are different purposes of our wanting entry into national parks. If we can get a good explanation on how we can access maybe for the purposes of grazing, water and others, I think I really support that.

**The Temporary Deputy Chairman (Hon. Kajwang’):** We are digging into soft ground now and we will get stuck.

**Hon. Ganya:** Hon. Temporary Deputy Chairman, this is one area where as pastoralists we negotiated seriously. What we had in the Bill itself before the amendment is that if somebody grazes in the park, the fine is Kshs200,000 and the jail sentence is about two years or both. In this particular case, we are negotiating with the Government that during national disasters, at least, with the permission of authority; the Cabinet Secretary, you can be given that allowance during times of crises and disaster. I think this is a better accommodation than what is in the Bill itself. If my friends can amend it further, I have no objection.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I just thought of helping hon. Katoo by suggesting that we delete the words “nationally declared as” and replace them with “of” so that it reads “in times of drought and other natural disasters”.

**The Temporary Deputy Chairman (Hon. Kajwang’):** What did you say, hon. Amina?

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I propose that we delete the new clause 4 the last sentence after the word “times” to have “times of” and “other natural disasters. In effect, we will be deleting the words “nationally declared as”.

**The Temporary Deputy Chairman (Hon. Kajwang’):** Hon. Katoo is that okay with you?

**Hon. Katoo:** I fully agree. Let me say what I was thinking first and then you can see which one is the best. I also wanted to suggest that we delete the words “nationally declared” and replace them with the words “in times of extreme drought and other natural disasters as the case may apply” or “as requested by the local communities around”.

Hon. Temporary Deputy Chairman let me give you the general view and then we can look for the words. You will find that communities live around national parks. If those communities make a request during extreme drought, they should be allowed to graze. That is why I was saying, “as the case may apply”. Somebody has to initiate the request.

**The Temporary Deputy Chairman (Hon. Kajwang’):** I hear you, but that adjective may be a little subjective until we rest it on an authority to decide what it is. If we decided to bring it then it could be a new sub-clause. This is because what this amendment is trying to create is just the guidelines and the consultations. Probably, the Cabinet Secretary will give guidelines and find that it is extreme drought or not. He will give regulations containing what measure or how much drought or what “droughtometer” there must be to be able to---

Hon. Amina Abdalla has proposed a further amendment which proposes to delete the words “nationally declared as” and replacing therefore with the word “of”

*(Question, that the words  
to be left out be left out, put and agreed to)*

*(Question, that the words to  
be inserted in place thereof be inserted, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Lelelit, in view of this amendment your amendment is hereby dropped. The reason is that the essence of what you had intended for amendment was--- If you look at Page 501, “Any person who grazes livestock in the National Park without authority commits an offence---” Relate that to what we have just done and you realize that we are speaking to the same thing of grazing livestock and the offence attached to it. In that case, the amendment that hon. Ms. Abdalla has brought really restores your worries.

*(Proposed amendment by hon. Lati dropped)*

**Hon. Lati:** Hon. Temporary Deputy Chairman, with your permission I want to bring an amendment to the amendment brought by the Chairperson.

**The Temporary Deputy Chairman** (Hon. Kajwang’): We are done with that. We are now at the level of--- Unless you are bringing another amendment like ole Ntutu is about to speak to something.

**Hon. Lati:** Hon. Temporary Deputy Chairman, I am trying to amend (c) (iii) by proposing that instead of saying Kshs.100,000 we say Kshs100 per animal and we delete the imprisonment part. That is what I wanted to propose. This is for the sake of our people.

**The Temporary Deputy Chairman** (Hon. Kajwang’): That is so that the offence is paid with cows?

*(Laughter)*

**Hon. Lati:** Yes. This is very dangerous. You have to build so many prisons to put our people. They will walk into parks---

**The Temporary Deputy Chairman** (Hon. Kajwang’): Honestly, I understand you within our cultural practices, but---

**Hon. Lati:** Cows sometimes get lost and stray into national parks. It is not your fault.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Yes, but that has to mature enough, or it has to crystallize enough to be an offence in the commonwealth jurisdiction. At least, with regard to the jurisdictions that we are aware of none is punishable by payment of cows.

**Hon. Lati:** No, I am not saying cows. I am saying a Kshs100 per cow. Cows are not like farms. They move and get lost. So, if you are getting into a national park by mistake, you pay Kshs100 and you are given back your cow. Otherwise, the rangers will abuse this provision very much. They will tell you that you will go to prison for six

months unless you give them Kshs100,000 and you only had one cow in the park. It is not specific.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Your sentiment is well taken care of. I hope the Chair will discuss this much later and you may want to prefer an amendment to the Act, once it has become law.

**Hon. Lati:** She is a pastoralist too.

**The Temporary Deputy Chairman** (Hon. Kajwang’): It is okay. Resume your seat, it is all right. This is not an issue of discussion.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, the proposed new sub- clause 3 reads as follows: - I want hon. Lati to hear.

“Any person who contravenes subsection (2) commits an offence and is liable upon conviction to a fine of not more than one hundred thousand shillings or to imprisonment for a term of not more than six months”. This is even lower than what the Member is asking. Just imagine if somebody has 200,000 cows. It would be Kshs200,000 again.

**The Temporary Deputy Chairman** (Hon. Kajwang’): What about if they are goats which have strayed? We have heard it. Hon. Ntutu, only related to this.

**Hon. ole Ntutu:** Hon. Temporary Deputy Chairman, Sir, I will drop my amendment because the Chairperson has dealt with it and I am satisfied.

**The Temporary Deputy Chairman** (Hon. Kajwang’): That is the spirit that we want to adopt right now. Therefore, that amendment is hereby ordered withdrawn.

*(Proposed amendment by hon. ole Ntutu withdrawn)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Clause 89 as amended agreed to)*

*(Clauses 90, 91 and 92 agreed to)*

*Clause 93*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move: - THAT, Clause 93 be amended by-

(a) re-numbering the existing provision as sub-clause (1);  
(b) by inserting the following new sub-clauses immediately after the re-numbered sub-clause (1) –

(2) Any officer of the Service who commits an offence under this Act or is an accessory to the commission of an offence under this Act shall be liable upon conviction to a fine or imprisonment or both depending on the offence committed”

(3) Any person who has reason to believe that the provisions of this Act have been, are being, or are about to be violated, may petition the High Court for—

(a) a declaration that the provisions of this Act are being, have been, are about to be contravened;

(b) an injunction restraining any specified person from carrying out the contravention;

(c) the writ of mandamus against an officer or a person who has failed to perform a duty imposed by or under this Act; or any remedy at law or equity for preventing or enforcing the provisions of this Act.

In part (a), it is renumbering the existing provision in subclause 1. In (b), it is important in that our Committee felt that there should be harsher penalties for officers of the Service who commit an offence under this Act. In the end, we reached a compromise and agreed that these officers, when they commit an offence, they should be liable upon conviction to a fine or imprisonment or both depending on the offence committed. A new subclause (c), we thought was very important. Some of the stakeholders informed us that there are cases where officers of the Service are involved in poaching. So, we provided a provision that would allow for any person who feels that a provision of this Act has been violated to petition the High Court for a declaration that the provisions of this Act are being contravened. In part (b), for an injunction restraining specific persons from carrying out that contravention and in (c), the writs of mandamus against an officer or a person who has failed to perform a duty imposed by or under this Act; or any remedy at law or equity for preventing or enforcing the provisions of this Act. When the situation relates to non-compliance or contravention by officers, the members of the public can use this.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Chair, let me be the first one to ask you this. Look at your amendment in paragraph 2, any officer of the Service is liable upon conviction to a fine or imprisonment. First, you do not say for how long. A good legislation which has an offence should state how long. Otherwise, it will be a felony unless you have an omnibus provision elsewhere of general offences that people who otherwise are guilty of offences here should be punished to some term in prison. Then, the phrase, depending on the offence committed negates the whole idea of penal--- It cannot now depend on the offence committed unless you want to graduate them and show clearly that if you are a first offender or if you have done this or that, you should be punished for this and that one for that period. So, you could easily say that upon conviction to a fine of so much, if you wish, or an imprisonment to a term of this kind of period or both and put a full stop there.

**Hon. Ogalo:** Hon. Temporary Deputy Chairman, Sir, in discussing this amendment in the Committee, when the officer is an accomplice in the killing of category “A” animals, the penalty should be commensurate with that offence in the other section of the law. You can help us to graduate it here, but in this amendment, we mean that the officer taking part in an offence will be remanded to the level of penalty already specified. We have already said that if you get into the protected area---

**The Temporary Deputy Chairman** (Hon. Kajwang’): I understand except it is not very clear. If you put a full stop as I am urging her to do after ‘both’, then it will mean that a person convicted under this Act will be sentenced to a term in prison in the

penal law because when it is a penal law, which is omnibus, you will be convicted for two years. But if you chose something more drastic or more lenient, it would therefore appear here. So, if you do not have English around it, because I do not want that to come from the Chair - It must come from either the Committee or the Members. If you do not have those words, then we put a full stop after 'both'. Therefore, the punishment will go back to the penal code which is two years. Am I right hon. ole Kenta?

**Hon. (Ms.) Abdalla:** Yes.

**The Temporary Deputy Chairman** (Hon. Kajwang'): So, are you further amending by removing the words 'depending on the offence committed' therefore putting a full stop after both?

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I propose the deletion of the words 'depending on the offence committed' and putting a full stop after the word 'both'.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Can I put this to Question?

*(Question of the further amendment proposed)*

**Hon. Ganya:** Hon. Temporary Deputy Chairman, Sir, let me wait for my colleagues to consult.

**Hon. Kimaru:** Hon. Temporary Deputy Chairman, Sir, I do not understand why we have to separate the offence committed by an officer from the offence committed by an ordinary person. The provision that an ordinary person shall be subjected to a certain penalty would apply to an officer. I do not find any need for us to provide especially for an officer because an officer is a citizen who is under the same law and if that law applies to an ordinary citizen, it would equally apply to that officer. I do not think there is any need to provide specially for them having been provided for earlier.

**The Temporary Deputy Chairman** (Hon. Kajwang'): All right. Let me engage a little with the Chair. Hon. Chairlady, do we have an omnibus clause in the legislation which says that if you made an offence which has not been specifically provided for, then you risk being jailed for a term of so many years or a fine of so much?

