

# NATIONAL ASSEMBLY

## OFFICIAL REPORT

Wednesday, 12<sup>th</sup> June 2019

The House met at 2.30 p.m.

*[The Speaker (Hon. Justin Muturi) in the Chair]*

### PRAYERS

**Hon. Speaker:** We can start.

### PETITIONS

#### CHANGE OF THE INSCRIPTION IN THE COURT OF ARMS

**Hon. Speaker:** Hon. Members, pursuant to provisions of Standing Order No.225(2)(b), I wish to report to the House a Petition by Mr. Charles Koinange Mangwa who is a resident of Limuru Sub-County in Kiambu County. The petitioner is praying that the National Assembly amends Part C of the Second Schedule to the Constitution relating to the Court of Arms by deleting the word “Harambee” inscribed on it and substituting it with the word “Kenya”. The petitioner, who claims to be a man of God, says that he has submitted the Petition following a revelation from God to do so.

Hon. Members, pursuant to the provisions of Standing Order No.227, this Petition is committed to the Departmental Committee on Justice and Legal Affairs. The Committee is requested to consider the Petition and report its findings to the House and the petitioner in accordance with Standing Order No.227(2).

I thank you, Hon. Members. I hope the Committee will also seek the divine intervention in dealing with this Petition.

*(Laughter)*

The petitioner has exercised his rights in coming to this House since it is the one that resolves issues of concern to the people. He will appear before the Committee and tell them whether his revelations were in a dream.

Let me allow the Member for Kilifi North to read out his Petition.

#### WATER SUPPLY CONSTRAINTS IN KILIFI COUNTY

**Hon. Owen Baya** (Kilifi North, ODM): Thank you very much, Hon. Speaker, for giving me the opportunity to present this public Petition No.038/2019.

I, the undersigned, on behalf of the residents of Kilifi County, draw the attention of the House to the following:

That, Article 43 of the Constitution safeguards the provision of water as a constitutional right by establishing the right to clean and safe water in adequate quantities;

That, Article 21 of the Constitution places an obligation on the State and State organs to take necessary measures to progressively realise this right;

That, the Coast Water Services Board which is mandated to fulfill this key constitutional undertaking in the Coast Region is being handicapped by very exorbitant power bills levied by Kenya Power;

That, whereas water production in the Coast region has remained constant over the years, power bills have significantly increased particularly in recent times;

That, the cost of electricity that Kenya Power charges per cubic meter of water is Kshs25, whereas the approved tariff by the Coast Water Services Board for bulk water is Kshs20 for a similar volume of water, leading to a negative difference of Kshs5 per cubic meter of water;

That, both the Coast Water Services Board and various water services providers are unable to afford economic provision of water since they have to pay this exorbitant rate charged by Kenya Power, as well as other routine operational and maintenance expenses;

That, the negative difference in the rates per cubic meter of water charged by Kenya Power and set by the Coast water Services Board, may eventually force water service providers out of business, much to the detriment of the ordinary citizens;

That, there are constant disconnections and disruptions of power since water providers such as the Baricho Water Plant in Malindi which supplies water to Kilifi and Mombasa Counties are unable to meet the high cost of power;

That, whilst other water plants in the country supply water using the mechanism of gravity, Baricho Water Plant uses electricity and hence it is highly affected by the unsustainable power rates charged by Kenya Power;

That, the constant disruptions of water supply due to electricity disconnections in hotels, schools, hospitals, homes, businesses and Government institutions has had a tremendous impact on tourism and business, while at the same time exposing residents to a myriad of disease outbreaks;

That, the people of Kilifi face the perennial challenge regarding adequate provision of water on account of stifling, uneconomical and unsustainable electricity charges levied by Kenya Power;

That, efforts to resolve the matter with relevant authorities have been futile; and,

That, the matter in respect to which this Petition is made is not pending before any court of law or constitutional body.

Therefore, your humble Petitioners pray that the National Assembly, through the Departmental Committee on Energy:

1. Enquires into the outstanding water production power bills owed by Coast Water Services Board to Kenya Power.
2. Considers the cost of electricity per cubic metre of water so as to facilitate affordable provision of water supply in the counties.
3. Recommends the harmonisation of power tariffs between the Kenya Power and the Water Resources Management Authority to ensure affordable production and supply.
4. Recommends a review of the cost of water production and supply to guarantee an affordable and uninterrupted supply of water

5. Makes any other orders, directions or recommendations that it deems fit in the circumstances of the Petition.

And your petitioners will forever pray.

Thank you very much, Hon. Speaker.

**Hon. Speaker:** Let me give a chance to the Member for Mwatate to also present his Petition.

Hon. Mwadime, you have the Floor.

ILLEGAL OCCUPATION OF LAND OWNED BY TAITA  
TAVETA TEACHERS INVESTMENTS COMPANY LTD

**Hon. Andrew Mwadime** (Mwatate, ODM): Hon. Speaker, I beg to present the following Petition.

I, the undersigned, on behalf of the Taita Taveta Teachers Investments Company Limited, draw the attention of the House to the following:

That, the Taita Taveta Teachers Investments Company Limited is a registered company having been incorporated in March 1980 and operates under Kenya Revenue Authority PIN No.P051411254Q;

That, the company's membership includes over 1,200 shareholders composed of both teachers and non-teachers, and its core business is to acquire land and sub-divide it into plots for its members as well as investing in real estate;

That, through concerted efforts of Taita Taveta KNUT Branch officials, the company bought 122.7 acres of land at Mishomoroni Area, Njunda Creek in Kisauni Constituency of Mombasa namely, mainland north/section LR11/56,11/57293, 11/65766, 11/767, 11/771 and 11/222;

That, the capital to purchase the said chunks of land was realised through payments of monthly shares through a check off system from the teachers' salaries, cash payments through loans and cash subscriptions from non-teaching shareholders;

That, at a time when the company was experiencing financial hardships, aggressive individuals invaded the said lands and began to irregularly sell parts of the land to buyers who later masqueraded as squatters;

That, to date, over 1,000 irregular occupants reside on the lands owned by the company, and who on occasions have harassed and threatened to lynch company directors who make visits to the land;

That, several shareholders have already died on account of the shock of not realising any gains from the hard work of the investment and being forcefully driven out of their land;

That, efforts to resolve the matter with relevant authorities, including the Mombasa City Clerk, the City Planner and Surveyor, County Executive for Lands, various leaders and even reaching out to the illegal occupants in an attempt to solve the matter amicably have been completely futile;

That, the issues in respect to which the Petition is made are not pending before any court of law or any constitutional or statutory body;

Therefore, your humble petitioners pray that the National Assembly through the Departmental Committee on Lands:

1. Intervenes through the Ministry of Lands to hold any further developments on the plots of land in question pending investigations.
2. Investigates the illegal occupation of the land owned by the Taita Taveta Teachers Investments Company Limited with the objective of overseeing the reverting of the occupied lands back to the company and its shareholders.
3. Recommends to the Ministry of Lands to settle bona fide squatters.
4. Makes any other order or direction that it deems fit in the circumstances of the Petition.

And your Petitioners will ever pray.

Thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Members, because there will be business appearing before the House, I will refer the two Petitions to the relevant Committees of the House to deal with them in accordance with the provisions of Standing Orders No.227, always bearing in mind the need to invite the petitioners and any other stakeholder that may be necessary in the process of hearing what the issues petitioned are about.

Before we move to the next Order, allow me to recognise the presence, in the Speaker's Gallery and in the Public Gallery, of visitors from various institutions and organs: Administrators/Chiefs from Gilgil Constituency, Nakuru County courtesy of Hon. Martha Wangari; Pupils from Sotik Primary School, Konoin Constituency, Bomet County; Cheborge Boys High School, Bureti Constituency, Kericho County; Ribe Boys High School, Rabai Constituency, Kilifi County; Kianyu Primary School, Kinangop Constituency, Nyandarua County; Kalyet Septonok Primary School, Mosop Constituency, Nandi County; and Mpeketoni Boys High School, Lamu West Constituency, Lamu County.

They are all welcome to observe proceedings in the National Assembly this afternoon.

**Hon. Owen Baya** (Kilifi North, ODM): On a point of order, Hon. Speaker.

**Hon. Speaker:** What is your point of order, Hon. Baya?

**Hon. Owen Baya** (Kilifi North, ODM): Hon. Speaker, I did not hear you give directions on my Petition.

**Hon. Speaker:** I did. I said both Petitions are referred to the respective departmental Committees.

**Hon. Owen Baya** (Kilifi North, ODM): Thank you.

**Hon. Speaker:** Your request is already directed to a specific Committee, and similarly Hon. Mwandime's. I see an intervention by the Member for Kisauni. What is your intervention, Hon. Mbogo?

**Hon. Mbogo Ali** (Kisauni, WDM-K): Thank you, Hon. Speaker. I just wanted to add my voice to the Petition that has been presented by the Member for Mwatate.

This is a serious issue in my constituency. My constituency is the largest in Mombasa with seven wards and yet it is the poorest. Njunda Ward is occupied by 70,000 people who are all squatters. Through the Government and the Ministry of Lands, we carried out an evaluation of all the parcels of land occupied by the squatters and it came to Kshs1.2 billion. It is now upon this House to see how best we can move forward so that the squatters are settled and the owners are compensated fairly. This will ensure that it is a win-win situation for the owners and the squatters.

Secondly, we also have a similar situation where a group called Thathini occupies 4240 acres in my constituency. It is another matter that will be coming up, and it will be heard together with this one. But moving forward, we have to find a permanent solution of settling these squatters because 70 per cent of my people in Kisauni Constituency are landless. They are also low income earners. That is my plea.

With those remarks, I fully support the petition.

**Hon. Speaker:** Next Order!

### PAPER LAID

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to lay the following Paper on the Table of the House:

Report of the Mediation Committee on the Physical Planning Bill (National Assembly Bill No.34 of 2017)

**Hon. Speaker:** Next Order!

### NOTICE OF MOTION

#### ADOPTION/APPROVAL OF REPORT ON MEDIATED VERSION OF PHYSICAL PLANNING BILL

**Hon. Aden Duale** (Garissa Township, JP): Hon. Speaker, I beg to give notice of the following Motion:

THAT, pursuant to the provisions of Article 113(2) of the Constitution and Standing Order 150, this House adopts the Report of the Mediation Committee on the Physical Planning Bill (National Assembly Bill No.34 of 2017) laid on the Table of the House on Wednesday, June 12<sup>th</sup> 2019 and approves the mediated version of the Physical Planning Bill (National Assembly Bill No.34 of 2017).

**Hon. Speaker:** Next Order!

## ORDINARY QUESTIONS

**Hon. Speaker:** The first Question is by the Member for Embakasi Central, Hon. Benjamin Mwangi.

*Question No.246/2019*

## ISSUANCE OF TITLE DEEDS TO RESIDENTS OF EMBAKASI CENTRAL

**Hon. Benjamin Mwangi** (Embakasi Central, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Lands and Physical Planning:

(i) whether she is aware of a Presidential directive of 30<sup>th</sup> May, 2018 ordering that title deeds to all parcels of land in Eastlands area of Nairobi City County, particularly those in Embakasi Central Constituency, be issued;

(ii) whether she is further aware that residents of Embakasi Central Constituency which entirely falls within Eastlands area of Nairobi City County are yet to receive their title deeds more than a year later;

(iii) what measures the Ministry has put in place to ensure that the rightful plot owners, public schools and other public institutions in Embakasi Central Constituency are expeditiously issued with title deeds to safeguard against grabbing of land, which is common in most of Eastlands area, and curb irregular allocations to individuals.

**Hon. Speaker:** The Question will be answered to before the Departmental Committee on Lands.

The next Question is by the Member for Tigania West, Hon. (Dr.) John Kanyuithia Mutunga.

*Question No.253/2019*

## NON-ABSORPTION OF NYS GRADUATES INTO DISCIPLINED FORCES

**Hon. John Mutunga** (Tigania West, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Public Service, Youth and Gender Affairs:

(i) could she explain the extent to which the recruitment of young people into the National Youth Service is beyond reproach and guided by the national values and principles of governance as well as equity and merit;

(ii) could he also explain the reasons for non-absorption of those recruited into the service into the disciplined forces through prioritised recruitment approach;

(iii) what efforts the Ministry has put in place to improve on the intensity, scope and diversity of NYS recruits in order to secure some years of national service by pre-college students without necessarily having to go through military training.

**Hon. Speaker:** The Question will be responded to before the Departmental Committee on Administration and National Security.

The next Question is by the Member for Kilifi South, Hon. Richard Ken Chonga, who has written to me requesting that the Question be deferred to Wednesday, next week. I have acceded to the request. Therefore, the Question is deferred.