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, we do not have an omnibus clause, but we have specific penalties for each of the offences. For example, if a Member of the service is found---

**The Temporary Deputy Chairman** (Hon. Kajwang'): Can you just take us to that section if you do not mind?

**Hon. (Ms.) Abdalla:** It is 75, categories of animals. For example, we---

**The Temporary Deputy Chairman** (Hon. Kajwang'): Which one? I can see that.

**Hon. (Ms.) Abdalla:** We amended it to put, for example, the person who is---

**The Temporary Deputy Chairman** (Hon. Kajwang'): Yes. But what you have done is that you have removed officers. If an officer, for example, kills an elephant and he says that he is an officer then under the Act which you are providing, first of all, he will be liable to a fine and then he will be liable to an imprisonment. But if he is charged under this sub-section, then the term is not provided for in this sub-section. You needed to have consulted on the drafting here so that you give us a term.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, the issue in the Committee was that, first of all, we wanted to prescribe a stronger term for the officers who are involved in poaching for each of the three categories. Eventually, we realized that we could not have two laws for the same offence. Therefore, we decided to maintain the penalties as per the Act or maybe as proposed by the Bill. But we then went ahead and realized that there are offences committed by the officers---

**The Temporary Deputy Chairman** (Hon. Kajwang’): Why officer? Why do you not leave it, so that it is every other person? So, that you do not have to be an officer; you just need to be any person and you are charged within those other penalties that had already been provided for.

**Hon. (Ms.) Abdalla:** Then we can delete the whole of Section (2).

**Hon. F.K. Wanyonyi:** Hon. Temporary Deputy Chairman, I think unless it was an oversight on the part of the Committee, surely, an officer of the Service who commits an offence of any magnitude, for example, killing the endangered species or aiding poachers should be punished severely. I think the Committee maybe, made some omission. This is because we have seen this happening. A poacher comes all the way from South Asia into this country. He must be aided. I think the best you can do is to be more punitive to an officer than even an ordinary man.

**The Temporary Deputy Chairman** (Hon. Kajwang’): The way you have drafted it, the officers will go scot-free. This is because even clause 93 of the Bill, you have given a proviso that it is a defence for the officer to say that he was acting in a lawful manner. Therefore, those together will make an officer rely on those two sub-sections and say that the offence is either lenient or that there is no offence at all.

So, the hon. Chairlady, you are taking notes.

**Hon. (Ms.) Abdalla:** I have taken note of that.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Let us hear from hon. (Ms) Lay, ole Kenta, then the Chairlady.

**Hon. (Ms.) Lay:** Thank you, hon. Temporary Deputy Chairman. I am supporting what hon. F.K. Wanyonyi was saying. This is because anybody who is put in charge of wildlife or anything else for that matter and commits an offence, the penalty should even be more severe than the ordinary *mwananchi*.

**The Temporary Deputy Chairman** (Hon. Kajwang’): All right. What we are dealing with here is what gets into the text of the amendment that we have now.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Speaker, Sir, the fact of the matter is that we do not want those officers to go scot-free. I propose that we delete my second amendment in its entirety.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Just a minute. Can we see it and how will it remain? How was Clause 93 worded before?

**Hon. (Ms.) Abdalla:** Clause 93, part (a) deals with the officers committing an offence and gives a proviso. Then we go to sub-section (2) and sub-section (3) for people who are not in the Service to initiate petitions in court for declaring that officers of the Service are involved in contravening this Act.

Therefore, we delete my proposed insertion of a new sub-clause substituting the three subsections.

**The Temporary Deputy Chairman** (Hon. Kajwang’): That is okay. Let me propose that the amendment by the Chair of the relevant committee be further amended by deleting sub-section (2).

*(Question, that the words to be left out be left out, put and agreed to)*

*(Clause 93 as amended agreed)*

*Clause 94*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: - THAT, clause 94 be deleted and replaced by the following new clause-

Prosecutorial powers.

94. (1) In accordance with the provision of the Director of Public Prosecutions Act and this section, the Director of Public Prosecutions may designate special prosecutors to prosecute wildlife offences under this Part.

(2) Notwithstanding the provisions of sub-section (1) the Director of Public Prosecutions may, either on his own, or on application of an authorized officer delegate his prosecutorial powers to such authorized officer to prosecute offences under this Act.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof, be inserted, put and agreed to)*

*(Clause 94 as amended agreed)*

*(Clause 95 agreed to)*

*Clause 96*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: - THAT, clause 96 be amended by inserting the following new sub-clauses immediately after sub-clause (1)-

“(1A) The treaties, conventions and agreements as specified under sub-clause (1) shall be ratified by Parliament before implementation by the Cabinet Secretary”

This is part of our constitutional requirements, so that we do not have Cabinet Secretaries ratifying international agreements haphazardly and having us to bear the costs and the consequences of such ratification.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Departmental Committee Chairperson, this is a requirement of the Constitution. Even if you did not provide for it, it applies automatically. Any Cabinet Secretary should know that there is constitutional provision that talks in detail about this matter. Any treaty or convention ratified by Parliament shall form part of our laws. There is also an Act of Parliament on ratification of treaties and conventions. Can you recall the one that was moved by the Member for Mbita?

**Hon. (Ms.) Abdalla:** Yes.

**The Temporary Deputy Chairman** (Hon. Kajwang’): So, all of them must know that they cannot sign any international convention without the approval of Parliament. However, it is good to make legislation clear. So, it does not harm anybody to put it very clearly.

Yes, hon. ole Metito.

**Hon. Katoo:** Hon. Temporary Deputy Chairman, I do not know whether I followed it well but I was thinking that for purposes of clarity, it should be ratified by the National Assembly, and not by Parliament.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Sorry, it is actually by the National Assembly. Thank you for staying awake.

Hon. Members, when we use the term “parliament”, it means both Houses of the Parliament of Kenya are involved. So, such discussion will take place in both Houses. So, Departmental Committee Chairperson, can you express yourself again?

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I would like to thank hon. Katoo ole Metito for that intervention, and to just remind him that, that is the reason I voted for him to be the Majority Whip.

**The Temporary Deputy Chairman** (Hon. Kajwang’): So, what is the further amendment that you want to propose?

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to propose the deletion of “parliament” and replacement of the same with “National Assembly”.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Members, let me deal with the further amendment that hon. Amina Abdalla has proposed on Clause 96(1)(a), which seeks to delete the word “parliament” and substituting therefor “National Assembly”. I put the Question that, that clause be so amended.

*(Question, that the word to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Members, I now put the Question that Clause 96 be amended as proposed by the Departmental Committee Chairperson, and as it has been further amended.

*(Question, that the words to be inserted  
be inserted, put and agreed to)*

*(Clause 96 as amended agreed to)*

*Clause 97*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -  
THAT, clause 97 be deleted.

You will notice that this part is on international treaties, conventions and agreements. Clause 97 talks to community wildlife associations and wildlife managers. We have moved this component to New Clause 43C. So, we are proposing the deletion of Clauses 97 and 98 and introduce a new clause in the right part of the Bill to cover these issues.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Members, let us go bit by bit. Please, note that this amendment is not on the Order by normal oversight. The Departmental Committee Chairperson is proposing a deletion of that clause. So, I propose that Clause 97 be deleted.

*(Question of the amendment proposed)*

*(Question, that the words to be left  
out be left out, put and agreed to)*

*(Clause 97 deleted)*

*Clause 98*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -  
THAT, Clause 98 be deleted.

This is the same reasons I have given for the deletion of Clause 97.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Members, for the same reason, the amendment to Clause 98 is not on the Order Paper.

*(Question of the amendment proposed)*

*(Question, that the words to be left out  
be left out, put and agreed to)*

*(Clause 98 deleted)*

*(Clauses 99, 100, 101, 102, 103, 104, 105 and 106 agreed to)*

*Clause 107*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -

THAT, Clause 107 be deleted.

This clause is calling for the possibility of the Service being made an auxiliary reserve of the Kenya Defence Forces (KDF). We did not get convincing reasons as to why that clause should be there and, therefore, we are proposing its deletion.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Clause 107 deleted)*

*(Clause 108 agreed to)*

*Clause 109*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -

THAT, Clause 109 be amended-

(a) in paragraph (a) by inserting the words “national reserve,” immediately after the words “national park”

(b) by inserting the following new paragraph immediately after paragraph (c)-

“(d) a person who immediately before the commencement of this Act was an employee of the Service under the repealed Act shall continue to hold or act in that office as if appointed to that position under this Act and all benefits accruing to employees under the repealed Act shall continue accruing to them under this Act”.

This is a substantive amendment. This is really important because without the words “national reserve” the county governments that are currently running national reserves will lose that power. So, we really urge Members to pass that.

On the second amendment, this is for the transition of the staff of the KWS. For those of us who were in the Ninth Parliament, lack of that transitional clause for the Electoral Commission of Kenya (ECK) caused the sacking of drivers, messengers and everybody else. So, it is a very important clause to have a transitional provision so that the benefits and employment of individuals currently working at KWS is secured.

Thank you.

*(Question of the amendment proposed)*

**Hon. ole Kenta:** Hon. Temporary Deputy Chairman, I also wish to support the amendment. In fact, there was an oversight by whoever had prepared the Bill because with the stroke of a pen he actually took away trust land and converted it into national parks. They almost did it to us but thank God the Chair and the Committee realized that mistake and corrected it. So, I urge the Members to support the amendment. Thank you.

*(Question, that the words to be inserted be inserted, put and agreed to)*

*(Clause 109 as amended agreed to)*

*New Clause 6A*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -  
THAT, the Bill be amended by inserting immediately after Clause 6 thereof a new clause as follows:-

National  
Wildlife  
Conservation  
and  
Management  
Strategy.

6A.(1) The Cabinet Secretary shall, subject to subsection (5), formulate and publish in the Gazette a national wildlife conservation and management strategy at least once every five years, in accordance with which wildlife resources shall be protected, conserved, managed and regulated.

(2) The national wildlife conservation and management strategy shall prescribe the principles, objectives, standards, indicators, procedures and incentives for the protection, conservation, management sustainable utilization and control of wildlife resources and shall, in particular prescribe—

(a) measures for the protection of wildlife species and their habitats and ecosystems;

(b) norms and standards for ecosystem-based conservation plans;

(c) measures facilitating community-based natural resources management practices in wildlife conservation and management;

(d) priority areas for wildlife conservation and projections on increasing designated wildlife conservation areas in form of national parks, national reserves, conservancies and sanctuaries;

(e) innovative schemes and incentives to be applied in securing identified critical wildlife migratory routes, corridors and dispersal areas for sustainable wildlife conservation and management;

(f) clear targets indicating projection in terms of specific percentage of landscape and seascape to be brought under protected areas, conservancies and sanctuaries over the next five years;

(g) national wildlife research and monitoring priorities and information systems, including—

(i) research priorities;

(ii) the collection and management of data and information regarding the status of wildlife resources;

(iii) procedures for gathering wildlife data and the analysis and dissemination of wildlife information,

(iv) wildlife management information system;

(h) measures necessary to ensure equitable sharing of benefits;

(i) guidelines for granting and monitoring wildlife user rights;

(j) criteria for listing and measures for protection and management of endangered and threatened species;

(k) innovative measures for mitigating human wildlife conflict;

(l) framework for capacity development and training for effective

wildlife management;

(m) measures for wildlife disease surveillance and control;

(n) adaptation and mitigation measures to avert adverse impacts of climate change on wildlife resources and its habitats;

(o) reflection on regional co-operation and common approaches for enhancing protection, conservation and management of shared wildlife resources; and

(p) any other matter that the Cabinet Secretary considers necessary to enhance protection, conservation and management of wildlife resources in the country.

(3) The Cabinet Secretary shall periodically review the national wildlife conservation and management strategy and may, by notice in the Gazette, publish a revised national wildlife conservation and management strategy.

(4) The Cabinet Secretary and all relevant public bodies shall, when exercising or performing any statutory function, take into account and give effect to the national wildlife conservation and management strategy.

(5) The Cabinet Secretary shall, when formulating a national wildlife conservation and management strategy under subsection (1), consult the public in accordance with the Fourth Schedule.

The essence of this section is that we deleted the section on regulatory council and we gave that function to the Cabinet Secretary. We thought that to help that Cabinet Secretary in formulating their regulatory work we legislate that they must develop a National Wildlife Conservation and Management Strategy every five years that would then be the benchmark on which their regulatory functions would be based on. So, the New Clause 6A is intended to deal with that anomaly that we have deleted the regulatory function and we are giving the Cabinet Secretary the regulatory function but based on a National Environmental Conservation and Management Strategy that is then established and what it should be contained in is listed under that new clause. Thank you.

*(Question of the new clause proposed)*

*(New Clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

*(Question, that the new clause be read a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

*New Clause 14A*

**Hon. (Ms.) Abdallah:** Hon. Temporary Deputy Chairman, I beg to move: THAT, the Bill be amended by inserting immediately after Clause 14 thereof a new clause as follows: -

Sources of funds of the Service.

14A. The funds of the Service shall comprise of-

(a) such moneys as may be approved and allocated to the Service by Parliament as part of the budget process;

(b) such moneys or proceeds from investments as may vest in the Service from the performance of its duties; and

(c) any sums lent or donated to the service revenue from joint partnerships on bio-prospecting.

This New Clause 14A is intended to be under the section on financial provisions so that it is clear where the funds of the Service will be. So, New Clause 14A shows the sources of funds for the Service.

*(Question of the new clause proposed)*

*(New Clause read the First Time)*

*(Question, that the new clause be read a Second Time, proposed)*

**Hon. Kemei:** On a point of order, hon. Temporary Deputy Chairman. I can see under 14A we are still using the term “Parliament” instead of National Assembly. Could you wish that we continue with that word or we substitute it with “National Assembly?”

**The Temporary Deputy Chairman** (Hon. Kajwang’): Absolutely not. We must change it to National Assembly. Chair, can I hear you?

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I would not vehemently oppose that but I just wanted to get your input on the fact that it is only National Assembly that appropriates funds.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Yes, but once you have said

“Parliament” you of necessity give some people jurisdictional right to discuss this issue.

**Hon. (Ms.) Abdalla:** Okay. I, therefore, propose a further amendment to New Clause 14A by deleting the word “Parliament” and replacing it with ‘National Assembly’.

*(Question of the further amendment proposed)*

*(Question, that the word to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Question, that the new clause be read a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

*New Clause 24A*

**Hon. (Dr.) Pukose:** Hon. Temporary Deputy Chairman, I beg to move: -

THAT, the following new clause be inserted immediately after clause 24-

Community  
Park  
Management  
Committees.

24A (I) The Service shall establish Community Park Management Committees in every constituency that is within an area occupied by wildlife.

(2) The Committees established under subsection (1) shall constitute at least ten members nominated by the community wildlife associations within the area through an elective process.

We have associations that are operating within our constituencies and they need an umbrella under which they can be able to be coordinated so that whatever activity they are doing can be taken care of. We have deleted Clauses 97 and 98 which were catering for those Constituency Park Management Committees and in these park management committees you will find that each of us would want to know which is the park management committee that is operating within our constituencies and which is operating within the other one. So, if we leave it ambiguous and open then you will find that Community Park Management Committees will just be

operating without borders so that you have a committee going the other side and it is not answerable to anybody.

*(Question of the new clause proposed)*

*(New Clause read the First Time)*

*(Question, that new clause be read a Second Time, proposed)*

**Hon. Ogalo:** Hon. Temporary Deputy Chairman, I am looking through to see Dr. Pukose's New Clause 24A but I think Clauses 97 and 98 were not deleted out of the deal altogether. They were relocated to another section of the Bill and they will be coming up soon. So, if the reason for the proposed new clause is because of the deletion of Clauses 97 and 98, I think we have treated Clauses 97 and 98 in 43. I do not know. Maybe the Mover can advise further.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Hon. Chair, you have this on your fingertips. Could you just let us know?

**Hon. (Ms.) Abdalla:** Thank you, Chair. The ones on the park we have not proposed any committees for the park because we believe that conservation in a county will be dealt with by the County Conservation and Compensation Committee. However, our New Clause 43B talks to community wildlife association and wildlife managers. So, I will be opposing that amendment because I think that New Clause 43B and C will be addressing the issues raised by the Member and that the Member might be talking to the past management system where there were park management committees. So, I would be opposing that amendment.

**The Temporary Deputy Chairman** (Hon. Kajwang'): All right. You have heard the two opposing arguments. I will put this to Question.

*(Question, that the new clause be read a Second Time, put and negated)*

**The Temporary Deputy Chairman** (Hon. Kajwang'): Next clause.

*New Clause 27A*

**Hon. (Ms.) Abdallah:** Hon. Temporary Deputy Chairman, I beg to move: - THAT, the following new clause be inserted immediately after clause 27-

Functions of the county government.

27A. The county governments shall have the responsibility of developing legislation and policies to support the conservation and sustainable use of wildlife in their counties."

**Hon. (Ms.) Abdalla:** We appreciate that the county governments do not have responsibilities over wildlife, but considering that national reserves are on community lands, and there is need for legislation--- We had very heated argument to propose this New Clause 27 A to allow for county governments to be responsible for legislations and policies to support conservation and sustainable use of wildlife in their counties.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question that the new clause be read a Second Time, proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): I need to find out from the Chair whether this amendment relates to the counties. The divide is so thin, and yet a small mistake will land us in a bigger problem than we can get. So, can I understand, first of all, as it has been defined in the definitive part of the Bill, do we have the definition on Clause 2 or Clause 3? Do we assume that it is a general knowledge we have of the county government on the Constitution? Chair please!

**Hon. (Ms.) Abdalla:** I am not very attached to that amendment because the issue at hand was that there were Members who felt that in Maasai Mara, the Mara County Council is managing the resources of the Mara. It is a national reserve, yet they have more function. I was not convinced of this amendment but since it is an agreed amendment by the Committee, I had to move it.

**The Temporary Deputy Chairman** (Hon. Kajwang’): I hear you, except, perhaps, it was not drawn to the attention that it could easily turn into a Bill concerning county. Two, those counties will have powers to legislate. Wherever they will be, they will legislate and you know there is transfer of functions. There is also the clause in which counties are able to relate with the national Government. I think we have a legislation that we will be making, if we have not made one on how the national Government will be relating with the counties. I am reluctant to take it.

**Hon. (Ms) Abdalla:** My colleague has advised me to drop that amendment, which I hereby do.

*(Proposed amendment by hon. (Ms.) Abdalla dropped)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): It is hereby ordered. Next Clause.

*New Clause 42 (A) (B) and (C)*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move: -  
THAT, the following new clauses be inserted immediately after clause 42-  
Declaration of a national reserve. **!A.** (1) The Cabinet Secretary may, upon recommendation of the relevant county government and after consultation with the National Land Commission, by notice in the

Gazette, declare any land under the jurisdiction of a county government to be a national reserve where the land is-

- (a) rich in biodiversity and wildlife resources or contains endangered and threatened species; or
- (b) an important catchment area critical for the sustenance of a wildlife conservation area; or
- (c) an important wildlife buffer, zone, migratory route, corridor or dispersal area.

(2) The national reserve declared under subsection (1) shall be managed by the relevant county government in accordance with the provisions of this Act.

(3) Notwithstanding the provisions of subsection (2) of this section, the county government may, with approval of the Cabinet Secretary after consultations with the National Land Commission, enter into a management agreement with any management agent or the Service for the management of a national reserve which shall clearly specify among other things-

the duration of the agreement;

the terms and conditions under which the management agent or the Service shall manage the national reserve;

management fees and charges payable to the management agent or the Service;

a management plan to be followed by the management agent or the Service;

the mechanism for settlement of disputes arising in respect of the agreement, and

the circumstances under which the agreement may be terminated.

**Declaration of Marine Conservation Area.** (1) The Cabinet Secretary may, upon recommendation of a county government after consultation with the relevant authority, give notice in the Gazette declare any marine area to be a marine conservation area where the area is-

- (a) rich in biodiversity or harbours endangered and threatened species;
- (b) a critical habitat for a variety of marine resources.
- (c) A marine conservation area established under subsection (1) of section 10.

managed by the relevant county government under an ap  
prepared through a consultative process with the rel  
communities.

Notwithstanding the provisions of subsection (2), a mar  
adopt a system of zoning that caters for multiple use of m  
all of the following:

extraction or no extraction zones in respect

protection of nesting, breeding and foraging,

no take areas in respect of fisheries; and

any other purposes with respect to specifi  
the zone.

The Cabinet Secretary shall, on recommendation of the rel  
by notice in the Gazette, issue appropriate rules and  
management of marine conservation areas.

Variation of boundaries  
or  
revocation  
of a national  
reserve. **42C.** (1) A notice under this sec  
vary the boundaries of a national  
declare that a wildlife conservatio  
change of status from national rese

shall only be published by the C  
by the relevant county govern  
Commission and the Service in a  
subsequently approved by resolu  
The relevant county government,  
not recommend any such propos

they are satisfied that such vari  
proposed by the notice:-

shall not endanger any rare, threa

shall not interfere with the migrat  
) does not adversely affect its valu  
and

) does not prejudice biodiversity  
educational, ecotourism, recreatio

the proposal has been subjected to

with the provisions of the Environment Protection Act, 1986, and public consultation in accordance with the provisions of the Environment Protection Act, 1986, in relation to the proposal.

No.8 of  
1999.

We thought that it was important that the Cabinet Secretary is given conditions under which land can be declared a national reserve or gazetted as national reserve or marine park, or proposed variation of national reserve so that it stipulates clearly what conditions are to be followed. It should not be assumed that they have that power and they bring it to the House without following due process. This is what is happening with forest reserves, so we do not want that to happen with the national reserves, marine parks and evaluation of boundaries of the same.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question that the new clause be read a Second Time, proposed)*

*(Question, that the new clause be read a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

*New Clause 43 (A) (B) and (C)*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move:-  
THAT, the following new clauses be inserted immediately after clause 43-  
Establishment of conservancy or sanctuary. 43A. Any person or community who own land on which wildlife inhabits, may individually or collectively establish a wildlife

Community  
Wildlife  
Associations  
and Wildlife  
Managers.

conservancy or sanctuary in accordance with the provisions of this Act.