*Question No.256/2019*

STATUS REPORT ON INQUIRY INTO CAUSES OF TEENAGE PREGNANCIES

*(Question deferred)*

**Hon. Speaker:** The next Question is by the Member for Ikolomani, Hon. Benard Masaka Shinali.

*Question No.257/2019*

AMOUNT OF MONEY ALLOCATED TO SUGARCANE RESEARCH

**Hon. Benard Shinali** (Ikolomani, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Agriculture whether he could explain how much money the Government has allocated to sugarcane research for improvement of seed quality and new methods of farming, including training of farmers in the last five years.

**Hon. Speaker:** The Question will be responded to before the Departmental Committee on Agriculture and Livestock.

The next Question is by the Member for Matayos, Hon. Geoffrey Odanga.

*Question No.258/2019*

MEASURES TO CURB INFLUX OF  
COUNTERFEIT/CONTAMINATED PRODUCTS

**Hon. Geoffrey Odanga** (Matayos, JP): Hon. Speaker, I rise to ask the Cabinet Secretary for Industry, Trade and Cooperatives whether he could outline the steps, if any, the Ministry is taking to address the influx of counterfeit products in the Country, and state the role of KEBS in managing the proliferation of counterfeit as well as contaminated products, especially the presence of sugar containing traces of mercury and copper.

**Hon. Speaker:** The Question will be responded to before the Departmental Committee on Trade, Industry and Cooperatives.

The last Question is by the Member for Ruaraka, Hon. T.J. Kajwang’.

*Question No.260/2019*MEASURES TO PROTECT TEACHERS FROM  
ARBITRARY DISCIPLINARY ACTION

**Hon. T.J. Kajwang'** (Ruaraka, ODM): Hon. Speaker, I rise to ask the Cabinet Secretary for Education:

(i) whether he is aware that Teachers Service Commission (TSC) issued letters of “show cause” and interdiction against teachers being Members of Kenya National Union of Teachers (KNUT) when the said teachers were performing lawful duties of sensitising KNUT membership on the implementation of Competency Based Curriculum (CBC) by Ministry of Education;

(ii) whether he is further aware that a number of officials of KNUT were later accused of incitement and disruption of order on the implementation of Competency Based Curriculum by the Ministry of Education, their employer;

(iii) what administrative measures, if any, the Ministry of Education is taking to protect teachers from arbitrary disciplinary processes.

**Hon. Speaker:** The Question will be responded to before the Departmental Committee on Education and Research. There was obviously nothing out of order up to that point.

There are two requests for statements.

**Hon. Benjamin Washiali** (Mumias East, JP): On a point of order, Hon. Speaker.

**Hon. Speaker:** What is your point of order, Hon. Washiali?

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Speaker. On 7<sup>th</sup> March 2019, I rose in my place, with your permission, to ask a Question to the Director of Public Prosecutions (DPP). That was three months ago. Unlike what we know about the DPP in terms of efficiency, to-date, they have not responded to my Question after you authorised that it should be given a written reply. I request you to order that this Question be responded to as soon as possible.

Thank you.

**Hon. Speaker:** Yes, I recall you sought a written reply. Therefore, this is just a reminder that it is wrong to take that long. It is not right. Therefore, the Clerk is directed to do a reminder to the Director of Public Prosecutions (DPP) about that Question, requiring that a written response be provided to the House and to you within the next seven days.

**REQUESTS FOR STATEMENTS**ESCALATING CASES OF HUMAN-WILDLIFE  
CONFLICT IN KAJIADO EAST CONSTITUENCY

**Hon. (Ms.) Peris Tobiko** (Kajiado East, JP): Thank you, Hon. Speaker. Pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Environment and Natural Resources on the escalating cases of human-wildlife conflict in Kajiado East Constituency.



There are currently very serious cases of human-wildlife conflict in Kajiado East Constituency, Kajiado County, which have continued to cause mayhem and even deaths to people as well as destruction of their properties. A case in point is the recent killing of three people in Merrueshi area by marauding elephants.

Eight schools have closed in Poka Kenyawa Ward which is in my constituency. They are, namely: Nemasi, Enkonerei MCK, Oldonyo Lenkai, Ilkelunyeti, Olkatetemai, Oldonyo Sambu, Oltukai and Kyulu. Students are now stranded following the forceful closure of these schools by parents in fear of more elephant attacks.

The Government, through the Ministry of Forestry and Wildlife and other related agencies has not addressed this challenge comprehensively. It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Environment and Natural Resources on the following:

- (i) What measures are being taken to bring these ongoing human-wildlife conflicts in Kajiado East Constituency to an end?
- (ii) What measures are being taken to compensate families that have been affected by these human-wildlife conflicts in the said constituency?
- (iii) What measures are being taken to normalise the security situation?

This is because the situation is bad, and the ministry has been silent. We cannot continue to be foreign exchange earners for this country, when our lives and those of our people are not protected.

**Hon. Speaker:** You sought a Statement which I approved. It did not include what you are saying now. Where is the Chairman of the Departmental Committee on Environment and Natural Resources? Hon. Members, the Chairpersons of various committees are expected to be in the House. If you look at Standing Order No.44(2)(c), you will realise that once a statement is sought, the Chairperson, Chairman or Chairwoman, as the case may be, may respond on the spot, or the Speaker may appoint a date on which the Statement should be issued. That is why the Chairpersons, Chairmen or Chairwomen are required to be present. I do not see the Chairperson, Hon. Kareke Mbiuki. Who is his Vice-Chair? Hon. Members, as we move on, Chairpersons must appreciate their positions. That is why they are required to be present in the Chamber.

The Whip of the Majority Party or the Leader of the Majority Party, do you want to give an undertaking as to when you think the Statement will be issued?

**Hon. Benjamin Washiali** (Mumias East, JP): Thank you, Hon. Speaker.

I am a ranking Member of this Committee. I just want to assure the House that Hon. Kareke who is the Chair is a very committed person. It is unfortunate that he may not be in the House now but, he is usually a very frequent Member of this House.

I have listened to what Hon. Peris Tobiko has asked. I commit the Committee, on behalf of the Chair, that we will look into the issues and have a response. Animal-human conflict....

**Hon. Speaker:** No! No! Not that! When? It is not just to say you commit. You have just raised an issue that your Question has not been responded to for more than three months. So, when is it that you are giving an undertaking, being a ranking Member of the Committee? Give a specific time.

**Hon. Benjamin Washiali** (Mumias East, JP): We will do that if you could give us a month; that is 30 days.

*(Loud consultations)*

**Hon. Speaker:** A month to give a Statement? The Hon. Tobiko has even indicated that some schools have been closed.

**Hon. Benjamin Washiali** (Mumias East, JP): I appreciate this, but as we speak and Committee Members who are here will appreciate, it is because we have very many cases of animal-human conflict that are already pending with us. Therefore, I just want to assure you that we shall prioritise this matter. We will come to this House as soon as we get a Report. We have very many issues. In fact, we should be going to Taita Taveta tomorrow. There is a spill over of fuel products which we are going to investigate. That is in Tsavo.

**Hon. Speaker:** Your Committee should pick the request, forward it to whomever it may be and, ask that you have a quick meeting. That is because she has said that schools have been closed.

**Hon. Benjamin Washiali** (Mumias East, JP): I stand advised. We should be able to respond next week.

**Hon. Speaker:** Yes! Let a Statement be issued in that regard next week; not later than Thursday of next week. Just appreciate that I am just being courteous to the Chairs to ask you how long you think you should take. I should just appoint a date. I am just trying to be courteous because I know you also have work.

The next request for a Statement is by Hon. Patrick Mariru.

#### INSECURITY IN LAIKIPIA WEST CONSTITUENCY

**Hon. Patrick Mariru** (Laikipia West, JP): Thank you, Hon. Speaker. I have a request for a Statement on the extreme insecurity in Laikipia West Constituency.

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 regarding insecurity in Laikipia West Constituency.

In the last three months, groups of armed *militia* have emerged, comprising of illegal bandits who are terrorizing residents of Sipiri, 18, Rufere, Wangwace, Kamwenje, Milimani, Matwiku and the general area. The bandits have continued to rein havoc in many parts of Laikipia West Constituency with unabated impunity, occasioning an unnecessary migration of residents to safer areas, closure of schools, theft of animals among other atrocities. For instance, in the last two weeks, a total of 166 animals from over 30 families have been stolen by bandits from various homesteads. The same have not been returned.

Numerous efforts to resolve this matter have been futile as shown by the fact that the Government has deployed police officers in the area but the attacks have nevertheless persisted and, indeed, intensified.

It is against this background that I seek a Statement from the Chairperson of the Departmental Committee on Administration and National Security on the following:

- (i) Government's commitment to protect the lives and property of residents of Laikipia West Constituency, especially those who reside in Githiga, Oloo Muran and Rumuruti Wards, and;
- (ii) Mechanisms put in place to ensure urgent action to end this menace, including, a possibility of re-arming the National Police Reservists (NPRs) in this area.

I thank you, Hon. Speaker.

**Hon. Speaker:** Hon. Mariru, maybe you could clarify. Did you say a total of 166 animals? Are they wild or domesticated?

**Hon. Patrick Mariru** (Laikipia West, JP): Indeed, it is 166 cows and goats, and this afternoon, some donkeys were stolen. I have just received a call. Just to clarify further on this, I have a list of homesteads where these animals have been stolen from. In the last one week, it has been happening almost on a daily basis. This is very urgent.

**Hon. Speaker:** The Chair of that Committee, Hon. Koinange, would you like to give an undertaking as to when you can issue the Statement? You have heard they are domesticated animals and you do not have to deal with the wild ones.

**Hon. Paul Koinange** (Kiambaa, JP): Thank you, Hon. Speaker. Maybe Hon. Mariru can give us two weeks as I have already initiated the discussion with him. I think we can do that in two weeks' time.

**Hon. Speaker:** Hon. Mariru, the Chair requests that you give him two weeks to come up with a comprehensive Statement.

**Hon. Patrick Mariru** (Laikipia West, JP): Hon. Speaker, we have had prior discussion with the Hon. Chair. I think if he undertakes to start any action immediately, we can wait for the conclusion of whatever action within two weeks. But the work should start immediately because our people are suffering.

**Hon. Speaker:** Very well. Obviously, it is also possible for wild animals to be stolen from some sanctuary that is why we needed to make that clarification.

Next Order!

## MOTION

### REPORT OF THE BUDGET AND APPROPRIATIONS COMMITTEE ON THE BUDGET ESTIMATES

THAT, this House adopts the Report of the Budget and Appropriations Committee on the Budget Estimates for the National Executive, the Judiciary and Parliament for the Financial Year 2019/2020, laid on the Table of the House on Tuesday, June 4, 2019, and pursuant to the provisions of Article 221 of the Constitution of Kenya, Section 39 of the Public Finance Management Act, 2012 and Standing Orders 235 and 239, approves the issuance of a sum of Kshs1,928,865,282,319 from the Consolidated Fund to meet the expenditure during the year ending 30<sup>th</sup> June 2020 in respect of the Votes contained in the First Schedule, and further makes the policy resolutions contained in the Second Schedule.

*(Hon. Kimani Ichung'wah on 6.6.2019)*

*(Resumption of debate interrupted on 12.6.2019 – Morning Sitting)*

*(Hon. Members walked in the gangways)*

**Hon. Speaker:** Those two Members have a problem of sitting down. You seem to be attracted to the Member for Lamu County this afternoon.

Hon. Members, as you all know today was the final allotted day for debate on this Motion and it was concluded in the Morning Sitting of the House. What remained was for the Question to be put.

*(Question put and agreed to)*

## COMMITTEE OF THE WHOLE HOUSE

*(Order for Committee read)*

*[The Speaker (Hon. Justin Muturi) left the Chair]*

### IN THE COMMITTEE

*[The Chairman (Hon. Moses Cheboi) took the Chair]*

#### THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

**Hon. Chairman:** We will now be tackling the Committee of the whole House, the Statute Law (Miscellaneous Amendments) Bill, National Assembly Bill, No.21 of 2019. It is very important that you take keen interest because we will be moving very fast. This is because we have a heavy programme this afternoon.

I will give an opportunity to Members who will press the intervention slot. That is when I will know they want to speak to specific amendments.

DISTRICTS AND PROVINCES ACT, (NO.5 OF 1992)

*(Section 2 agreed to)*

#### *Second Schedule*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, I beg to move:

THAT, the Schedule be amended, in the provisions relating to the Districts and Provinces Act, 1992, by inserting the following new amendment in its proper numerical sequence—

#### *Provision*

#### *Amendment*

Second Schedule, item 23 Delete the words “in the vicinity of Mount Zulia” appearing in the first paragraph and substitute therefor the words “within the northern spur of Mount Zulia”.

Delete the paragraph beginning with the words “thence north-easterly” and substitute therefor the following new paragraph—

“thence in a straight line north-easterly to the summit of Moruese Hill;

thence north-easterly to the tri-junction of the Kenya, South Sudan and Ethiopia border, on the southernmost spur of Mount Naita (Solka);

thence easterly to the source of River Nakua (Kibish);

thence easterly along this river to a point approximately 2.5 kilometres north of Kibish Police Post;

thence southerly to the Boundary Pillar D23”.