43B. (1) Communities, landowners, groups of landowners and existing representative organizations may establish a community wildlife association and register under the appropriate law or in the case of an individual owner, may be registered as a recognized wildlife manager by the County wildlife Conservation and Compensation Committee.

(2) The object and purpose for which an association is established is to facilitate conflict resolution and cooperative management of wildlife within a specified geographic region or sub-region.

(3) The application for registration referred to in subsection (1) shall be in the prescribed form and shall contain –

- (a) a list of the wildlife conservancy, sanctuary or other wildlife conservation activities in which they are involved in and in the case of an association their membership;
- (b) for associations, the constitution with clear governance structures;
- (c) a draft plan for the association or privately owned wildlife conservation area detailing-
  - (i) type of wildlife resources in their area and type of wildlife conservation initiatives being undertaken;
  - (ii) measures and type of wildlife conservation activities that are being proposed;
  - (iii) type of wildlife user rights being proposed that will enhance conservation and survival of wildlife in their area;
  - (iv) land use practices in the area and proposed measures to ensure land use compatibility with wildlife conservation;
  - (v) methods of monitoring wildlife and wildlife user activities;
  - (vi) community wildlife scouting scheme that will help to provide wildlife surveillance and assist in addressing problem animal control; and
  - (vii) any other aspect deemed necessary; and
  - (viii) such other information as the Director General may require.

(4) The Service shall keep an up to date record of all approved associations, wildlife managers and wildlife user activities that the associations and managers are involved in.

Functions of  
community  
wildlife  
associations and  
wildlife  
managers.

43C. An association or wildlife manager approved by the Cabinet Secretary on the recommendation of the service in consultation with the county wildlife conservation committees shall:

- (a) ensure that the association membership or the wildlife manager protects, conserves and manages wildlife conservancies and sanctuaries under their jurisdictions pursuant to their respective approved management plans;
- (b) assist the service in combating illegal activities, including

- poaching and bush meat trade;
- (c) keep the regional wildlife conservation area committee informed of any development changes and occurrences within their area that may adversely affect wildlife;
- (d) assist in problem animal control through community wildlife scouts drawn from among their membership or employees; and
- (e) do any other act that is necessary to enhance community participation in wildlife protection, conservation and management

The clause has been brought to the rightful side. Establishment of conservancies is replacing the deleted clause 41 so that it is able to be in the right place.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Everything proposed is alright except when I read a sentence like this, “County Wildlife Conservation and Compensation Committee”. You find that on 43B (1), you can rephrase it without interfering with the content of what you intended here. Can you rephrase that County Wildlife Conservation and Compensation Committee?

**Hon. (Ms.) Abdalla:** The County Wildlife Conservation and Compensation Committee will register wildlife managers.

**The Temporary Deputy Chairman** (Hon. Kajwang’): How do you compose this committee?

**Hon. (Ms.) Abdalla:** It is already composed under Clause 24. It is what we collapsed, the compensation and conservation committees.

**The Temporary Deputy Chairman** (Hon. Kajwang’): What did you say it is comprised of? Is it the one in which we had a discussion on whether a Member of Parliament should sit?

**Hon. (Ms.) Abdalla:** Yes.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Who else are Members of that Committee?

**Hon. (Ms.) Abdalla:** Representative of the county government, the person responsible for environment, police, medical officer and then four members of the community. It is a committee that deals with conservation in that area, plus compensation so that the proposed---

**The Temporary Deputy Chairman** (Hon. Kajwang’): What are the functions? Other than compensation, does it have any executorial functions?

**Hon. (Ms.) Abdalla:** Yes, it has conservation functions.

**The Temporary Deputy Chairman** (Hon. Kajwang’): The reason I ask is, I do not want to touch anything which concerns county.

**Hon. (Ms.) Abdalla:** On this one, you are safe. We know that the functions of wildlife management fall under the national Government. We then established a County Compensation and Conservation Committee in every county that is paid for by the national Government to facilitate---

**The Temporary Deputy Chairman** (Hon. Kajwang’): Does it have any power to alienate land or something like that?

**Hon. (Ms.) Abdalla:** No, it only has powers for conservation, management of conservation and verifying compensation. These functions are under clause 24 or 25.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Alright, let us go to the Fourth Schedule. I just want to make sure that nothing here has the functions given to

county governments. So, they have agriculture, county health services, ambulance service, cemeteries, removal of refuse, control of air pollution, cultural activities, transport including roads and lighting, animal control, licensing of dogs, trade, markets, tourism, county planning and development, preprimary education and homecraft centers, implementation of specific national government policies on natural resources and environmental conservation including soil and water conservation and forestry.

There is also county public works and services, firefighting services, control of drugs and ensuring and coordinating participation of communities. Hon. Chair, you are safe.

*(Question of the new clause proposed)*

*(New clause read the First Time)*

*(Question that the new clause be read a Second Time, proposed)*

*(Question, that the new clause be read a Second Time, put and agreed to)*

*(The new clause was read a Second Time)*

*(Question, that the new clause be added to the Bill, put and agreed to)*

*New Clauses 51A, 51B, 51C, 51D, 51E, 51F, 51G, 51H, 51I, 51J, 51K, 51L, 51M, 51N and 51O*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move:-  
THAT, the following new clauses be inserted immediately after Clause 51-

Establishment of  
Wildlife Research  
and Training  
Institute.

51A. (1) There is established an institute to be known as the Wildlife Research and Training Institute (hereinafter referred to as “the Institute”).

(2) The Institute shall be a body corporate with perpetual succession, and a common seal and shall in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing and disposing of movable and immovable property;
- (c) borrowing money;
- (d) entering into contracts; and

(e) doing or performing such other things or acts for the proper discharge of its functions under this Act, which may be lawfully done or performed by a body corporate.

Object and purpose of the Institute.

51B. The object and purpose of the Institute shall be to undertake and co-ordinate wildlife research and training in accordance with the provisions of this Act.

Functions of the Institute.

51C.(1) The Institute shall—

(a) collect and analyze wildlife data and information, to support planning and decision making by different stakeholders, relating to —

- (i) inventory and status of wildlife resources countrywide;
- (ii) trends in wildlife conservation and management approaches and practices;
- (iii) processes or activities likely to impact on sustainable wildlife conservation and management; and
- (iv) wildlife statistics.

(b) undertake research through remote sensing and geographic information system to enhance wildlife conservation and management;

(c) undertake wildlife disease surveillance and control;

(d) determine, in consultation with the Service and the relevant lead agencies, the carrying capacities of the various wildlife conservation areas and their conservation needs and priorities;

(e) assess information, that is the basis of ecosystem-based management plans for all wildlife conservation areas;

(f) undertake wildlife research and related emerging areas;

(g) provide training and capacity development programmes, courses in wildlife conservation and management and related disciplines and award diplomas and certificates;

(h) establish with approval of the Cabinet Secretary, such campuses or centres for training and capacity development as are necessary and in the furtherance of wildlife research and training;

(i) enter into association with other institutions of learning, within or outside Kenya, as the Institute may consider necessary or appropriate and in furtherance of wildlife research and training;

(j) give information on early warning, disaster management, impacts and mitigation and adaptive strategies to climate change in wildlife conservation areas;

(k) organize symposia, conferences, workshops and other meetings to promote the exchange of views on issues relating to wildlife research and training; and

(l) perform any other functions that are ancillary to the object and purpose for which the Institute is established.

(2) Admission to the Institute of candidates for diplomas and other awards of the Institute shall be open to all persons accepted as qualified for such admission without distinction on the basis of ethnic origin, gender or creed being imposed on any person as a condition of his becoming or continuing to be a student at the Institute.

Board of the  
Institute.

51D. (1) There shall be the Board of the Institute which shall consist of—

(a) a chairperson appointed by the President;

(b) the Principal Secretary of the ministry for the time being responsible for matters relating to wildlife or his representative;

(c) the Principal Secretary of the ministry for the time being responsible for matters relating finance or his representative;

(d) the Principal Secretary of the ministry for the time being responsible for matters relating to science and technology or his representative;

(e) the Director of the Institute, who shall be the secretary; and

(f) seven other members, not being public officers, nominated or selected through a competitive process taking into account regional balance and gender parity and appointed by the Cabinet, of whom –

(i) one shall represent the national umbrella wildlife association;

(ii) two shall represent community and privately managed wildlife areas;

(iii) two shall represent the institutions of higher learning; and

(iv) two shall be persons qualified and competent in wildlife, natural resources management, biodiversity and environmental economics or related disciplines.

(2) The members of the Board of the Institute shall be appointed at different times so that the respective expiry dates of their terms of office shall fall at different times.

(3) At their first sitting, the members of the Board of the Institute shall elect a vice chairperson from among the members appointed under subsection (2)(f).

(4) The Board of the Institute shall ensure the proper and effective performance of the functions of the Institute.

(5) The Board of the Institute may enter into partnership with another body or organization within or outside Kenya as it may consider appropriate in furtherance of the object and purpose for which the Institute was established.

(6) The members of the Board of the Institute shall be paid allowances determined by the Cabinet Secretary, in consultation with the Salaries and Remuneration Commission.

Tenure and  
vacation of office.

51E. (1) A member of the Board of the Institute, other than an *ex officio* member, shall hold office for a term of three years and shall be eligible for re-appointment for one further term not exceeding three years.

(2) A member of the Board of the Institute appointed under section 55(1)(a) and (f) may, at any time, resign from office by giving a notice, in writing, addressed to the appointing authority.

(3) A member of the Board of the Institute, other than an *ex officio* member, who is absent from three consecutive meetings of the Board of the Institute without sufficient cause shall cease to be a member of the Board of the Institute.

(4) Where a member of the Board of the Institute is, for a sufficient cause, unable to act as a member, the Cabinet Secretary shall determine whether the inability would result in the declaration of a vacancy.

(5) Where there is a vacancy—

(a) under subsection (2) or (3) or section 58(2), or

(b) as a result of declaration under subsection (4), or

(c) by reason of the death of a member,

the Cabinet Secretary shall appoint another person in accordance with the provisions of section 55(1) to fill that vacancy.

Conduct of  
the meetings of  
the Board of the  
Institute.

51F. The conduct of the meetings of the Board of the Institute shall be in accordance with the First Schedule.

Disclosure of  
interest.

51G.(1) A member of the Board of the Institute who has an interest in a matter for consideration by the Board of the Institute shall disclose, in writing, the nature of that interest and shall not participate in any deliberations of the Board of the Institute relating that matter.

(2) A member of the Board of the Institute who fails to disclose interest in a matter in accordance with subsection (1) shall cease to be a member of the Board of the Institute.

Delegation of  
functions.

51H. Subject to this Act, the Board of the Institute may, by resolution either generally or in any particular case, delegate to a committee of the Board of the Institute or to a member, officer, employee or agent of the Institute, the exercise of any of the powers or, the performance of any of the functions or duties of the Board of the Institute under this Act.

Appointment of  
the Director and  
other staff.

51I. (1) The Cabinet Secretary shall, in consultation with the Board of the Institute and subject to subsection (2), appoint the Director of the Institute through a competitive process.

(2) A person shall not be qualified for the appointment as the Director under subsection (1) unless that person holds an advanced degree from a recognized university in the field of wildlife, biodiversity, natural resource management or other natural resource-related discipline and has at least ten years' experience in the relevant field at senior management level.

(3) A person appointed to be the Director of the Institute under subsection (1) shall hold office for a term of three years but shall be eligible for re-appointment for one further term of three years.

(4) The Director shall be the Chief Executive Officer of the Institute.

(5) The Board of the Institute may appoint such officers and other staff of the Institute that are necessary for the proper and effective performance of the

function of the Institute.

Research permit.

51J. (1) A person shall not undertake research on the wildlife sector unless that person has a research permit granted by the Institute to carry out the research.

(2) A person granted a research permit under subsection (1) shall be required, upon completion of the research, to deposit a copy of the research report, thesis or assessment with the Institute in a manner prescribed by the Institute.

(3) Where a person carrying out the research is from outside Kenya, that person shall be required to have a sponsoring institution from the home country and a locally recognized collaborating institution which shall guarantee that the researcher shall comply with the requirements under this Act.

(4) The Cabinet Secretary may, on his own motion or on recommendation of the Board of the Institute, prescribe regulations to carry out the purposes of this section.

Establishment of wildlife data-base.

51K. (1) The Institute shall, in collaboration with the Service and other relevant lead agencies and stakeholders, establish a comprehensive wildlife database.

(2) The database established under subsection (1) shall include relevant data produced by the National Bureau of Statistics, universities and other research institutions or as a consequence of collaborative research by the Institute with foreign institutions and researchers.

(3) The Institute shall, in consultation with the Service, the relevant lead agencies and other stakeholders, ensure that data is collected in accordance with any harmonized national standards that may be prescribed under this Act or regulations made hereunder .

(4) The Institute shall, in respect of the data and information that it holds, progressively make the data and information available and accessible, through any means, to all the stakeholders and the general public.

(5) The Cabinet Secretary may, on his own motion or on recommendation of the Board of the Institute, prescribe regulations to carry out the purposes of this section.

Director to have access to public records etc.

51L.(1) The Director shall, on request, have access to the public records or documents of a lead agency in custody of a person or an establishment where, in his opinion, the information sought is for the purposes of obtaining the required wildlife data or completion or correction of the information already obtained.

(2) A person who does not grant the Director access to the records or documents in accordance with subsection (1) commits an offence.

Access to wildlife  
data by person.

51M. (1) Subject to subsection (3), a person may, upon application, access any data or information upon payment of a prescribed fee.

(2) The Institute shall avail the data or information under subsection (1) in the format requested unless-

(a) it is reasonable for it to make the information available in another format; or

(b) the information is already publicly available and easily accessible to the applicant in another format.

(3) The Institute may refuse to grant an application under subsection (1) where the data or information requested is classified and restricted.

(4) The Institute shall communicate to the applicant, in writing, the reasons for refusal within twenty-one days from the date of the making the decision.

(5) The Cabinet Secretary may, on his own motion or on recommendation of the Board of the Institute, prescribe regulations to effectively carry out the provisions of this section.

Funds of the  
Institute.

51N. There shall be a general fund of the Institute which shall vest in the Board of the Institute and into which shall be paid—

(a) monies appropriated by Parliament for the purposes of the Institute;

(b) monies that may accrue to or vest in the Institute in the course of the performance of its functions;

(c) monies provided to the Institute from the Endowment Fund;

(d) donations, gifts and grants made to the Institute; and

(e) monies from any other sources approved by the Cabinet Secretary for the time being responsible for matters relating to finance.

(2) There shall be paid out of the general fund of the Institute any expenditure incurred by the Institute in the exercise of its powers or the performance of its functions under this Act.

(3) The Institute may, subject to the approval of the Cabinet Secretary for the time being responsible for matters relating finance, invest any funds not immediately required for its purposes, as it may determine.

Monitoring mechanisms.

51O. (1) The Cabinet Secretary may, on his own motion or on recommendation of the Board of the Institute, develop monitoring mechanisms and set indicators to determine—

- (a) sound management of wildlife resources in Kenya; and
- (b) trends affecting Kenya's wildlife conservation and management.

(2) The Cabinet Secretary shall require any person collecting data or information that is relevant to the wildlife resources to regularly report to the Cabinet Secretary on the results of the monitoring mechanisms against the predetermined indicators set out in the national wildlife conservation and management strategy prescribed under this Act.

(3) The Cabinet Secretary shall, at least once every five years, submit to the National Assembly a wildlife resources monitoring report showing the achievement made in the implementation of the past or subsisting national wildlife conservation and management strategy and avail the said wildlife resources monitoring report to the public.

In fact, the New Clauses 51A, 51B, 51C, 51D, 51E, 51F, 51G, 51H, 51I, 51J, 51K, 51L, 51M, 51N and 51O are about the establishment of the Wildlife Research and Training Institute. This is a very substantive amendment and it is a whole new part that we will be proposing that it be called "New Part VII(A)" and it should be titled "Establishment of the Wildlife Research and Training Institute".

Hon. Temporary Deputy Chairman, Sir, this is a very substantive amendment that we, as a Committee, have agreed with both the Government and the stakeholders. This is because we are unhappy with the fact that we do not have a strong institution that deals with research and training on wildlife. We thought that we should strengthen the KWS Training Institute in Naivasha, give it more powers and establish its functions under "C", give it its own funds and give it its own board members and tenure of office.

Basically, we cannot say that we are a wildlife conservation power house and yet we do not have a conservation training and research institute.

In addition to the new clauses, I propose that we insert the New Part VII(A) which is titled "Establishment of the Wildlife Research and Training Institute".

I beg to move.

**The Temporary Deputy Chairman** (Hon. Kajwang'): Before you sit down, can you propose that the sections that we have referred to be further amended by including the title which is "Part VII"?

**Hon. (Ms.) Abdalla:** I will gladly do so, Hon. Temporary Deputy Chairman, Sir. I beg to move:-

THAT, the New Clauses I have proposed be further amended by inserting, immediately after Clause 51, "Part VII(A) Establishment of the Wildlife Research and Training Institute".

*(Question of the new clauses proposed)*

*(New clauses read the First Time)*

*(Question, that the new clauses be read a Second Time, proposed)*

**Hon. ole Lemein:** Thank you very much, hon. Temporary Deputy Chairman, Sir. New Clause 51(N) says:-

“There shall be a general fund of the Institute which shall vest in the Board of the Institute and into which shall be paid-

(a) monies appropriated by Parliament---”

I believe that it should be by the National Assembly.

**The Temporary Deputy Chairman** (Hon. Kajwang’): No, that one has no problem. You know both Houses appropriate money. So, that is understood.

Yes, hon. (Dr.) Ottichilo.

**Hon. (Dr.) Ottichilo:** Hon. Temporary Deputy Chairman, Sir, I want to say that this is a milestone in this country. This is because this country is known worldwide for its wildlife conservation efforts but we have no serious and credible wildlife training and research institute. In fact, we have to take our people to go and train in Mwenga, Tanzania who are credible in wildlife conservation. So, proposing to establish a full-fledged wildlife research and training institution is a milestone for this country because it will promote wildlife conservation. It will actually transform the way Kenyans view wildlife conservation in this country.

**Hon. Kemei:** Thank you, hon. Temporary Deputy Chairman, Sir. I really want to commend the Committee for proposing to establish a Wildlife Research and Training Institute. We have been several decades behind in terms of developing the wildlife resources that we have in this country since we lack a wildlife training institution. We are renowned wildlife destination.

In addition, I would like to say that in other parts of the world, we even have a primate training institute. It is high time we had training institutes in Kenya to cover even the big five.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Both of you are in support of the amendments.

*(Question, that the new clauses be read a Second Time, put and agreed to)*

*(The new clauses were read a Second Time)*

*(Question, that the new clauses be added to the Bill, put and agreed to)*

*(First Schedule agreed to)*

*Second Schedule*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Second Schedule of the Bill be amended in paragraph 1 under the heading “Officers of the Service” by deleting sub-paragraph (2)(a)(i) and substituting therefor the following-

Gazetted Officers  
Director General  
Director  
Deputy Director  
Senior Assistant Director  
Assistant Director  
Senior Warden

This is a consequential amendment because we have amended the Head of the Service to be a Director-General and not a Director.

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

*(Second Schedule as amended agreed to)*

### *Third Schedule*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman I beg to move: -  
THAT the Third Schedule be amended in Part A-  
(a) by inserting the following word “Poisonous” immediately before the word “Snakes”;  
(b) by inserting the following new item immediately after the item “Wild dog”-  
“Wild-pig”

*(Question of the amendment proposed)*

*(Question, that the words to be inserted be inserted, put and agreed to)*

**Hon. Mwadime:** Hon. Temporary Deputy Chairman, I beg to move:-  
THAT, the Third Schedule be amended in Part B by inserting the following new items immediately after the items named “Snake, Wild dog”-  
“Baboon”;  
“Monkey”;  
“Honey badgers”

These animals are culprits and they are known to damage livestock, crops and other properties. It will be proper to add these animals on the list.

*(Question of the amendment proposed)*

**Hon. Ogalo:** Hon. Temporary Deputy Chairman because we are not many of us here from the Committee, I would like to notify the House of the tremendous hours it took us to agree to delete this. We realized that the compensation mechanism will fail if we decided to include monkeys and baboons, especially knowing very well that it is very difficult to stop monkeys from destroying our crops. They are not animals that would trample on human beings like the elephants. We said those animals have a capacity to crush and crumble the compensation mechanism we are trying to achieve in this Bill. We then decided to leave them out. That is the opinion of the Committee which I want to propagate here in this House.

**The Temporary Deputy Chairman** (Hon. Kajwang’): The proposal is that any time a baboon or monkey scratches someone or causes problems then they should be compensated. You remember we have capped compensation at some level. I do not know honey badgers. Is it that thing that eats honey? Does it hurt people? I thought it only eats honey? Hon. Mwadime is proposing that any time the honey badger scratches then you must be compensated within those levels that we had set.

Hon. Members, can you debate this and get us going?

**Hon. (Ms.) Mbalu:** Hon. Temporary Deputy Chairman, we cannot say that monkeys do not hurt or scratch. Where I come from, monkeys scare women. We are forced to wear trousers throughout. We cannot work in the bushes because they invade our *shambas* and gardens. We have to call men or dress in a way monkeys will think we are men. So, we, the women species are endangered. They need to be included in the list.