Essentially, this amendment is aimed at reinstating the beacons in respect to the boundaries of our territorial integrity in the northern part of our country.

*(Question of the amendment proposed)*

**Hon. Chairman:** I see two Members. Very quickly, Hon. T.J. Kajwang’.

**Hon. T.J. Kajwang’** (Ruaraka, ODM): Hon. Chairman, this is a good amendment. First of all, I think this amendment together with what is in the Bill, reinforces the provision of Districts and Provinces Act. First of all, giving the Cabinet Secretary the responsibility of making regulations is a generic provision that is given nearly in all legislations. But together with this amendment that is proposed in the Schedule, the Kenya territorial boundaries as an issue of national security would be affirmed. In fact, I hope that this amendment will cause us to delineate Migingo waters because we want to know where Migingo starts and ends. We would not like Ugandans to come freely to wade, swim or to pull those canoes and harass our people. So, I support this amendment.

**Hon. Chairman:** Very well. Let us hear Hon. Wamalwa.

**Hon. (Dr.) Chris Wamalwa** (Kimini, Ford-K): Thank you, Hon. Chairman. This is, indeed, a very critical amendment as my colleagues have clearly put it, in terms of territorial boundaries. We are aware that this had also been done sometimes back, but it should also be done in conjunction with the Ministry of Foreign Affairs. This should not just be here alone. It should be extended to other areas including where we come from like Trans Nzoia and Saboti areas. We are likely to have intruders coming from the Ugandan side particularly when it comes to grazing. Therefore, the issue of beacons and co-ordinates is a responsibility that should be handled with care.

I support.

**Hon. Chairman:** Under normal circumstances, two will be sufficient, but I will give the last one to Hon. Oundo Ojiambo. He will be the last person to speak on this because he is the only one who made a request.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Chairman, I support the amendment brought by the Leader of the Majority Party. Those of us who border Uganda know that the border runs inside the lake and a river. People are continuously harassed and beaten senselessly. I will request that the same beacons be placed in the territorial waters of Lake Victoria to delineate the border between Kenya and Uganda so that we do not have cases of mistreatment and harassment of our people.

Secondly, fish in the lake do not have passports and they do not know boundaries. These are some of the discussions that we should have so that we allow our people to fish all over the country.

Thank you.

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

*(Second Schedule as amended agreed to)*

*(Provisions relating to the Districts and Provinces Act  
(No.5 of 1992) as amended agreed to)*

#### THE MERCHANT SHIPPING ACT (NO.4 OF 2009)

**Hon. Chairman:** Order, Hon. Members! Let me clarify. There are two proposals here. One is by the Chairperson of the Departmental Committee on Transport, Public Works and Housing, Hon. Pkosing, while the other one is by Hon. Abdullswamad. If Hon. Pkosing's amendment is taken in terms of deletion, then the one by Hon. Abdullswamad falls.

Hon. Abdullswamad, what is it?

**Hon. Abdullswamad Nassir** (Mvita, ODM): Hon. Chairman, you need to guide the House to understand because there is confusion with regard to this proposal. I stand guided by your ruling and I agree with it. The first thing is that if our proposal, on behalf of the others, is agreed to, then the one by the Chairperson of the Departmental Committee on Transport, Public Works and Housing has to fall.

**Hon. Chairman:** Just a minute Hon. Member. Let me clarify that properly. Both the Chairperson of the Departmental Committee on Transport, Public Works and Housing and Hon. Abdullswamad intends to do the same thing. They are proposing a deletion. That is normal and you know it happens all the time.

Hon. Abdullswamad is a senior Member of this House. We give priority to the Chairperson of the specific Committee. So, we will start with the proposal by the Chairperson of the Departmental Committee on Transport, Public Works and Housing. You will have a choice of either passing it or otherwise. Whatever you decide will be up to you. I do not need to make any clarification. The clarification should be made by the Chairperson of the Departmental Committee on Transport, Public Works and Housing.

Let us hear from the Chairperson.

#### *New Section 4A*

**Hon. David Pkosing** (Pokot South, JP): Thank you, Hon. Chairman. I beg to move:

THAT, the Schedule to the Bill be amended in the provisions relating to the Merchant Shipping Act, No.4 of 2009, by—

(a) deleting the proposed New Section 4A; and

The rationale is that I am deleting and substituting...

**Hon. Chairman:** Hon. Pkosing, we will deal with the proposal of New Section 4A first. The issue that you have with Hon. Abdullswamad is in the second proposal. So, let us start with 4A.

**Hon. David Pkosing** (Pokot South, JP): Hon. Chairman, I am proposing a deletion on New Section 4A.

**Hon. Chairman:** Hon. Pkosing, stop there for now and give us the justification of why you are proposing to delete New Section 4A. We will clear it and then move on to the next one.

**Hon. David Pkosing** (Pokot South, JP): Hon. Chairman, I am proposing to delete it because if you look at the original amendment in the Statute Law (Miscellaneous Amendments), you will find that it was not clear. It was giving unfettered powers to the Cabinet Secretary (CS) for Transport, Infrastructure, Housing and Urban Development. When we moved it during the Second Reading, Members were uncomfortable with that proposal. We were also uncomfortable with it as a Committee. We wondered how a CS can be given powers to override an Act of Parliament. That was going a bit too far. Therefore, we are proposing to delete that provision.

Two, there was no proper public participation at that level. So, we took the initiative of inviting people and concerned organisations including...

**Hon. Chairman:** Fair enough. You have clarified that. You are proposing a deletion which is the same thing that Hon. Abdullswamad is proposing. The only thing I can do is to propose the Question.

*(Question of the amendment proposed)*

Let us hear the Leader of the Majority Party.

*(Hon. (Dr.) Chris Wamalwa spoke off record)*

**Hon. Aden Duale** (Garissa Township, JP): Yes, in the absence of Hon. Mbadi, Hon. Junet and Hon. Mbui the substantive leader of the Minority party is Hon. Wamalwa.

I want to support the Chairperson of the Departmental Committee on Transport, Public Works and Housing because I am the owner of the Bill. If you look at the Bill, in this amendment, you will find that the CS is given sweeping powers. That, he can even decree that the Kenya National Shipping Line should not pay tax. If I may read it, it says:

“The Cabinet Secretary may on the recommendation of the Authority in notice on the gazette and subject to such consultation may appropriately exempt any Government entity or enterprise from any provision of the Act”

Therefore, it is giving the CS a blank cheque. So, the Chairperson of the Departmental Committee on Transport, Public Works and Housing is right in proposing that we delete that and then agree that it is only in as far as the Kenya National Shipping Line is concerned.

So, I support.

**Hon. Chairman:** Where the problem is, is on the next proposal. On this proposal, there is agreement by all parties. So, where you should be having an issue is on the proposal of inserting a new amendment.

Hon. Wamalwa, I had given you an opportunity before. Anyway, because you have the microphone, you can take the Floor.

**Hon. (Dr.) Chris Wamalwa** (Kimini, FORD-K): Thank you, Hon. Chairman. The issue of the Kenya National Shipping Line is critical. In fact, it is not just an issue of the coast

alone, but a national issue. It is dangerous to give the CS a blank cheque. I am happy to note that the Committee did public participation which is enshrined in our Constitution. Therefore, I support the proposal by the Chairperson of the Departmental Committee on Transport, Public Works and Housing of deleting New Section 4A.

**Hon. Chairman:** Fair enough. Since Hon. Abdullswamad has proposed a deletion on the same provision, it is only fair that I give him an opportunity, given that his proposal will fall on its face and he will have nothing to say. So, let us hear from him on this one.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you, Hon. Chairman. It is important that we are all in agreement. There is no one who is disagreeing with the Chairperson of the Departmental Committee on Transport, Public Works and Housing that the CS should not have sweeping powers. The only part where we will be in disagreement...

**Hon. Chairman:** Order, Hon. Nassir! What I am requesting you to do is that you only deal with the position of the deletion because you will have an opportunity on the next proposal. So, just deal with this.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Thank you, Hon. Chairman. I am in agreement with the first part that we delete New Section 4A that gives powers to the CS.

**Hon. Chairman:** Very well. Hon. Ichung'wah.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Chairman, I support the deletion. I spoke to this in the Second Reading of this Bill. If you look at the history of this country and how parastatals were looted in the 1980's and 1990's, it was following the provision of such an amendment. I commend the Chair and the Departmental Committee on Transport, Public Works and Housing for deleting that otherwise, we were preparing an avenue for massive looting of parastatals in this country through such amendments. We should be very careful with amendments that come through this Statute Law (Miscellaneous Amendments) Bill.

I support the deletion.

**Hon. Chairman:** That is okay, Hon. Members. When I give you an opportunity you might miss out on the next one. This is a deletion which everybody seems to be agreeing to.

Let us have Hon. Mwashetani.

**Hon. Khatib Mwashetani** (Lungalunga, JP): Thank you, Hon. Chairman. I just wanted to get some clarification. We are talking about an amendment which will have an impact on Hon. Sheriff Nassir's amendment. If this one goes through, are you telling us that Hon. Sheriff's is going to be debated. This is because the moment we give the CS powers to exempt the Kenya National Shipping which is owned by two entities, the Government as a shareholders and a private entity... So, the moment we delete and specify, we should also consider the further amendment.

Please give us direction.

**Hon. Chairman:** No! There is no direction that I am supposed to give you Hon. Mwashetani, the reason being that Hon. Nassir was in agreement with that particular amendment by the Chairman. Now, you are already anticipating the next one and you have also taken the opportunity of your speaking to the next one because I am trying to balance the House. I have given you an opportunity. You have actually spoken to the next one.

*(Loud consultations)*



Order, Hon. Members! That is the position. Hon. Mwashetani, I gave you an opportunity but you spoke to the next one. This one is a deletion. Let us have Hon. Baya Yaa.

**Hon. Owen Baya** (Kilifi North, ODM): No! I would like to speak to the next one.

**Hon. Chairman:** Then I will proceed and put the Question.

*(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)*

*(New Section 4A as amended agreed to)*

*New Section 6(I)*

**Hon. Chairman:** We will start again with the Chair of the Departmental Committee on Transport, Public Works and Housing because he is top on the list here.

**Hon. David Pkosing** (Pokot South, JP): I thank you, Hon. Chairman

**Hon. Aden Duale** (Garissa Township, JP): On a point of order.

**Hon. Chairman:** What is it the Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, you have seen what Hon. Mwashetani has done. We are not in Lunga Lunga fish market. He has just crossed. Just because the matter before the House is so hot, he has forgotten the rules.

**Hon. Chairman:** Now that Hon. Mwashetani has self-regulated himself, I think there is no reason for more punitive steps to be taken. Let us have the Chair please. There must be something very interesting there.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): On a point of Order.

**Hon. Chairman:** What is your point of order again Hon. Ichung'wah.

**Hon. Kimani Ichung'wah** ( Kikuyu, JP): Hon. Chairman, when the Leader of the Majority Party pointed out Hon. Mwashetani crossing as he walked to the Bar, I noticed he was wearing shoes which look like sneakers to me. Probably Hon. Chairman, you should ask him to stand at a position where we can all see what he is wearing. We must take the business of the House seriously; we cannot be dressed like this.

**Hon. Chairman:** Order, Hon. Members! Sometimes we waste the time of the House by giving ourselves an opportunity to see how Members are dressed here. It is about time that Members started learning to dress decently. There must be shoes and suits for different occasions. I think this is a very small issue. It had been ruled by the Speaker himself. We must now be a bit more serious. I do not even want to go to the issue of whether Hon. Mwashetani is properly dressed or not. But I can assure you next time when we see Members dressed in that manner we will take very punitive measures because we have to be very serious as a House. We have to maintain decorum.

Proceed Hon. Chair.

**Hon. David Pkosing** (Pokot South, JP): I thank you, Hon. Chairman. Allow me then to move this amendment as it is.

**Hon. Abdullswamad Nassir** (Mvita, ODM): No!

**Hon. David Pkosing** (Pokot South, JP): Hon. Chairman you need to protect me or else we will ask people to declare interest.

**Hon. Chairman:** Hon. Nassir, you know you would also like to be heard in the next one in silence. Would you imagine if another Member would be shouting the way you are? You would obviously not be comfortable. So, please let us maintain decorum in the House. I intend to enforce some rules now because I think there is a lot of excitement that I cannot understand.

**Hon. David Pkosing** (Pokot South, JP): Thank you, Hon. Chairman for protecting me, otherwise, we would ask people to declare interest.

Hon. Chairman I beg to move:

THAT, the Schedule to the Bill be amended in the provisions relating to the Merchant Shipping Act, No.4 of 2009, by—

(b) inserting the following new amendment in its proper numerical sequence—  
6(1)

s.1 Insert the following new subsection immediately after subsection) (1)-  
“(1A) The provisions of subsection (1) shall not apply to the Kenya National Shipping Line.”

What are my reasons? This amendment is aiming at operationalisation of the Kenya National Shipping Line (KNSL) as it is. Why do we need to operationalise? This institution has been in place for many years from 1980's up to now and it was not operational. It was not doing business because of the law. So, why do we want to make it operational now?

I said earlier on when I was making a contribution that this amendment is aimed at allowing the Republic of Kenya to own a ship. It is as simple as that. To just own a ship is not difficult. The reason we want to operationalise it now - I appeal to Members, the House and the Chair – is that this country has been doing a lot of campaigns on the blue economy. We have spent a lot of money in doing blue economy campaigns and mobilisation of resources so that we can benefit.

Without the operationalisation of the Kenya National Shipping Line what will happen is that the campaign that we have been doing on blue economy will benefit private individuals who are being used to oppose the Government. People should declare interest. They do not want the people of Kenya to benefit.

We did public participation on this one and I had more than 100 people from Mombasa and they almost cried in Parliament. I also invited Members from Mombasa. People were crying that this country should operationalise Kenya National Shipping Line so that we tap into the resources that we have built through the blue economy which has been led by our President. I plead with the House and with the Chair to agree. We will have helped our country and our President in achieving the blue economy.

I thank you and ask that we support this amendment

*(Question of the amendment proposed)*

**Hon. Chairman:** Hon. Members, since I see that this is a fairly emotive area, I am going to give four Members a chance and then the decision will be made. If this one is taken, the one by Hon. Nassir will fall. So, I will give an opportunity to four Members starting with the Leader of the Majority Party.

**Hon. Abdullswamad Nassir** (Mvita, ODM): No!

**Hon. Chairman:** Hon. Nassir, please listen to your colleagues so that you can convince them as well.

*(Hon. Abdullswamad consulted loudly)*

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, Hon. Nassir, the Chair of Public Investments Committee (PIC) is misbehaving. The Chair of Transport did not do...

*(Hon. Abdullswamad consulted loudly)*

That is Section 16. What is happening Hon. Nassir?

**An Hon. Member:** He is becoming unruly.

**Hon. Chairman:** The Leader of the Majority Party, please, proceed.

**Hon. Aden Duale** (Garissa Township, JP): The new proposed amendment to Section 16 of the Merchant Shipping Act No.4 of 2009 which we are amending seeks to review or revive the Kenya National Shipping Line (KNSL). Every country in the world has a shipping line. Even Ethiopia which is landlocked has a shipping line. There is no way we can develop a blue economy and improve on the port operations without having our own shipping line with our flag. Every day, we receive ships. So, what is the amendment trying to do?

*(Loud consultations)*

**Hon. Chairman:** Hon. Members, let us listen to each other.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, let me go on record that the Port of Mombasa in the Fourth Schedule of the Constitution is a national entity. It is not for the Coast only. That is where we are going wrong. If you look at the Constitution in the Fourth Schedule, you will find that the Port of Mombasa is not a community affair. It is a national asset.

**Hon. Chairman:** What is it the Leader of the Minority Party?

**Hon. John Mbadi** (Suba South, ODM): Thank you, Hon. Chairman. I can see a lot of agitation and a little bit of excitement. But, some of us have not understood this. Therefore, we would expect to have a quiet House so that we can listen, understand each other and then make a decision from an informed position. Let me request Hon. Nassir, the Chair of Public Investments Committee to allow us...The way he expresses himself, we may even support him stronger after listening to each other so that we can understand. Otherwise, we will vote from a point of lack of information.

**Hon. Chairman:** As the Leader of the Majority finishes his contribution, Members, at the end of this, you will make your decision. The kind of high tones you are raising on the Floor of the House can be well utilized when taking a vote. What you are doing now is not going to add to anything. It does not convince anybody because there is nothing you are explaining to Members. So, can we give each other an opportunity to be heard and then the decision will be made by you?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, in one minute, what the amendment to Section 16 is trying to do is to open up for the KNSL not to be restricted from providing services of crewing agency, pilotage and clearing and forwarding as provided for under Section 16 of the Act. I want to make it clear that there are other private entities that occupy space in the Port of Mombasa like Maersk and other businessmen. Maybe, Hon. Nassir

must declare interest because he is representing some business in Mombasa. So, we must agree. I support.

**Hon. Chairman:** Hon. Kamoti Mwamkale. Once we have heard Mwamkale, because this is not a localized affair I will give Members from other areas.

**Hon. William Mwamkale** (Rabai, ODM): Thank you, Hon. Chairman. I rise to oppose what the Chair is saying when he talks about operationalising KNSL. What we have now is not worthy calling KNSL. He should tell this House the shareholding of KNSL. Private firms like Maersk own 47 per cent of KNSL and only 53 per cent is left to Kenya Ports Authority (KPA). When we say we are operationalising KNSL, we are giving national assets to a shipping line that is owned by foreigners and we are saying “No” because this is circumventing...

*(Loud consultations)*

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): On a point of order, Hon. Chairman.

**Hon. Chairman:** What is it Hon. Mbarire?

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): Hon. Chairman, the Member has made a very serious allegation that KNSL has some percentage of ownership by a private company. We want evidence because this is not a House of rumours. Can he produce evidence because there is no way... This is a national resource! We cannot allow...

**Hon. Chairman:** The Deputy Majority Whip has risen on a point of order. So, there can be no other Member making a point of order. She has made a varied point of order. Hon. Mwamkale, as you contribute, you must also qualify what you are saying so that we do not operate on rumours. Use the next microphone.

**Hon. William Mwamkale** (Rabai, ODM): Thank you, Hon. Chairman. Given time, I can produce documents. I am talking as the Member for Rabai. We were with the blue economy team. They summoned us and told us at the Kenyatta International Conference Centre (KICC) that Maersk owns 47 per cent while the KPA owns 43 per cent of KNSL. Therefore, when we say we are operationalising KNSL, we are inviting foreigners to take charge of the Port. We are privatizing the Port, and we should not allow this. There are hidden issues, and yet the Chair is not coming out clearly. So, I oppose the operationalisation of KNSL.

**Hon. Chairman:** You have made your point. Hon. Mutemi Mulyungi.

**Hon. Gideon Mulyungi** (Mwingi Central, WDM-K): Thank you, Hon. Chairman. I rise to support the amendment as a Member of the Departmental Committee on Transport, Public Works and Housing. I know there are some people who have been given money. The KNSL is a parastatal and we want it to own a ship. If this amendment is not passed, it will never own a ship.

*(Loud consultations)*

**Hon. Chairman:** Hon. Members, if you are not going to maintain some decorum, I will put the Question. If you are not listening to each other, it will be pointless to give an opportunity to any Member. It is as simple as that. So, what is the purpose of giving out an opportunity to a Member to contribute if no one wants to listen to the other? I will put the Question, unless you listen to each other. Let us have Hon. Baya Yaa. If people will not listen to him, I will cut him short and put the Question. I will gauge the situation. If people are not listening to you, I will cut you short and put the Question.

**Hon. Owen Baya** (Kilifi North, ODM): Hon. Chairman, what I would like to do is to propose a middle ground. My middle ground is that we approve the proposal by the Chairman, but also take the proposal by Abdullswamad so that we can have the Kenya National Shipping Line being operationalised. But we put a clause to provide that it should be 100 per cent owned by Kenyans. This is so, so that we have a middle ground. If we have a middle ground, all this noise will end.

**Hon. Chairman:** Hon. Members, if you were listening to Hon. Baya Yaa, you probably would have seen that there is a resolution that can be got out of this.

**Hon. Owen Baya** (Kilifi North, ODM): Yes, we have both clauses coming in.

**Hon. Chairman:** What Hon. Baya Yaa is proposing is that you proceed and pass the amendment by the Chair and then we come and include the interest of the other. Is that not a bit easy? So, I put the Question.

*(An Hon. Member consulted loudly)*

**Hon. Chairman:** Hon. Fatuma! Which Fatuma is that now? There are two loud Fatumas in this House. You know, Hon. Members, if you want to vote “Aye” there is an opportunity for you to do so. If you want to vote “Nay”, you will also have an opportunity to do so.

Hon. Abdullswamad, you know you are a very serious Member of this House. There is a proposal that has been given by Hon. Baya Yaa that once this one is passed, the other one will be incorporated. It is not my business to make the decision. It is your business and you know when you are supposed to vote. I will give you that opportunity. This is what I am going to do now. So, I proceed to put the Question.

## DIVISION

*(Question put and House divided)*

**Hon. Chairman:** Hon. Members, we will count the numbers. If you have the numbers, we go to division. So, count the Members standing. Let us count the Members. Anybody who wants to sit, sit.

*(Loud consultations)*

*(Several Hon. Members stood up in their places)*

Order, Hon. Members! Now, you do not even want to listen to what I am telling you. There are 30 of you who have stood. So, we are going into a division. Is that not as simple as that? You will cast your vote and you will be heard. You will see whether you have taken it or not. It is as simple as that. Let the Division Bell be rung for ten minutes.

*(The Division Bell was rung)*

**Hon. Chairman:** Order Members! Take your seats. We will proceed to vote. Members, let us vote. We will give Members an opportunity to vote. Place your cards.

*(Loud consultations)*

Members, your 10 minutes are over. We are now proceeding to vote. I am now ordering the Bars to be closed. Stop the Bell. Close the Door.

*(The Bars were drawn and the doors closed)*

There is no reason for any excitement. You will take your vote. It is your right. No Member will be allowed to walk out or in. Hon. Members, do you have your cards? Hon. Members, I can see you are now ready. It is your time to make your decision by voting. I want to be sure that Members have their cards. Do you have your cards?

**Hon. Members:** Yes!

**Hon. Chairman:** Do all of you have your cards? We will also be considerate to those Members who do not have cards. As the Question is displayed, you will vote “Aye” or “Nay”. Those who do not want to take any side will abstain. The excitement should be over now. We are getting into the meat of it.

Let me first allow the Question to be displayed and then you make your decision. We will vote first before we entertain any points of order or anything else. I have made the decision, Hon. Mbarire. You are a Whip. There will be Members who will vote “Aye” and others “Nay”. We will allow those who want to abstain to do so. We will also allow all Members to vote. Those who have cards will vote, those who do not have cards will also be allowed to vote. I do not think there should be any excitement. All of you will be heard.

Hon. Members, please, remove your cards. Let us make it quick so that we can move forward. Remove your cards, Hon. Members. There are still six Members who have not removed their cards. Hon. Fatuma Gedi, Hon. Mwamkale, Hon. Mulyungi Mutemi, Hon. Shinali and Hon. Wamacukuru Kamau of Kabete, remove your cards. We are having some issues with the system.

*(Loud consultations)*

Hon. Members, kindly log in using your cards. Hon. Junet, you cannot log in using your card while standing. Those who have no cards know where to go; they are led by the Leader of the Majority Party.

*(Loud consultations)*

**Hon. Chairman:** Hon. Members, kindly log in quickly because after 60 seconds, those who will not have logged in will be locked out. So far, 62 of you have logged in and we have only 20 seconds to go. Please within 20 seconds, if your card will not be reflected in the system, then you will not vote. Sixty four Members have logged in. The 20 seconds are over. The system will be fine. I can see 67 Members have logged in. Do not vote. Come with your card. Anybody else whose card is not working, come this way with your card. That is enough. We will now proceed and vote.

**An Hon. Member:** The machines are not working.

**Hon. Chairman:** The Question is that the Bill be amended by inserting new Section 16(1) as proposed by the Chairperson of the Departmental Committee on Transport, Public Works and Housing. Proceed now and vote.

*(Voting in progress)*

Relax! You will have your opportunity to vote in one way or the other. We are pursuing what is happening here. Hon. Members, be patient. You will exercise your right. We expect this process to start very soon. So, relax completely.

*(Hon. William Chepkut consulted loudly)*

Order, Hon. Chepkut! Please, remain there. Start voting now. We have started voting. You will not cross the Floor from there. The machine is working very well here. You can come and see it. The electronic voting has ended. We are waiting for the manual voting. You can come and see the results.

*(Voting in progress)*

*(An Hon. Member spoke off record)*

You are out of order completely. Hon. Members, take your seats now. We are through with the voting process. Take your seats. Hon. Members, you must be as orderly as possible for you to listen to the results of the voting process.

For the “Ayes”, 20 Members voted electronically while 8 Members voted manually. The total is 28. For the “Nays”, 31 Members voted electronically while 16 Members voted manually. The total is 47. One Member abstained. Therefore, the “Nays” have it.

*(Question negatived by 47 votes to 28)*

**AYES:** Messrs Aden Duale, William Chepkut, Peter Kaluma, Kareke Mbiuki; Ms. Cecily Mbarire; Messrs Ahmed Gaal, Dominic Koskei, Gideon Mulyungi; Ms. Peris Tobiko; Messrs Jimmy Angwenyi, Chris Wamalwa, James Wamacukuru, Ferdinand Wanyonyi, Dr. Victor Munyaka, Joseph Limo, Jonah Mwangi, Peter Lochakapong, Martin Owino, Peter Masara, John Mbadi, Ezekiel Ombaki, Adan Keynan, Dr. Wilberforce Oundo, David Pkosing; Dr. Naomi Shaban, Messrs Junet Nuh, Ben Momanyi and Owen Baya.