**The Temporary Deputy Chairman** (Hon. Kajwang’): So, will we compensate you by giving American pants or compensate you by payment of---

*(Laughter)*

**Hon. Chumel:** Hon. Temporary Deputy Chairman, I support the amendment raised by the hon. Member there. I come from an area where monkeys and honey badgers are in plenty. The honey badger is a very dangerous animal. It is always ready to wrestle somebody especially when you want to chase it from the area you are harvesting honey. Some people have lost life as a result of being attacked by honey badgers. I support.

**The Temporary Deputy Chairman** (Hon. Kajwang’): I want to hear from people who are not in the Committee. We have heard from hon. Oner.

**Hon. Melly:** Hon. Temporary Deputy Chairman, I think the proposal by hon. Mwadime is right. Honey badgers destroy a lot of honey. In my constituency, there is a case where the youth who had engaged in honey business lost a lot when the honey badgers destroyed---

**The Temporary Deputy Chairman** (Hon. Kajwang’): Remember that we must be discussing these honey badgers in the context of the conservation areas. If you went there and dispossessed the honey badger of its honey in a place which is not a wildlife area, you are actually--- There will be a conflict of resources between the human beings and the honey badger.

**Hon. Melly:** In this particular case, they come from their conservation area and then invade the neighbouring villages.

**Hon. Ganya:** Hon. Temporary Deputy Chairman, as hon. Ogalo said we debated this point. We met the stakeholders and they educated us. The whole essence of compensation for crop damages, if we are going to include monkeys, honey badgers and baboons will not work. We need to make a law that will be operational and effective and that will enable us to achieve the desired results.

**The Temporary Deputy Chairman** (Hon. Kajwang’): This schedule can be revised after how long? Can it be revised from time to time? Did you put something like that in law?

**Hon. ole Kenta:** Hon. Temporary Deputy Chairman, I would like to oppose that amendment. Like my colleague Chachu has said if you are going to include each and every animal that one thinks about, the essence of compensation loses meaning. Whatever will be in the basket of compensation of the country will be meaningless. It will be exhausted and it will not serve any purpose. We thought that it was not necessary to include those animals; they are all over the place. It would be dangerous to include those animals.

**The Temporary Deputy Chairman** (Hon. Kajwang’): It was found necessary that this should be in the National Assembly. Why did you not allow it to be by regulation? Why did you not allow the Cabinet Secretary to bring it and then it is approved before the National Assembly? The problem is that if we over-legislate then we step into other people’s mandate of understanding what should be done. These are actually technical areas. I am sure the Cabinet Secretary would go down there and find out whether there are more baboons than honey badgers or monkeys and then he would make regulations and put them before the Assembly and they would pass. Now that we have it, let us deal with it.

**Hon. (Dr.) Ottichilo:** Hon. Temporary Deputy Chairman, I want to concur with my Committee members. However, as an expert in this area, I want to tell you that baboons and monkeys are a total nuisance. That is why they are classified as vermin. We have an Act that deals with vermin. Baboons and monkeys are part of vermin. Because of that status, the law allows them to be killed any time they are found causing problems anywhere. Already, we have a law that ensures that they can be dealt with because they are vermin.

**The Temporary Deputy Chairman** (Hon. Kajwang’): I hope we do not kill all baboons using that Act.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I want to concur with my Committee Members and congratulate especially hon. Oner Ogalo, the Member for Rangwe, because unlike the other Members who have spoken, he is a surveyor and has not been doing this conservation work in the past. It shows that he was really concentrating in the public hearings. So, I want to concur with him that the amendment is going to kill the compensation fund.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Let me put the Question now because we have discussed matters relating to baboons and monkeys and it is already 9.00 p.m.

*(Question, that the words to be inserted be*

*inserted, put and agreed to)*

Next Schedule! Member for Seme!

**Hon. (Dr.) Nyikal:** Hon. Temporary Deputy Chairman, I do not know whether I will take you back or whether you may need to recommit the clause. When poisonous snakes were mentioned, I wondered what happens to pythons because they can cause quite a lot of harm and they are ---

**The Temporary Deputy Chairman** (Hon. Kajwang’): Did you have them in the Schedule of amendments?

**Hon. (Dr.) Nyikal:** That was in the Third Schedule, where we were discussing about snakes.

**The Temporary Deputy Chairman** (Hon. Kajwang’): I am sure hon. Oner is very conversant with snakes, pythons and *omieris*. I am sure he must have listed them. Snakes are there, look at page 708. They can cause death or injury. These are wildlife species in respect of which compensation may be paid. A python and an *Omieri* is a snake.

**Hon. (Dr.) Nyikal:** But what the amendment indicates is that compensation is only for poisonous snakes. So, if you put poisonous snakes then you cannot be compensated for python injury.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Is your discussion that a python is not poisonous?

**Hon. (Dr.) Nyikal:** Yes it is not, and therefore instead of the word “snakes,” you put “poisonous snakes”, and this excludes pythons.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Unfortunately, that will be discussion for another time. I think there will be a discussion on whether a python is actually poisonous or not.

**Hon. (Dr.) Nyikal:** That I know.

**The Temporary Deputy Chairman** (Hon. Kajwang’): That you know as a matter of fact.

**Hon. (Dr.) Nyikal:** Yes.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Well, you will be the first one to bring an amendment to this Schedule once this Bill has been assented to. This is why in legislative practice, schedules should not be legislative work of the National Assembly. They should be handled by the regulators, so that they make those regulations, bring them here and they can be changed from time to time. They should not be so strict, because when you make legislation it becomes very difficult to amend other than by bringing an amendment to the House and the procedure is tedious and very frustrating. I think next time we should learn from this, that Schedules are better left to the regulators. Did I put the Question?

*(Third Schedule as amended agreed to)*

*(Fourth schedule agreed to)*

Next Schedule!

*Fifth Schedule*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move:-  
THAT, the Fifth Schedule be amended-

- (a) in Part 1 by deleting paragraph (4);
- (b) in Part 2 paragraph (3)-
  - (a) by inserting a “bullet” immediately before the words “proof of compliance with the ninth Schedule 10 and any other legal requirement set out in this Act”
  - (b) by deleting the words “ninth Schedule 10” appearing in the bulleted words and substituting therefor the words “Tenth Schedule”

*(Question of the amendment proposed)*

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Fifth Schedule as amended agreed to)*

*(Sixth Schedule agreed to)*

*Seventh Schedule*

**The Temporary Deputy Chairman** (Hon. Kajwang’): If hon. Mwaura is not in the Chamber then that amendment is dropped.

*(Proposed amendment by hon. Mwaura dropped)*

*(Seventh Schedule agreed to)*

Next Schedule!

*Eighth Schedule*

**Hon. (Ms.) Abdalla:** Thank you, hon. Temporary Deputy Chairman. I beg to move:-

THAT, the Eighth Schedule be amended in Part I by inserting the words “as a last resort after such other management tools such as translocation has been explored “ at the end of paragraph (6).

You will note that paragraph (6) is dealing with the controversial topic of culling and we want to qualify situations where culling could be allowed.

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Eight Schedule as amended agreed to)*

**The Temporary Deputy Chairman (Hon. Kajwang’):** Next Schedule!

*Ninth Schedule*

**Hon. (Ms.) Abdalla:** Thank you, hon. Temporary Deputy Chairman. I beg to move:-

THAT, the Ninth Schedule be amended in Category A by deleting the words “fifth Schedule” appearing at the heading and substituting therefor the words “Sixth Schedule”

It is the Sixth Schedule that speaks to the categories of animals and not the Fifth Schedule.

*(Question, that the words to be left out be left out,  
put and agreed to)*

*(Question, that the words to be inserted in place thereof  
be inserted, put and agreed to)*

*(Ninth Schedule as amended agreed to)*

**The Temporary Deputy Chairman (Hon. Kajwang’):** Next Schedule!

*Tenth Schedule*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman I beg to move:-

THAT, the Tenth Schedule be amended in item “5” by deleting the figure “52” appearing in the second column and substituting therefor the figure “181”.

Actually, Lake Nakuru National Park is not under national reserve but under national park, the figure 52. The actual size of that park is 181. I propose that Schedule to be amended accordingly.

*(Question of the amendment proposed)*

**Hon. Ogalo:** Hon. Temporary Deputy Chairman, Sir, I am sorry, we missed something in amending the Ninth Schedule. We talk of the Fifth Schedule and as you

realise, they are not bundled together in the amendment. I do not know what we are going to do now that we have committed that schedule to the Bill.

**The Temporary Deputy Chairman** (Hon. Kajwang): Can you repeat yourself?

**Hon. Ogalo:** Hon. Temporary Deputy Chairman, Sir, we amended the Ninth Schedule by changing Category A, Fifth Schedule---

**The Temporary Deputy Chairman** (Hon. Kajwang): Are you taking us back to the Ninth Schedule?

**Hon. Ogalo:** Hon. Temporary Deputy Chairman, Sir, that is why I was apologising.

**The Temporary Deputy Chairman** (Hon. Kajwang): No, water has passed under the bridge. We are on the Tenth Schedule and we have proposed it. So, can I put the Question on the Tenth Schedule?

*(Question, that the words to be left out be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof be inserted, put and agreed to)*

**Hon. Lempurkel:** Hon. Temporary Deputy Chairman, Sir, I beg to move:-

THAT, the Tenth Schedule of the Bill be amended by deleting item 28 of the national reserve which reads "Laikipia N.R." and the corresponding figure "165".

This used to be trust land and in the new Constitution, it is community land in my constituency. We have people living there. We have a population of 25,000 people living there and the land is not gazetted as a national reserve. We have primary and secondary schools there. This has been done by the former county councils. This is a way of marginalising a community by evicting its members who have been living there from time immemorial.

So, I was wondering where these people will go. Why will they be evicted? We have schools and there are chiefs in the area. This area is about 165 square kilometres.

*(Question of the amendment proposed)*

**Hon. Lati:** Hon. Temporary Deputy Chairman, Sir, this is a very important amendment, particularly for the Samburu Community that live in that part of Laikipia. We know what is behind this. Somebody wants to create a buffer zone between somebody's farm. Laikipia is occupied by many settlers and they want to create a buffer zone between themselves and the black people who live there. We do not want to do that. We want to make sure that the people who have lived there for many years live there. They have schools and dispensaries and to evict them to create a national park is unnecessary. The reason we are doing this is to make sure that our people live with the wildlife peacefully. We do not want to create unnecessary friction between wildlife and people. They have taken care of the wildlife without the national park for many years. So, for somebody just to do that without consulting communities, it is unfair.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Let us work on this. The Mover, we have moved the substance of the Bill. Have you seen a clause which is defining what wildlife conservancies are?