**NAYS:** Ms. Naisula Lesuuda, Ms. Fatuma Gedi ; Messrs Abdulswamad Nassir, Gladwell Cheruiyot, Charles Nguna, Joshua Kandie, Mbogo Ali, Said Hiribae, William Mwamkale, Patrick Musimba, Marwa Kitayama, Stanley Muthama; Ms. Janet Ong’era; Messrs Mohamed Abdikhaim, Chachu Ganya, John Mutunga, Ali Sharif, Lemanken Aramat, William Cheptumo, Mohamed Duale; Ms. Faith Gitau; Messrs Hassan Hulufu; Ms. Nasri Ibrahim, Ms. Rehema Jaldesa; Messrs Kassait Kamket, Paul Katana, Peter Kimaru, Nelson Koech, Paul Koinange, Gideon ole Konchela, Hilary Kosgei, Caleb Kositany, Leonard Yegon, Nimrod Mbai, Ms. Haika Mizighi, Michael Muchira, Stephen Mule, Japheth Mutai, Khatib Mwashetani, Ndindi Nyoro;

Ms. Ruweida Obo, Messrs Richard ole Kenta, Christopher Omulele, Dr. Eseli Simiyu, T. J. Kajwang', Abdi Tepo and Ms. Rahab Mukami.

**ABSTENTION:** Mr. Makali Mulu.

*(Applause)*

**Hon. Chairman:** Draw the bars and open the doors so that we can proceed. There is no contribution on this amendment. We will go to the amendment by Hon. Abdullswamad Nassir. Move your amendment.

*(Loud consultations)*

Let us proceed quickly. Hon. Nassir, you have the Floor.

*(Loud consultations)*

**Hon. Chairman:** Proceed. Hon. Abdullswamad, please, be brief because it is fairly straightforward now.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Hon. Chairman, the reason there has been much confusion – and I thank the House and every Member - is because this has shown how lively and democratic the House is.

Hon. Chairman, I beg to move:

THAT, the Bill be amended in the Schedule in the provisions relating to the Merchant and Shipping Act by-

(a) deleting the proposed new section 4A; and,

(b) inserting the following new amendment in its proper numerical sequences.

s.16(1) “(1A) The provisions of subsection (1) shall not apply to a shipping line wholly owned by the government.

Thank you.

**Hon. Chairman:** You do not need to justify it. It is fairly straightforward.

**Hon. Abdullswamad Nassir** (Mvita, ODM): Hon. Chairman, allow me just 30 seconds to justify it. It is important and I am glad about the democratic space in the House. Our interest is very simple. Kenya needs to have a vibrant fishing line and have its seafarers to have jobs, but not at the expense of selling our ports. The amendment makes it very clear that a shipping line wholly owned by the Government, meaning the people of this country will run the terminal. If we run it efficiently, this country can buy three ships annually that are wholly owned by Kenyans and not Italians or anyone else.

Thank you.

*(Question of the amendment proposed)*

**Hon. Chairman:** I will give a chance to only two Members. On top of the list is Hon. Mbai Mbithuka and Mizighi Mnene.

**Hon. David Pkosing** (Pokot South, JP): On a point of order, Hon. Chairman.

**Hon. Chairman:** What is it, Hon. Chairman?



**Hon. David Pkosing** (Pokot South, JP): Hon. Chairman, I want to seek your clarification. Of course, it is the mood of the House and it has made its decision, but I want to be on record because next week, I am going to bring something that is equivalent to this one. Let us look at it from the legal perspective. Is it implementable? I am not against it and that is why I am seeking clarification.

*(Loud consultations)*

Hon. Chairman, it is okay. The issue here is in implementation and what is legal. If we say “wholly owned” and it is not wholly owned now, then it would have meant we make it 100 per cent Government owned. Once we make it 100 per cent Government owned, it would become implementable. That is the clarification I wanted to seek.

**Hon. Chairman:** In terms of implementability, once the National Assembly makes a law, it is enforceable. It is as simple as that. Once that has been done, I do not think there will be an issue. It will be implementable because we are the law-making body.

I will give a chance to the Leader of the Majority Party. Proceed, Leader of the Majority Party as I pick one other Member from this other side.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, Hon. Abdullswamad’s amendment is in order in the framework of the law. I have caused him a lot of fit this afternoon, but I am here to defend the Government. So, what Hon. Abdullswamad is saying is that even in future, the only time (i) will apply is if that shipping line will be wholly owned by Kenya. There is nothing wrong with that. Because it is already 4.26 p.m. and we have other amendments, let us dispose it off and I continue with my other work.

**Hon. Chairman:** Hon. Mbogo and he will be the last one. Take a minute.

**Hon. Mbogo Ali** (Kisauni, WDM-K): Thank you, Hon. Chairman. First and foremost, I want to thank the Members who opposed the amendment.

Secondly, I strongly support the amendment moved by Hon. Sheriff Nassir. Why? The Kenya National Shipping Line is owned by two entities: the Kenya Ports Authority, a public entity with 53 per cent and the 47 per cent is by Maersk, a private entity originating from Italy.

**Hon. Chairman:** That would have been for the previous one. It is okay now.

**Hon. Mbogo Ali** (Kisauni, WDM-K): I want to make it very clear.

**Hon. Chairman:** Once we have said that it is wholly owned, there will be no percentages.

**Hon. Mbogo Ali** (Kisauni, WDM-K): Maersk has been promising Kenyans that they will create 200,000 jobs in five years. But all over the world where they operate, they have only created 38,000 jobs since inception.

**Hon. Chairman:** Hon. Mbogo, let us make progress. You have made your point.

*(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 Merchants Shipping Act, 2009  
(No. 4 of 2009) as amended agreed to)*

## THE ALCOHOLIC DRINKS CONTROL ACT (NO. 4 OF 2010)

*Section 2*

**Hon. Chairman:** There is a proposed deletion by the Chairman of the Departmental Committee on Administration and National Security.

**Hon. Paul Koinange** (Kiambaa, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended by deleting the proposed amendment to section 2 of the Alcoholic Drinks Control Act, 2010 (No.4 of 2010).

The justification for the amendment is to align the definition of the term “magistrate” with the word contained in the Magistrate Court Act.

*(Question of the amendment proposed)*

**Hon. Chairman:** I will give a chance to one Member. Hon. Nyoro wants to speak to this. Who else wants to speak? I do not see any interest. What is it Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, I oppose this amendment. I would like the Chair of the Committee to withdraw it.

The implication of the amendment by the Chair is in the old Act. This is a serious Government amendment. It is to open all cadres of magistrates to try offences under this Act. The proposed amendment by the Committee is to restrict some of these cadres of magistrates who hear cases under this Act due to lack of experience in handling such matters. We wanted alcoholic issues to be heard by everybody. The Chair is trying to limit it so that people are told to go to a certain magistrate. I want him to drop the amendment. He is my good Chairman. We do not want to have issues with him.

**Hon. Chairman:** Let us hear what Hon. Koinange has to say. You want to take it to the old Act, which will be a position of magistrate being described as one above the resident magistrate. Hon. Koinange, I do not know if you really want to proceed on that one.

**Hon. Paul Koinange** (Kiambaa, JP): Thank you, Hon. Chairman. We received a memorandum from Boma...

**Hon. Chairman:** Are you dropping or not? If you are not dropping, we proceed.

**Hon. Paul Koinange** (Kiambaa, JP): I am not dropping, Hon. Chairman.

**Hon. Chairman:** If you are not dropping, then we are going to put the Question.

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

*(Section 2 agreed to)*

*(Provisions relating to the Alcoholic Drinks Control Act (No.4 of 2010) agreed to)*

## THE TOURISM ACT (NO. 28 OF 2011)

*(Section 2 agreed to)*

*Section 68(f)*

**Hon. (Dr.) Victor Munyaka** (Machakos Town, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Tourism Act, 2011 –

(ii) in the proposed amendments to section 68(f) by—

(i) inserting the word “and” immediately before the word “university” in the proposed amendment to section 68(f).

(ii) deleting the words “and of such other tourism hospitality training institutions as may be established under this Act”.

The intention is to clean up the language. It is correcting the flow of the Clause so that it can have correct grammar.

*(Question of the amendment proposed)*

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

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

*(Section 68(f) as amended agreed to)*

*Section 20(2)(g)*

**Hon. Chairman:** On this particular one, you had indicated that you wanted to drop it. Are you still of that opinion?

**Hon. (Dr.) Victor Munyaka** (Machakos Town, JP): Hon. Chairman, I confirm that I am withdrawing the proposed amendment.

*(Proposed amendment by Hon. (Dr.) Victor Munyaka withdrawn)*

*New Section 67(4)*

**Hon. Ndindi Nyoro** (Kiharu, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Tourism Act No.28 of 2011 by inserting the following new amendment in its proper chronological order –

s. 67(4)(d)(ii) by inserting the words “of whom, two persons shall be nominated by universities, one person nominated by public universities and the other by private universities” immediately after the words “management or marketing”.

The intention is to include more specialties especially in the board of trustees of Kenya Tourism Fund.

**Hon. Chairman:** This is a new clause. So, you need to propose that it be read a Second Time.

**Hon. Ndindi Nyoro** (Kiharu, JP): I propose that it be read a Second Time.

Thank you, Hon. Chairman for your guidance. We are still learning. The intent of this amendment is, first of all, to put more specialities in the Kenya Tourism Board of Trustees. We are seeking to amend Section 67(4)(d)(ii) so that we can give more leeway for the appointment of two representatives: One from the private universities and the other one from the public universities; the reason being that we have expanded the beneficiaries of colleges and learning institutions that are to benefit from the Tourism Fund. Therefore, it is only good that, as Parliament, we also include those learning institutions because, by the time this Bill was being made, Utalii College was one of the institutions predominantly tasked with training of personnel within our tourism industry.

**Hon. Chairman:** Be brief.

**Hon. Ndindi Nyoro** (Kiharu, JP): We have seen proliferation of many colleges and universities training personnel within the tourism industry.

*(Question of the new section proposed)*

*(New section read the First Time)*

*(Question, that the new section be read a Second Time, proposed)*

**Hon. Chairman:** I see only one Member interested. Hon. Oundo Ojiambo.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Hon. Chairman, with profound respect to my colleague, I stand to oppose the amendment because one, the Universities Act is expressly categorical on what a university is. There is no reference to anything called private or public university. They are all universities and are all regulated by the Council of University Education (CUE). Drawing a line does not exist in law and in practice. It is essentially trying to introduce amendments to the Universities Act through the backdoor.

Thank you.

**Hon. Chairman:** Leader of the Majority Party and that will be it.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, I wanted to oppose but now I will support. He misbehaved the other time. He is providing fake news to my Deputy Whip. Of late, he has been well cultured. The previous amendment was opening it up outside universities. Tomorrow, if I put a college in Garissa, I will access this money. But it is now very critical for universities that do tourism, either public or private.

I support.

*(Question, that the new section be read a Second Time, put and agreed to)*

*(The new section was read a Second Time)*

*(Question, that the new section be added to)*

*the Schedule to the Bill, put and agreed to)*

*(Provisions relating to the Tourism Act  
(No. 28 of 2011) as amended agreed to)*

THE PUBLIC FINANCE MANAGEMENT ACT (NO.18 OF 2012)

*(Section 2(1) agreed to)*

*New Sections 39 and 39A*

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Chairman, I beg to move new Sections 39 and 39A with an amendment –

THAT, the Schedule to the Bill be amended in the proposed amendments to the Public Finance Management Act, 2012 by inserting the following new amendments in their proper numerical sequence-

s.39 Delete the words “except the Finance Bill” appearing immediately after the words “relevant Bills”.

New Insert the following new section immediately after section 39 –

Submission,  
consideration and  
passing of Finance

39A. (1) The Cabinet Secretary shall submit to the National Assembly, on or before 30th April, the Finance Bill setting out the revenue raising measures for the National Government.

(2) Following submission of the Finance Bill by the Cabinet Secretary, the relevant committee of the National Assembly shall introduce the Bill in the National Assembly.

(3) The National Assembly shall consider and pass the Finance Bill, with or without amendments, in time for it to be assented to by 30th June each year.

(4) Any recommendations made by the relevant committee of the National Assembly or resolution passed by the National Assembly on revenue matters shall-

(a) ensure that the total amount of revenue raised is consistent with the approved fiscal framework and the Division of Revenue Act;

(b) take into account the principles of equity, certainty and ease of collection;

(c) consider the impact of the proposed changes on the composition of the tax revenue with reference to direct and indirect taxes;

(d) consider domestic, regional and international tax trends;

(e) consider the impact on development, investment, employment and economic growth;

(f) take into account the recommendations of the Cabinet Secretary as provided under Article 114 of the Constitution; and

(g) take into account the taxation and other tariff arrangements and obligations that Kenya has ratified, including taxation and tariff arrangements under the East African Community Treaty.

(5) The recommendation of the Cabinet Secretary in subsection (4)(f) shall be included in the report and tabled in the National Assembly.

I beg to move that New Sections 39 and 39A be read a Second Time, with an amendment.

**Hon. Chairman:** With what amendment again? You are the one amending.

**Hon. Joseph Limo** (Kipkelion East, JP): Let me explain that, under the new....

**Hon. Chairman:** Can I first propose the Question?

*(Question of the new sections proposed)*

*(New sections read the First Time)*

*(Question, that the new sections be read a Second Time, proposed)*

Okay, proceed.

**Hon. Joseph Limo** (Kipkelion East, JP): I proceed to explain that under New Sections 39 and 39A, I intend to delete Sub-Clause 5 because it is going against....

**Hon. Chairman:** Are you deleting or dropping?

**Hon. Joseph Limo** (Kipkelion East, JP): I am dropping Sub-Clause 5. It was referring to Sub-Section 4(f).

**Hon. Chairman:** You have dropped. It is on record. Proceed with the rest.

*(Proposed Sub-Clause 5 dropped)*

**Hon. Joseph Limo** (Kipkelion East, JP): The reason for this amendment is to avoid a situation where we create a budget gap, after passing the Appropriations Bill and then we embark on the Finance Bill. That will necessitate the Supplementary Budget to be brought early, just like the last financial year. So, we are proposing that the Finance Bill be run concurrently with the Budget Estimates so that the Finance Bill and the Appropriations Bill will have been assented to together, when we close the financial year at the end of 30<sup>th</sup> June. That is so that we do not have that lapse where there will be a necessity to run a Supplementary Budget early, in the new financial year.

So, I move.

**Hon. Chairman:** Do I see any Member interested in speaking to this? No. I see no Member. I only hear a “yes” on the Floor of the House but I cannot see the person. Hon. Kimani Ichung’wah, I do not see your card at the right place. It is at the wrong place.

**Hon. Kimani Ichung’wah** (Kikuyu, JP): I have inserted it in the right place, Hon. Chairman. I was just confirming from the Chair whether he has dropped Sub-Section 5 and he confirms he has dropped it. That is the only issue that I had a problem with. Otherwise, this is a very good way of sanitising our budgetary process. We start with baking the cake, as the Chair always tells us that he is a baker, before we start to appropriate money. What we have been doing is appropriating before we know whether we have the revenues of what we are appropriating in terms of expenditure. Therefore, I support.

*(Question, that the new sections be read)*

*a Second Time, put and agreed to)*

*(The new sections were read a Second Time)*

*(Question, that the new sections be added to the Schedule to the Bill, put and agreed to)*

*Section 41*

**Hon. Joseph Limo** (Kipkelion East, JP): I beg to move:

THAT, Section 41 be deleted.

**Hon. Chairman:** Again, is it Hon. Limo? Yes, it is Hon. Limo, the Chairman of the Departmental Committee on Finance and National Planning.

**Hon. Joseph Limo** (Kipkelion East, JP): Thank you, Hon. Chairman. I beg to move that Section 41 be deleted. The reason is just to ensure that the Finance Bill will be moved before the financial year ends. Then this section will not be necessary. Therefore, we propose to delete it.

*(Question of the amendment proposed)*

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

*(Section 41 deleted)*

*(Provisions relating to the Public Finance Management Act (No. 18 of 2012) as amended agreed to)*

THE KENYA SCHOOL OF LAW ACT (NO. 26 OF 2012)

*Section 4(2)*

**Hon. William Cheptumo** (Baringo North, JP): I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya School of Law Act (No. 26 of 2012) –

(i) by deleting the proposed amendment to section 4(2);

The main reason is that the amendments are substantive in nature. They should not be moved by way of a Statute Law (Miscellaneous Amendments) Bill. We already have a taskforce established by the Attorney-General on the legal sector reforms that was to address the challenges and the liberalisation of training advocates. So, it is so serious an issue that we need to engage all the stakeholders in the sector so that if you were to widen the scope of those who are going to train lawyers, it should be done after consulting the other stakeholders. That is the essence of our proposal.

*(Question of the amendment proposed)*

The Leader of the Majority Party, I will give an opportunity to two Members. The other will be Hon. Oundo.

**Hon. Aden Duale** (Garissa Township, JP): What you are trying to do in the proposed amendment of the Chair by deleting Section 4(2) is to remove the current exclusivity enjoyed by the Kenya School of Law and open up the licensing for other education providers to train persons to be admitted as advocates under the Advocates Act.

This monopoly enjoyed by the Kenya School of Law, and they do not want to reform, is not okay. Students who go to study their degrees outside the country and the ones who study in the country have to wait for the Kenya School of Law for years to come. We cannot allow this Kenya School of Law not to be reformed and not to say that they have the discretion on when to admit. We are saying that there must be other institutions created. This thing came during the time of Prof. Githu Muigai and under the new Attorney-General; we must agree to this thing.

I oppose.

**Hon. Chairman:** But, Leader of the Majority Party, even as you oppose, I really want you to satisfy yourself with what you are pursuing. It is because the proposed deletion will actually be opening what you are trying to cure. Is that not the case? Are you supporting or opposing?

**Hon. Aden Duale** (Garissa Township, JP): What is in the Bill is opening up. The Chair is deleting it. So, I am opposing him; I am opposing his deletion. What is in the Bill is opening up. The Bill is opening up but the Chair wants to delete that and the Departmental Committee on Justice and Legal Affairs is closing.

**Hon. Chairman:** Again, I do not know. I think the Chair should confirm so that everybody is clear. When you propose a deletion, Hon. Chair, do you go back to the original state? Hon. Members, please, let us be keen. Do we go back to the status quo where it is only the Kenya School of Law that offers the training or it opens it up?

**Hon. William Cheptumo** (Baringo North, JP): Let me explain this because it is very important. This is a very serious issue.

The law, as it is, gives exclusive responsibility to the Kenya School of Law to train lawyers. The amendment to the Bill is to open up that. What we are saying, however, is that we cannot do that under a miscellaneous amendment. The reason is that the reforms we want to undertake are so wide, including engaging and involving the stakeholders. There is a task force that has already been established by the Attorney-General to look into all these issues. That is the basis for our argument. We have no problem in expanding, but the manner of expanding should be within a framework.

**Hon. Chairman:** Hon. Kioni.

**Hon. Aden Duale** (Garissa Township, JP): On a point of order, Hon. Chairman.

**Hon. Chairman:** What is your point of order, Leader of the Majority Party?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Chairman, the point of order is that we cannot anticipate in futuristic by saying that there is a reform going on and that there is a law being done. In fact, that has been the story for the last seven years that I have been the Leader of the Majority Party. Unless the Chairman of the Departmental Committee tables evidence here that he is going to bring that Bill...

**Hon. Chairman:** Now I can see there is clarity. What Hon. Cheptumo is saying is that there should be no expansion before a well-thought out process is carried out. You are saying that it should be opened immediately. So, Members can debate on the basis of that information.

Let us hear Hon. Kioni and then I will put the Question.



**Hon. Jeremiah Kioni** (Ndaragwa, JP): Thank you, Hon. Chairman. I want to agree with the Chairman of the Departmental Committee on Justice and Legal Affairs, Hon. Cheptumo. Without doubt, there is a problem at the Kenya School of Law. Reforms are required. Children are going round and round. They are not passing exams because of the exclusivity that exists there. I want to agree that we need reforms there. However, if we open it this way, then we will be opening the legal profession to quacks and brokers like it is happening in the estate agency. We will ruin the legal profession like the devolution profession was ruined by brokers. I think the Chairman of the Departmental Committee on Justice and Legal Affairs should give us a time frame within which we should consider a comprehensive reform in this area. Without that, we shall continue to have these piecemeal amendments. For now, I would rather we leave it as it is, but with commitment from the Chairman of the Departmental Committee on Justice and Legal Affairs that we will get the reforms in good time.

I support the deletion because I oppose the opening up of this institution without order.

**Hon. Chairman:** Hon. Members, let us make our decision here. I am going to put the Question.

*(Loud consultations)*

We normally give opportunity to two Members only. Why is it that you want me to give a chance to more than two Members on this matter and yet it is a very straightforward one? It is either you open up the institution or you do not!

Let me clarify again before I put the Question, if Hon. Cheptumo's position is taken, it will be maintaining the status quo where lawyers are trained at the Kenya School of Law. If, however, it is opposed, it means that lawyers can be trained anywhere. That is very clear now.

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

*(Section 4(2) as amended agreed to)*

**Hon. William Cheptumo** (Baringo North, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya School of Law Act (No. 26 of 2012)-

(ii) by deleting the proposed amendment to Section 16.

**Hon. Chairman:** Hon. Members, these are related issues and so it is going to be fairly straightforward.

**William Cheptumo** (Baringo North, JP): Hon. Chairman, the amendments are substantive in nature as I said earlier. This Section 16 actually sets out the qualifications to be attained by persons to be trained as advocates. However, this amendment wants to remove that and allow the Council of Legal Education (CLE) to set the requirements through regulations. We are saying that you cannot move away from legislation in terms of setting standards for persons to be trained as lawyers. We cannot move that responsibility to the CLE under regulations. That is the basis of our amendment.

*(Question of the amendment proposed)*

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

*(Section 16 as amended agreed to)*

**Hon. William Cheptumo** (Baringo North, JP): Hon. Chairman, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya School of Law Act (No.26 of 2012)-

(iii) by deleting the proposed amendment to the Second Schedule.

**Hon. Chairman:** Hon. Cheptumo, it is about the same thing.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Chairman, the justification for that amendment is that the amendments are substantive in nature and should not be moved by way of a miscellaneous amendment. Again, it is the same issue about qualifications. The qualifications set out in the Schedule should not be deleted. They should be retained. It is the same thing I said when I was moving the amendment under Section 16.

*(Question of the amendment proposed)*

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

*(Second Schedule as amended agreed to)*

*(The Chairman (Hon. Moses Cheboi) left the Chair)*

*(The Temporary Deputy Chairlady (Hon. (Ms.) Jessica Mbalu) took the Chair)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Members, for clarification, this means that all the provisions relating to the Kenya School of Law Act, 2012 (No.26 of 2012) have been deleted from the Bill.

*(Provisions Relating to the Kenya School of Law Act (No. 26 of 2012) as amended agreed to)*

THE LEGAL EDUCATION ACT (NO. 27 OF 2012)

*Section 8(1)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Chairman of the Departmental Committee on Justice and Legal Affairs.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Legal Education Act (No. 27 of 2012)-

(i) by deleting the proposed amendment to Section 8(1).

Let me begin with justification. Vide Statute Law (Miscellaneous Amendments) Act No. 18 of 2014, the Council of Legal Education amended the Second Schedule to make the pre-bar examination mandatory for all candidates seeking admission. We have had a problem with this law because students who qualify as lawyers in our local universities and ready to be admitted to advocates training are objecting to that provision. Having qualified as lawyers and they are supposed to be admitted to the Kenya School of Law, the requirement is that they go through pre-bar examination. This is really not fair. It was meant for students who have been studying in universities abroad. So, that is the objection. They actually went to a court of law and they got orders. This particular amendment is to bring back that particular amendment. It is what we are proposing to delete. So, if you qualify in our local universities, you go straight to the Kenya School of Law for as long as you have the requirements.

*(Question of the amendment proposed)*

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

*(Section 8(1) as amended agreed to)*

*Section 8(2)*

**Hon. William Cheptumo** (Baringo North, JP): Thank you, Hon. Temporary Deputy Speaker, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Legal Education Act (No. 27 of 2012)-

(ii) by deleting the proposed amendment to section 8(2).

The justification of that amendment is that it seeks to liberalise the training of advocates by empowering the Council of Legal Education to accredit institutions to offer the programme. This is a responsibility that is currently exclusive to the Kenya School of Law. The Kenya School of Law and the Council of Legal Education were in support of the amendment, but suggest an alternative drafting approach to the issue. So, the stakeholders were supporting the same amendment.

The amendments are substantive in nature. Therefore, they should not be moved by way of a miscellaneous amendment. The Attorney-General had a task force established and their report is done. As a Committee, we are supposed to have a look at the report and consider appropriate reforms in the sector.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Member for Funyula Constituency.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairlady. I support the amendment of the Committee. Those of us who have been involved in training and consumption of professional services can confirm that there has been a problem with the quality of services. As the Chairperson has repeatedly said, we need a comprehensive reform to address the falling standards in terms of professional training and practice.

I support.

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

*(Section 8(2) as amended agreed to)*

*Section 8(3)*

**Hon. William Cheptumo** (Baringo North, JP): Thank you, Hon. Temporary Deputy Chairlady. I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Legal Education Act (No.27 of 2012)-

(iii) by deleting the proposed amendment to Section 8(3).