**Hon. (Ms.) Abdalla:** On a point of information, hon. Temporary Deputy Chairman, Sir.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Let me assist him: Do you want this information from hon. Amina?

**Hon. Lempurkel:** Hon. Temporary Deputy Chairman, Sir, in the area, we already have community conservations which are manned by the communities. This community has never been consulted on this issue. They are not even aware and I was even surprised to see it in the Bill. They were not consulted. Already, people have settled there and have permanent residents. This was a trust land. After the new Constitution, all trust lands were converted to community land.

**The Temporary Deputy Chairman** (Hon. Kajwang’): What I am dealing with here is a technical issue and not quite whether or not that land should be excised. I am just looking at my Standing Orders and the body of the law that we have just passed in the substantive sections, we have already talked about wildlife conservancies and the gazetted parks. Have we done that? If we have done that, hon. Lempurkel, I need you to come with me, so that you understand where I am coming from. Subsection 6 of Standing Order No.133 says:-

“No amendment shall be moved which is inconsistent with any part of the Bill already agreed to or any decision already made by the Committee, and the Chairperson may at any time during the debate of a proposed amendment, withdraw it from the consideration of the Committee if in the opinion of the Chairperson, the debate has shown that the amendment contravenes this paragraph”.

So, if we have decided in the substance of the Bill to talk about the gazetted areas, we can now not make an amendment which negates what we have already agreed on. Do you get how that argument follows? Therefore, in the previous Subsection 5, it gives me authority that:-

“No amendment shall be permitted to be moved if the amendment deals with a different subject---”

Of course, yours does not deal with a different subject.

“---or proposes to unreasonably or unduly expand the subject of the Bill---”

Yours does not do that.

“---or is not appropriate or is not in logical sequence to the subject matter of the bill”.

I think yours may not be appropriate. So, I am persuaded to find your amendment inadmissible, that it is not appropriate in this context that we have already discussed the subject matter on the substantive Bill. So, if you want to bring that amendment, you would have to bring it as a fresh amendment to this legislation after it has been assented to by the President. That is my understanding of that law. Does that help us without any discussion on this?

**Hon. (Ms.) Abdalla:** Hon. Temporary deputy Chairman, Sir, yes, it does help. There is a confusion that I thought would be necessary to deal with. The Laikipia National Reserve that is in this list is gazetted. So, for us to deal with it, we have to deal with it by de-gazetting an already existing national reserve. But the Member had

confused me slightly when he was asking for my support on this amendment. He confused me when he said that there is land that is currently in dispute and in court that was bought by the African Wildlife Foundation from the former President. That Foundation wants that area gazetted as a national reserve. That is in court and it is not in this Bill. So, if we are not confusing, then the ruling of the Chair meets the Member's condition because we cannot use this Bill to degazette a gazetted national reserve. We have to do it through the processes stipulated in this Bill and in the Act when it becomes an Act.

**The Temporary Deputy Chairman** (Hon. Kajwang'): That settles the matter. Let us proceed.

*(Tenth Schedule as amended agreed to)*

*New Schedule*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman I beg to move:-  
THAT, the following new Schedule be inserted immediately after the Tenth Schedule –

#### **ELEVENTH SCHEDULE**

#### **WILDLIFE SPECIES FOR WHICH GAME FARMING MAY BE ALLOWED**

##### **Animals**

Crocodile

Tortoise

Chameleon

Reptiles (other than snakes)

Snails

Frog

Lizards

Butterfly

Snake (for display and venom extraction, export of live for breeding)

##### **Plants**

Aloe

Prunus Africana

Osyris lanceolata- East African Sandalwood

Mondia whytei - White's Ginger (Mkombera)

Ocimum kilimanscharicum - Camphor Basil

##### **Birds**

Ostrich

Pigeon (except those listed in Schedule 5)

Doves (except those listed in schedule 5)

Ducks

Helmeted Guinea fowl  
Vulturine Guinea fowl  
Quelea

This is listing the animals that can be affirmed in this Act.

**The Temporary Deputy Chairman** (Hon. Kajwang’): We are going back to the animals. Here we are on the animals, plants and birds that can be kept.

**Hon. (Ms.) Abdalla**: We are on animals, plants and birds that can be kept. I am told that there are people who go to Nairobi West to eat quails.

**The Temporary Deputy Chairman** (Hon. Kajwang’): Game farming may be allowed on these ones. Therefore, you can farm frogs and chameleons.

*(Question of the new schedule proposed)*

*(New Schedule read the First Time)*

*(Question, that the new schedule be read a Second Time, proposed)*

Hon. Dr. Nyikal, before I put the Question I do not want to overrun you the way I did last time.

**Hon. (Dr.) Nyikal**: Hon. Temporary Deputy Chairman, we said that we leave some parts to go to regulation. If we do not know what people may want to farm, why do we then take the precaution?

**The Temporary Deputy Chairman** (Hon. Kajwang’): Well, the owner of the Bill knows what to do with it. The problem is that it must have been a product of a lot of negotiation and stakeholder discussion. It is just a general guidance, it is not a rule for anybody to follow, but perhaps when we will be looking at the Bill, Chairs will be allowed to give us a lot of details. We may just want to deal with the policy and then leave the details to their regulators.

Therefore, hon. Prof. Nyikal, now that it is before us, we have to deal with it.

**Hon. (Dr.) Nyikal**: My party is dealing with it, would it not be possible to make an amendment which says that, that shall be in regulation; a simple statement like that instead of putting a long list?

**The Temporary Deputy Chairman** (Hon. Kajwang’): Which will be all right; but we have gone all the way up to the Tenth Schedule. Breaking it on the Eleventh Schedule will look inconsistent.

*(Question, that the new schedule be read a Second Time, put and agreed to)*

*(The new schedule was read a Second Time)*

*(Question, that the new schedule be added to the Bill, put and agreed to)*

*Clause 2*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move:-  
THAT, clause 2 be amended by inserting the words “Kenya territorial waters” at the end of the sub-clause.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): I am trying to get the page at which we are because I have some interest. I must declare my interest on matters concerning waterways.

**Hon. (Ms.) Abdalla:** Page 512, hon. Temporary Deputy Chairman.

**The Temporary Deputy Chairman** (Hon. Kajwang’): “Kenya Territorial Waters,” I must know whether *Migingo* is part of this or not.

*(Question, that the words to be inserted be inserted,  
put and agreed to)*

*(Clause 2 as amended agreed to)*

*Clause 1*

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Chairman, I beg to move:-  
THAT, clause 1 be amended by deleting the words “and shall come into operation on such date as the Cabinet Secretary may, by notice in the Gazette appoint and different dates may be appointed for the coming into operation of different provisions disposition”

*(Question of the amendment proposed)*

*(Question that the words to be left  
out be left out, put and agreed to)*

*(Clause 1 as amended agreed to)*

*(Title agreed to)*

**The Temporary Deputy Chairman** (Hon. Kajwang’): Hon. Members, I want to sincerely thank you for being diligent about your legislative duties, staying very late and being very attentive to the business before us. I therefore, want to call upon the Mover, if she is so persuaded to move that we report consideration of this Bill to the House.

**Hon. (Ms.) Abdalla:** Before we do that hon. Temporary Deputy Chairman, on page 517, I had proposed that Part IV of the Bill be deleted, but basically, I did not suggest the new title for that section. I have given the Clerk the new title for that section.

**The Temporary Deputy Chairman** (Hon. Kajwang’): All right. I think that is part of the drafting. I think the essence of your proposal is that, Part IV of the Bill be titled “Wildlife Regulation Mechanisms”. I, therefore, order that Part IV be titled “Wildlife Regulation Mechanisms.” It is so order.

**Hon. Katoo:** Hon. Temporary Deputy Chairman, I beg to move that the Committee doth report to the House its consideration of the Wildlife Conservation and Management Bill, and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Temporary Deputy Speaker  
(Hon. (Ms.) Mbalu) in the Chair]*

## **REPORT, CONSIDERATION OF REPORT AND THIRD READING**

### **THE WILDLIFE CONSERVATION AND MANAGEMENT BILL**

**Hon. Kajwang’:** Hon. Temporary Deputy Speaker, I beg to report that a Committee of the whole House has considered the Wildlife Conservation and Management Bill (National Assembly Bill No.21 of 2013) and approved the same with amendments.

**Hon. Katoo:** Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said Report.

**Hon. Shebesh:** Hon. Temporary Deputy Speaker, I beg to second.

*(Question proposed)*

*(Question put and agreed to)*

**Hon. Katoo:** Hon. Temporary Deputy Speaker, I beg to move that the Wildlife Conservation and Management Bill (National Assembly Bill No.21 of 2013) be now read the Third Time.

**Hon. Shabesh** seconded.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members, I expect some ventilation, especially from the Committee. Let us hear the Departmental Committee Chairperson. We must appreciate the good work that she has done.

**Hon. (Ms.) Abdalla:** Hon. Temporary Deputy Speaker, I want to thank all the hon. Members who have been here to diligently pass the amendments that have been proposed on this Bill and highlight that one of the reasons as to why we have such a massive Bill is that we did not do a pre-publication scrutiny. Had we done so, we would have re-published the Bill. As a Committee, we had the option of re-publishing the Bill and delaying it or proposing amendments. So, we took the difficult route. What we have

learnt from this is that since the Leader of Majority Party signs all these Bills, he probably needs to invest in pre-publication scrutiny, so that we do not have to deal with the massive amendments that we have had to deal with on this Bill.

Secondly, I want to thank the Members of my Committee and the stakeholders because they really put us on our toes although at times they wanted over-consultation until we bought into their amendments. On the issues of culling and cropping especially, we spent so much time. We had one particular stakeholder who stayed with us even when we were having our closed-door meeting because she really wanted to convince us to delete the culling and cropping provision.

Hon. Temporary Deputy Speaker, having said so and considering the time aspect, I would just like to thank the Members of my Committee. Some of them are surveyors but we can now see that they have also become conservationists. Some of them did a lot of work as to sometimes even put the CIC to shame. I want to note the contributions of ole Kenta, the Member for Narok North, for really saving the counties that have national reserves. He was able to provide constitutional justification even when the CIC was threatening that they would take us to court if we passed that particular amendment. So, I would really like to congratulate all the Members of Committee, especially hon. Barua, hon. Chachu and hon. (Dr.) Ottichilo, who went beyond the call of duty to give us these amendments.

I want to thank my Secretariat, the Ministry officials, and the NGOs and State sector players who came to the Committee to sell their versions of wildlife conservation and management. I would like to thank Parliament for all the assistance that they have given to our Committee.