Hon. Temporary Deputy Speaker, you realise that the amendments are on sections 8(1), 8(2) and 8(3). If you listened to my previous submissions, the reasoning is the same. This is to ensure that we have a wider consultation to effect the kind of amendments that are being suggested in the Bill. Therefore, it is good to delete as we engage the stakeholders.

*(Question of the amendment proposed)*

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

*(Section 8(3) as amended agreed to)*

*(Provisions relating to the Legal Education Act  
(No. 27 of 2012) as amended agreed to)*

THE PREVENTION OF TERRORISM ACT (NO. 30 OF 2012)

*Section 40A(2)*

**Hon. Paul Koinange** (Kiambaa, JP): Thank you, Hon. Temporary Deputy Chairlady. I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Prevention of Terrorism Act, 2012 (No.30 of 2012) by deleting the proposed amendments to Section 40 A(2) and substituting therefor the following—

s. 40 A(2) Delete paragraph (e) and substitute therefor the following new paragraph—

“(e) the Directorate of Immigration”

Insert the following new paragraphs immediately after paragraph (e) —

“(ea) the National Police Service;

(eb) the Kenya Coast Guard Service”.

The Committee agreed to include new agencies. The reason is to acquire more information for different agencies like the National Police Service and the Kenya Coast Guard Service to assist in the prevention of terrorism. That is the amendment we are seeking in Section 40A(2)

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu: The Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairlady, on this one, I want to ask the Chairperson to withdraw it. This is a Government Bill. The members who sit on the National Counter Terrorism Centre Board are known. They are also the people who sit in the National Security Council. So, when you bring the Kenya Coast Guard Service, we already have the Chief of Defence Forces (CDF) who sits there. You cannot make a senior sit with his junior.

Secondly, if you check, the National Police Service is in the Bill in (f). So, the National Police service is represented by the Inspector General of Police. What we have added here is the Office of the Director of Public Prosecutions (DPP) and the Kenya Wildlife Service because they have intelligence and sometimes they probe matters concerning extrajudicial killings. They must be part of it. There are people who invade national parks. Terrorists can invade parks, but they can see them because the Cabinet Secretary for Tourism does not sit in the National Security Council.

The Probation and After Care Services Department and the Kenya Prisons Service are housed within our prisons. A report should be given on how hardcore terrorists are treated by the counterterrorism sector because they can continue with radicalisation within the prisons. The Kenya Civil Aviation Authority (KCAA) is included because terrorists are involved in air attacks. The Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development does not sit in the National Security Council. If we bring in the Ministry of Interior and Coordination of National Government, the Cabinet Secretary in charge of internal security will sit there. You cannot bring his director. So, the amendment is a duplication. The reason we have put the DPP there is for prosecution. He has a role to sit in that Counter Terrorism Centre. We do not want to clog it with so many people. That may raise the issue of quorum. I want to see if the Chairperson can drop that amendment.

I oppose.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): You can consult and try to convince the Chairperson. The amendment is already before us. Hon. Pukose.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Thank you, Hon. Temporary Deputy Chairlady. For the same reasons the Leader of the Majority Party has given, I oppose it. You have the Directorate of Immigration and then you are bringing in the Director of the Kenya Coast Guard Service at the same level with the National Police Service. This will be creating many departments. I request the Chairperson to withdraw the amendments.

I oppose.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): As you oppose, it will be good if you consult. Let me give the Floor to another Member. The Member for Dadaab.

**Hon. Mohamed Duale** (Dadaab, KANU): Thank you, Hon. Temporary Deputy Chairlady. I agree with the reasons that have been advanced by the Leader of Majority Party. We

do not have to clog this committee with a lot of members that can bring the issue of lack of quorum. So, I oppose the amendment.

Thank you.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Very well. I can see the Chairperson consulting. I cannot put the Question. I will give him two minutes to finish with the consultations. I will give the Floor to Hon. Kioni.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Chairlady. It is important for the proponent of this amendment to clarify for us. We agreed that we should not duplicate. It does not help to sit on the same table with your junior. If the Cabinet Secretary is there, you do not need to bring in the director. They have now agreed. There will be a withdrawal of the amendment.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Very well. I now want to put the Question. The Chairperson has not withdrawn the amendment.

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

*(Section 40A(2) agreed to)*

Members, we have no amendment to this and I, therefore, move to put the Question.

*(Sections 40A(3), 40B(2) and 40C agreed to)*

*(Provisions relating to the Prevention of Terrorism Act  
(No.30 of 2012) as amended agreed to)*

THE KENYA LAW REFORM COMMISSION ACT (NO. 19 OF 2013)

*Section 8(1)(b)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): We have an amendment by the Chairperson of the Departmental Committee on Justice and Legal Affairs.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Kenya Law Reform Commission Act (No.19 of 2013) by deleting the proposed amendment to Section 8(1)(b).

Hon. Temporary Deputy Chairlady, under the current Section 8(1) of the Act, it is the Attorney-General who has the power to appoint four commissioners. This amendment intends to increase the number to be appointed by the AG to six, which is the total. It is not fair because the intention of the law as it is now is for the AG to appoint four and the Cabinet Secretary for the National Treasury to appoint two and that makes six. We just want to retain the law as it is.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): The Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): This is a very senior chairman. We joined Parliament with him in 2007 and he became the Assistant Minister for Justice from the ODM wing. When the Deputy President, Hon. Keter, Hon. Mahmoud, Hon. Chachu and I were chased from the Government, he was left alone. I think his mother prayed for him and he survived. We were chased from the House Business Committee, but we were many. So, I do not want to oppose him, but again, it is the same issue. We need to do reforms within the Kenya Law Reform Commission. Hon. Chepkong'a used to tell us the same story the Chairman is telling us.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): So, the Leader of the Majority Party, are you opposing or are you supporting him?

**Hon. Aden Duale** (Garissa Township, JP): I want to support him, but Hon. Chepkong'a is still briefing him when he is still a Member of the Parliamentary Service Commission (PSC). He is still the substantive chairman behind this Chair.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Let me take the next Member. Chairman, what is out of order?

**Hon. William Cheptumo** (Baringo North, JP): On a point of order, Hon. Temporary Deputy Chairlady. You heard my good friend, the Leader of the Majority Party, making two serious statements. First, that I was retained in the Grand Coalition Government, but now he has clarified and that is okay. But for him to say that the former Chair of the Departmental Committee on Justice and Legal Affairs is still the substantive chair is not in order. He should just withdraw that. He is my good friend and he knows my capacity.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Very well, you must be protected. That is why you are the one moving the amendment to the House. Leader of the Majority Party, it is unfair. Can you withdraw because that is your Chairperson?

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairlady, as I withdraw, Hon. Chepkong'a is a very crafty lawyer. So, I will withdraw and apologise, but in future you make sure that when the Departmental Committee on Justice and Legal Affairs is meeting, I have to be there.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, did you say Hon. Chepkong'a or Hon. Cheptumo?

**Hon. Aden Duale** (Garissa Township, JP): No. I said because Hon. Chepkong'a is still in County Hall, in future when the Departmental Committee on Justice and Legal Affairs is sitting, I will hover around to see the presence of Hon. Chepkong'a, but I have withdrawn and apologised.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Let me hear from Hon. Ganya before I put the Question.

**Hon. Chachu Ganya** (North Horr, FAP): With all due respect to my good colleague, Hon. Duale, is it in order for him to refer to a person who is not a Member of this House, but a former colleague, who cannot defend himself on the Floor of this House, as a mischievous lawyer? I think he is totally out of order.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Leader of the Majority Party, you are aware of the procedures of the House and the provisions of the Standing Orders. That is why I was requesting whether you are referring to Hon. Cheptumo or Hon. Chepkong'a. The current Chair is Hon. Cheptumo.

Hon. Members, allow me put the Question, but let us be guided. Otherwise, I will rule you out of order.

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

*(Section 8(1)(b) as amended agreed to)*

*(Sections 8(1)(c), 8(4) and 11(9) agreed to)*

*(Provisions relating to the Kenya Law Reform Commission Act, 2013 (No. 19 of 2013 as amended agreed to)*

THE VALUE ADDED TAX ACT (NO. 35 OF 2013)

*Section 17(5)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment, Mover.

**Hon. Joseph Limo** (Kipkelion East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule be amended, in the provisions relating to the Value Added Tax, 2013 by deleting the proposed amendments to Section 17(5) and substituting therefor the following new amendments—

*Provision*

*Amendment*

17(5)

Delete the proviso and substitute therefor the following new provisos—

“Provided that any such excess shall be paid to the registered person by the Commissioner where—

(a) such excess arises from making zero rated supplies; or

(b) such excess arises from tax withheld by appointed tax withholding agents; and

(c) such excess arising out of tax withheld by appointed tax withholding agents may be applied against any tax payable under this Act or any other written law, or is due for refund pursuant to section 47(4) of the Tax Procedures Act, 2015; and

(d) the registered person lodges the claim for the refund of the excess tax within twenty-four months from the date the tax becomes due and payable.

“Provided further that, notwithstanding section 17(5)(d), a registered person who, within a period of thirty-six months prior to the commencement of Section 17(5)(b) and (c), has a credit arising from withholding tax, may make an application for a refund of the excess tax within twelve months from the commencement date.

The rationale for this is that when the Withholding Tax of 6 per cent was introduced, there was no provision which was clearly stating how the refund would be made especially for the dealers of zero-rated supplies. So, there are so many businesspeople who are now being left



with credits and there is no clear way to refund them. What is being provided here is that as per the Tax Procedures Act, this will provide for offset instead of waiting for refunds and it is affecting many businessmen's cash flow and causing pending bills. They will be allowed to offset with any tax obligation in future.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Members, as I propose the Question, allow me to clarify that we have two amendments to this by the Chairperson and by Hon. Kimani Ichung'wah. If the amendment by the Chair will be carried, then that by Hon. Ichung'wah will fall.

*(Question of the amendment proposed)*

Hon. Ichung'wah, please comment on your amendment.

**Hon. Kimani Ichung'wah** (Kikuyu, JP): Hon. Temporary Deputy Chairlady since the amendment by the Chair is similar to mine, I rise to support. If you remember on Madaraka Day this year in Narok, the President made two very profound policy pronouncements. One was on the payment of pending bills. In fact, I was trying to negotiate with the Chair if we can move this to 48 months at least four years back. But we have agreed on 36 months which is fair enough so that we do not burden the Kenya Revenue Authority too much.

The issue of the Withholding Tax as the Chair has clearly articulated constitutes part of those pending bills. Very many businesspeople in this country are suffering because a lot of money is still held in KRA in terms of taxes they cannot claim back. Therefore, by passing this amendment, we will be allowing businesspeople of this country to have their pending bills owed to them by KRA to be settled against any credits they may have. I, therefore, support.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): I think this is a straightforward. Members, I move to put the Question.

*(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)*

*(Section 17(5) as amended agreed to)*

*(Proposed amendment to Section 17(5) by  
Hon. Kimani Ichung'wah withdrawn)*

*(Provisions relating to the Value Added Tax Act  
(No.35 of 2013) as amended agreed to)*

THE WILDLIFE CONSERVATION AND MANAGEMENT ACT (NO. 47 OF 2013)

*Section 23(2)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): We have a proposed amendment by the Mover. Hon. Ichung'wah, can you give the Chair time?

**Hon. Kareke Mbiuki** (Maara, JP): Hon. Temporary Deputy Chairlady, I beg to move: THAT, the Schedule to the Bill be amended in the proposed amendments to the Wildlife Conservation and Management Act, 2013-

(b) by deleting the proposed amendments to Section 23(2)(a) and substituting therefor the following new amendments –

23(2) Delete paragraph (a) and substitute therefor the following new paragraph –

“(a) a Chairperson appointed by the Cabinet Secretary;”

Insert the words “and one of whom shall be a representative nominated by an umbrella wildlife conservancy body” immediately after the word “matters” appearing in paragraph (e).

The word in the marginal note refers to the Wildlife Endowment Fund yet the sections refer to the Wildlife Conservation Trust Fund.

Thank you, Hon. Temporary Deputy Chairlady.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): I see no interest to speak to this and I move to put the Question. The Leader of the Majority Party is back, do you want to speak to this?

**Hon. Aden Duale** (Garissa Township, JP): Thank you, Hon. Temporary Deputy Chairlady. I do not know why Hon. Kareke wants to break the law. There is nowhere in all the laws that we have been passing do we have a chairperson appointed by a Cabinet Secretary. Chairpersons are appointed by the President. He is talking about a chairperson appointed by the Cabinet Secretary. That is in conflict.

**Hon. Chachu Ganya** (North Horr, FAP): On a point of order, Hon. Temporary Deputy Chairlady.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Yes, Hon. Ganya.