Having said, I would like to give chance to the other hon. Members who would want to say something on this Bill. Hon. Ogalo, being the new expert in the House, would also like to say something. I would also like to thank the Pastoralist Parliamentary Group (PPG), especially those from Narok and Samburu, who really put us on our toes by coming to our Committee meetings and making contributions. This shows that, as Members of Parliament, we are free to attend any Committee meeting and make our contributions on matters concerning our constituents. I can also notice the Member for Narok, only that he did not convince us, as a House, to pass his amendments. Otherwise, most of his amendments were part of the Committee's amendments.

With those many remarks, I beg to support the Bill.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you, hon. Amina Abdalla. As I said, we must congratulate her very good work, which was contributed to by many hon. Members. I must also appreciate the hon. Members who are here. It is now 9.30 p.m. We are doing our best. Kenyans should know the kind of work we do – legislation.

Can I have hon. Oner Ogalo?

**Hon. Ogalo:** Thank you, hon. Temporary Deputy Speaker. I am a happy man because since I came to this House to legislate, I have been legislating Bills from different Committees for the past many months. I have not seen a Bill from any of my Committees. I am in two Committees – the Departmental Committee on Lands and the Departmental Committee on Environment and Natural Resources. In the Committee on Lands, we have been waiting for some regulations to come but nothing has come. We are now at least going on recess after passing one Bill from my Committee, and I am very

happy. I am only sad that the technocrats have failed to give us the name of an investment planned to be in the schedules.

Having said so, although I know that in future they will continue putting that in the Act that will arise from the Bill by way of amendments, these are very serious plants. Nonetheless I am very happy and grateful. I congratulate this House for passing this Bill.

Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you, hon. Ogalo.

Yes, hon. Patrick ole Ntutu.

**Hon. ole Ntutu:** Thank you, hon. Temporary Deputy Speaker, for giving me this opportunity. I must say that I personally want to congratulate the Committee for the wonderful work that they have done. I want to tell this august House that people in my county, in particular, are today celebrating the passage of this Bill. For more than 12 years, this Bill has been gathering dust on some shelves of this House. So, making the passage of this Bill by this House a reality is something that I personally treasure. People in my county today are watching us passing this Bill.

To be honest with you, most of us made it to this House after promising our constituents that we would make sure that this Bill is passed by this House. Looking at the issues that this Bill seeks to address, you will appreciate that they are special to our people, particularly the issue of compensation. The hon. Members of this House have probably seen that most of us have not sat here throughout to go through legislation of Bills. Today, I have learnt a lot in terms of amending Bills. After five years, I may not be a lawyer of the level of my colleague, hon. Kajwang', but I will at least be somebody who understands the process of making laws.

Hon. Temporary Deputy Speaker, I would also like to thank the Committee for coming up with the Wildlife Research and Training Institute. This is a milestone in this country. We have never had something like this before. Our people used to go to Tanzania and other countries to be trained on wildlife matters. We are now going to have a research institute that can tell us how many wild animals we have as a country. Do hon. Members know that we do not even know how many elephants we have? We do not know how many rhinos we have, but we keep saying that our wild animals are being killed, and that they are being finished. So, it is good that we can at least have scientific information and data on our wildlife resources. Such information is critical for informed decision-making by wildlife managers and other stakeholders.

I must also say that with the punitive measures that we have put in place---

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. ole Ntutu, thank you for your contribution. Hon. Members, the Third Reading is not about debate but I must appreciate the fact that hon. Members are very happy with the Bill, including hon. Jessica of Kibwezi East. Can we agree, because I have a lot of requests? So, let us agree on the time to be allocated to each speaker. A minute should be okay since this is not debate time. We have already passed the Bill, and we are very happy.

**Hon. Members:** One minute each.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): One is okay because this is not debate. We have passed the Bill. Hon. Moroto Chumel.

**Hon. Chumel:** Thank you, hon. Temporary Deputy Speaker. I just want to thank the Committee because they have come a long way and supported this, especially the communities that are most of the time living in danger because of these animals. I come

from West Pokot and we have these animals. I think this is the first time in history where we are thanking God for this Bill. I want to thank the Committee Members and even the secretariat as the hon. Chair has said because these are the people who are there to ensure that their country is well taken care of.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. Your one minute is over. Hon. Richard ole Kenta Moitalel.

**Hon. ole Kenta:** Thank you, hon. Temporary Deputy Speaker. I think I should just say I am very happy today to be part of this transformative law and I thank the Chairlady of the Committee because the teamwork that she has inculcated in us has made a lot of difference. I cannot forget the Kenya Wildlife Service and Ministry personnel because we worked with them in Mombasa, Nairobi and all over the country and they were of great assistance. The communities are happy today especially the Maasai community for the compensation that has been extended and more so for the opportunities they now have to take care of those animals and also benefit from them. So, I thank the Committee and more specifically sincerely thank the Members who have really stayed this late to ensure that this Bill is passed and the Chair who just chaired the amendments. Thank you very much for the insights that you gave us.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Kimaru Anthony.

**Hon. Kimaru:** Thank you, hon. Temporary Deputy Speaker. It looks like the Wildlife Bill was more about the pastoralist communities but it also affects those farming communities that are next to these reserves. I am sure my people back home in Laikipia will be happy with this Bill because they will be compensated for the first time in a long time and they will be compensated adequately for the loss of their livestock, crops and life or limbs for that matter. So, I am very happy with the amendments as put and I would like to thank the Committee for a job very well done. I am sure this will go a long way in creating harmony between our wildlife and human beings.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. Wambui Shebesh.

**Hon. (Ms.) Shebesh:** Thank you, hon. Temporary Deputy Speaker. I want to congratulate the Committee and request it to please put into consideration the amendments proposed by the two Members who raised issues here which were overtaken by technicalities, especially the Member who spoke about the community that may have to be relocated. I congratulate the Chair of the Committee. I heard you say that a technicality is the reason why his amendment was not able to pass. You should remember that we are representing people first and foremost before we go to the wildlife. So, I ask the Committee to please reconsider the issue of the Member who spoke about the Samburu community and also that one who spoke about monkeys and baboons. We might find it funny but in his area they could be the ones which are causing the biggest havoc. However, I really congratulate Amina and her Committee because they have made us proud as the National Assembly.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. I am sure the Chair listened very well to the sentiments made by hon. Shebesh. Hon. Kirui Limo.

**Hon. Limo:** Thank you, hon. Temporary Deputy Speaker. Today I also join my colleagues in congratulating the Committee for doing a wonderful job. For a while now we are used to issues touching on finances and today we are happy that we are talking about animals.

The issue of the institute is a timely move because we need to move this country to innovation and we cannot innovate if we do not have a strong institute. In the world now there is something called e-tourism. So, very soon we might actually run at a loss if we do not innovate.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Wanyonyi.

**Hon. F.K. Wanyonyi:** Hon. Temporary Deputy Speaker, I want to take this opportunity to thank the Committee for having at least come up with a wildlife college. Two, the punitive measures that they have come up with particularly on those who are out to destroy our wildlife is wonderful. So, I also want to congratulate the Committee for the good work they have done. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Njogu Barua.

**Hon. Barua:** Thank you, hon. Temporary Deputy Speaker. Mine will be brief. I would just say that this is one of my happiest days as a Member of Parliament. This is a turning moment for the conservation sector having worked there for many years with some people in the House and some people that I can see in the galleries. I think we are all happy.

I would like to recognise a few things which I note in the Bill as a member of that Committee. This Bill has institutionalised the sector like never before. It has set up a programme for capacity building in the training institute. The compensation sector was also very good. I also want to say that one of the biggest problems with wildlife management and conservation is that it has not been Africanised for a long time. This Bill gives the power to the African people and if implemented the way it is, we shall empower ourselves and in future we will manage the wildlife ourselves.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. Hon. Lay Joyce.

**Hon. (Ms.) Lay:** Thank you, hon. Temporary Deputy Speaker. I also want to take this opportunity to thank the Committee for the good work that they have done and also the idea of incorporating people from counties especially in the board that will deal with compensation and conservancy. That is very important because from now henceforth, the communities will feel they are part and parcel of preserving our wildlife and also part of the idea of coming up with the institute. As they expand that, later on they can build some in counties where we have huge areas of national parks. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Chachu Ganya.

**Hon. Ganya:** Thank you, hon. Temporary Deputy Speaker. Many years ago when I was a student I wrote a thesis and I called it “Green Fascism” and not “Green Conservation”. That is how I strongly felt about conservation in this country but today this Bill for sure has brought our people to the heart of conservation. It is no longer a myth. It is actually conservation with a human face which I really want to appreciate. Poachers will never come to our land and kill our elephants and rhinos to a level whereby our kids will go and only see them in the zoos. We have taken drastic action as lawmakers to ensure that the Chinese who will kill our elephants will go into prison for life. I am a very happy man. Thank you.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you. Hon. Mwadime.

**Hon Mwadime:** Thank you, hon. Temporary Deputy Speaker. I actually congratulate the Committee and I will not hesitate that if at all I would give out marks, I

think I will give hon. Amina's Committee 88 per cent out of 100 per cent. This is simply because they have covered areas of conservation. There are some areas where they have engaged the local communities to work alongside the KWS. I also note Clause 109 which says that the land should be as it was before this Act was passed. Those are some of the areas which we are not in line with.

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Member, your one minute is over.

Yes, hon. Ole Lemein.

**Hon. ole Lemein:** Thank you very much, hon. Temporary Deputy Speaker. I also rise to thank the Committee for the work it has done. I am a very happy man because the compensation issue has been done very well.

I believe that the issue of human-wildlife conflict will be resolved once and for all. This is a Christmas gift for those people who live in areas where there is wildlife and more so the people of Narok County.

Thank you.

**Hon. Lempurkel:** Hon. Temporary Deputy Speaker, I would like to take this opportunity to thank the Committee for the good work it has done despite the fact that I am not happy. However, I believe that when I am pursuing other avenues, at least, to liberate this community the Committee will support me.

Coming from a pastoral community today is a big day for that community especially on compensation. There is also sharing of resources in the Bill within private conservancies. I also want to thank all Members who have sacrificed their time to be with us and go through the Bill to make sure that we---

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Thank you, hon. Members. From the Chair, let me take this opportunity to thank all the Members for staying in the House to do what you do better. I must appreciate that we have passed this Bill and most Kenyans will appreciate what we have done.

Secondly, let me appreciate and thank the Chairperson, hon. Kajwang', who was taking us through the Committee of the whole House. He has taken us through the Bill slowly until we all got there. Those who were viewing and listening were able to follow one clause after another and have appreciated our good work. The Bill will help most Kenyans. This Bill was not only for the pastoralist community but also for the people who live near wildlife areas.

Hon. Members, we are not able to put the Question now for obvious reasons. The Question for the Third Reading will be put tomorrow.

## ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. (Ms.) Mbalu): Hon. Members that concludes the business on the Order Paper. Therefore, the House stands adjourned until tomorrow, Wednesday, 4<sup>th</sup> December, 2013, at 9.00 a.m.

The House rose at 9.55 p.m.