**Hon. Chachu Ganya** (North Horr, FAP): On a point of order, Hon. Temporary Deputy Chairlady. Hon. Duale is speaking to the amendment which is coming after this and not the one which the Chairman has proposed.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): There is nothing out of order. Hon. Members, we are on Section 23(2). So, Hon. Duale is rightly in order. The new section will come later, Hon. Ganya.

**Hon. Aden Duale** (Garissa Township, JP): That is how pastoralists are. We are in section 23(2). I just want the Chair to agree with me that there is nowhere where a chairman is appointed by a Cabinet Secretary. The Cabinet Secretary appoints the board. So, I oppose that section. Maybe he can reframe and change it.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Consult with the Chair as I give the Floor to the Member for Funyula.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairlady. I do not want to purport to speak for the Chair. But looking at the original Act, I suppose the amendment is purely to clarify language. The principal Act reads:

“A chairperson being appointed the Cabinet Secretary.”

I suppose the amendment being proposed by the Chair is simply to clean it up and clearly indicate the chairperson appointed by the Cabinet Secretary. It is just a clerical issue. That is what the principal Act states.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Very well. After the Chair has listened, maybe he can decide to move it in an amended form, but it is his property. The Chairperson.

**Hon. Kareke Mbiuki** (Maara, JP): Hon. Temporary Deputy Chairlady, the import of the amendment in Section 23(2) is basically to change the grammatical error. It was stated that the chairperson will be appointed as the Cabinet Secretary. We are just clarifying the grammatical error. If the Leader of the Majority Party wants us to move and have the chairperson appointed by the President, I do not have any objection.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): It is already in the parent Act and you can clean it because you have the opportunity. But it must be on record that you are doing so, since that is how it appears in the parent Act. Yes, Chairperson.

**Hon. Kareke Mbiuki** (Maara, JP): Hon. Temporary Deputy Chairman, from the word go, the import of this amendment was to clean up the grammatical error and change the word “as”. I would like to move a further amendment that the chairperson be appointed by His Excellency the President.

*(Question of the further amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Kioni, you can now speak to the further amendment. Use the microphone next to you.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Thank you, Hon. Temporary Deputy Chairlady. There is something else which I think the Chairman may want to explain to us about inserting the words “and one of whom shall be a representative nominated by an umbrella wildlife conservancy body”. The word “umbrella” does not sound legal and he may want to explain what it means and whether he can tidy it up.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): As he does that, because it concerns insertion, let us deal with this proposed further amendment where he has substituted the word “Cabinet Secretary” with “the President”.

*(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. Chair, I do not know whether you want to incorporate what Hon. Kioni has mentioned because this is your amendment. Did you hear him?

**Hon. Kareke Mbiuki** (Maara, JP): Hon. Temporary Deputy Chairlady, I am proposing that this section be further amended so that we can include a representative from the wildlife conservancy body. We also need to realise that in most of our parks, we have many private conservancies and the import of this is to ensure that a representative from the wildlife conservancy is involved in the trust fund.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): So, you are further amending this section?

**Hon. Kareke Mbiuki** (Maara, JP): Hon. Temporary Deputy Chairlady, I am amending this section further.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Chair, Members have not understood. We are in Section 23(2)(e). Can you just go on record on the same?

**Hon. Kareke Mbiuki** (Maara, JP): Hon. Temporary Deputy Chairlady, the import of this amendment is to include Section 23(2)(e).

We are including a representative from a wildlife conservation body to be part of the Wildlife Conservation Trust Fund.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): So, it is exactly as it is in the Order Paper. Hon. Kioni, you should have consulted the Chair before.

Let us have the Leader of the Majority Party and then we go to Hon. Oundo.

**Hon. Aden Duale** (Garissa Township, JP): I think the Chair needs to tell us whether there is an organisation called ‘umbrella body of conservancies.’ That is number one. Number two, most of these conservancies are owned by foreigners. These are *wazungu*. No, let us be very frank. They are *wazungu* and we are giving them leeway. But can we first confirm if it is there? We cannot put into law an umbrella body which does not exist. Do we have individual conservancy associations?

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Let me give the Floor to the Member for Laikipia. Hon. Chachu, I know you have a lot of interest in the Bill.

**Hon. Chachu Ganya** (North Horr, FAP): Hon. Temporary Deputy Chairlady, we actually passed this law in 2013 and we saw the need to have community conservancies and private conservancies which are serious stakeholders in conservation in our country when it comes to governance issues. We felt that they should be represented in the Board of the KWS. If you look at conservation in Kenya, over 80 per cent of the wildlife in the parks is with communities. These community conservancies in Laikipia, Marsabit, Amboseli and all over this country are major stakeholders in conservation. So, we really wanted such communities to take part in conservation. It has been there since 2013. It is not a new amendment.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Next is the Member for Laikipia North.

**Hon. (Ms.) Sara Korere** (Laikipia North, JP): Hon. Temporary Deputy Chairlady, I want to take this very rare occasion to educate the Leader of the Majority Party that conservancies are not exclusive to white men. In Laikipia North, we have a lot of community-owned and managed conservancies. That is why in Laikipia North, we are not running all over the place chasing camels, cows and goats. We have diversified our livelihoods into conservancies and tourism activities.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): The last one will be Hon. Oundo and then I will put the Question.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): Hon. Temporary Deputy Chairlady, as much as I get the sense of that particular amendment, I foresee two challenges that we are going to have. The reading of Section (e) of the principal Act probably might make it practically impossible to implement what we are legislating. For record purposes, this is what the principal Act reads:

“Four representatives from the private sector who shall have technical experience in either philanthropy, law, natural resources, finance, business and investment matters.”

If we add in what they are indicating that one who shall be a representative nominated by an umbrella conservancy body, we have two challenges here. One, how will the conservancy body, if it exists, decide among its appointees who meets the technical experience in either philanthropy, law, natural resources, finance, business and investment matters? This is a question

we have posed to the Chair and probably he needs to clarify. Do we have such a body that probably is recognised and is known?

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): I hope the Chair is listening for clarification. Your point is taken.

**Hon. (Dr.) Wilberforce Oundo** (Funyula, ODM): I hope he has listened and he will address the point.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Chairperson, you are being addressed. Of course, it is your amendment. We respect it. Hon. Kioni, you are the last one. Please, Hon. Members, let us just make a comment.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): In addition to what the Member for Funyula has said, I think the Chair will need to clarify to us how many members we have now put in this group. My calculation brings them to 10. If they are 10, an even number, what happens when they come to voting or have you adjusted somewhere? As my colleague has said, this umbrella thing has a problem. I do not know how big the umbrella is and where you are getting these umbrellas from. They are terminologies that are not in law.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Chair, please, clarify before I put the Question.

**Hon. Kareke Mbiuki** (Maara, JP): Hon. Temporary Deputy Chairlady, as well articulated by quite a number of Members, most of the parks are managed by private wildlife conservancies, which have an umbrella body at the national level. So, what we are saying is that when we come to the Wildlife Conservation Trust Fund, these conservancies need to have a representative in this Trust Fund. In the principal Act, the issues about wildlife conservancy bodies are properly articulated.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Members, with that debate, I move to put the Question.

*(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)*

*(Section 23(2) as amended agreed to)*

*New Section 23(1)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Order! Let us listen to the Chair so that we do not get confused.

**Hon. Kareke Mbiuki** (Maara, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the Wildlife Conservation and Management Act, 2013—

(a) by inserting the following new amendment in its proper numerical sequence —

23(1) Delete the word “Endowment” in the marginal note and substitute therefor the words “Conservation Trust”.

*(Question of the new section proposed)*

*(New section read the First Time)*

*(Question, that the new section be read a Second Time, proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Member for Endebess, do you want to speak to New Section 23 (1). You support it.

*(Question, that the new section be read a Second Time, put and agreed to)*

*(The new section was read a Second Time)*

*(Question, that the new section be added to the Bill, put and agreed to)*

*(Provisions relating to the Wildlife Conservation and Management Act (No .47 of 2013) as amended agreed to)*

THE COMPANIES ACT, 2015 (NO. 17 OF 2015)

*Section 9(1)(a)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Let us have the Mover.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Temporary Deputy Chairlady, we have had some very comprehensive and wide consultations with the leader. I wish to withdraw all the amendments relating to the Companies Act as per the Order Paper.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): You wish to withdraw all the proposed amendments as per the Order Paper. Of course, I had already just read New Section 9 (1)(a). Let us finish with that first because I had already proposed it.

Chair, you are withdrawing all the amendments relating to the provisions relating to the Companies Act. Chair, can you, please, be on record?

**Hon. William Cheptumo** (Baringo North, JP): Hon. Temporary Deputy Chairlady, I withdraw all the proposed amendments relating to the Companies Act as per the Order Paper.

*(Proposed amendments to the Companies Act withdrawn)*

*(Sections 9(1)(a), 93(1), 93(2)(c) 93(8), New Section 93A, New Section 275A, Sections 329(1), 329 (2), 611(2)(a),611(2)(b), 611(4)(a), 611(4)(b), 615 (3)(a)(i),615(3)(a)(ii), 615 (4)(b)(i), 615 (5)(a)(i), 615(5)(a)(ii) and 624 (3)(c) agreed to)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Oundo, do you have a comment on this?

*(Provisions relating to the Companies Act (No. 17 of 2015) agreed to)*

THE INSOLVENCY ACT (NO. 18 OF 2015)

*(New Section 560A and Section 615(4) agreed to)*

*(Provisions relating to the Insolvency Act (No.18 of 2015) agreed to)*

THE COURT OF APPEAL (ORGANISATION AND ADMINISTRATION) ACT (NO. 28 OF 2015)

*Section 26(1)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): There is an amendment. Let us have the Chairperson.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the proposed amendments to the proposed amendments to the Court of Appeal (Organisation and Administration) Act, 2015 (No.28 of 2015) by deleting the proposed amendment to Section 26(1).

It is important to understand the essence of this proposed amendment. It seeks to double the statutory recess period for Judges of the Court of Appeal from 45 days, as currently provided, to 90 days. We are objecting to that. The Judges of the Court of Appeal are also entitled to the normal annual leave and other leaves as per the provisions in their employment and terms of employment with the Judiciary.

We are facing a serious problem as a country. There is a backlog of cases. We cannot give the Court of Appeal judges all the time to go on leave for 90 days as opposed to the current 45 days. We oppose that.

*(Question of the amendment proposed)*

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Let us have the Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I support the deletion, but the Chairman should go further and tell us that even with 45 days' leave, there is still a backlog. The backlog is created by lawyers, him included. In future, we need to amend the Law Society of Kenya Act. All cases must have timelines. Corruption cases should take 45 or 60 days and civil cases should have their timeline. We should not only deal with the judges. Whether you give them 45 days' or 60 days' leave, there will still be a backlog.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Very well. Leader of the Majority Party, you are a law maker and you know the process for you to do that. Let us have the Member for Endebess.

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Hon. Temporary Deputy Chairlady, I support the Chairman's proposal to delete that section. We have a backlog in terms of cases. Initially, I used to practise as a doctor. I have been in Parliament for six years and I still go to court to

attend to murder cases whose post-mortems I conducted and which have taken years to conclude. You go there and you are told that the judge has gone on vacation. I asked the Chair of the Departmental Committee on Justice and Legal Affairs why he did not reduce it to 30 days. Reduce it to 30 days to be reasonable. They wanted to move to 90 days when the normal is 45. Why not further reduce the timeline so that we can have more time to seek justice for our clients?

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Let us have the Member for Lugari.

**Hon. Ayub Angatia** (Lugari, ANC): Thank you, Hon. Temporary Deputy Chairlady. I also support the proposal by the Chair.

Why can we not standardise the days of leave for all public workers? Why should the Judiciary be separate from the Public Service Commission (PSC)? Let us just standardise. Furthermore, we have a backlog of cases. Let them prove that they have sorted out the backlog so that they can justify to get the 45 days' or 90 days' leave. When we still have a backlog of cases, there is no justification as to why we should give them 90 days' leave. Let them do their work. You are paying somebody for idling at home for 90 days. That cannot be allowed.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Very well. Let us have the Member for Ndaragwa. I will then give an opportunity to the Chairperson.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): Hon. Temporary Deputy Chairlady, the Leader of the Majority Party is telling Hon. Savula to declare that he has a case and this is likely to help him.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Cases are normal. Parliament has a case.

**Hon. Jeremiah Kioni** (Ndaragwa, JP): It is important that we are in tandem with the public. If we are seen to be giving judges more leave days when cases are piling up at the Judiciary, we will not be sending the correct message. It also needs to be clear to us that they are not the only source of the backlog of cases. This is one of the issues that we need to deal with.

**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Even Parliament has a case. I will give opportunity to the Chair.

**Hon. William Cheptumo** (Baringo North, JP): Hon. Temporary Deputy Chairlady, I agree with the concerns by Members. We are not saying that by reducing the leave period for the judges, we are helping in... We have already tabled a Report on the Judiciary in this House where we will discuss all those issues on how to reduce the backlog of cases and so on. There will be a whole chapter on that issue when we debate the Report which is already before the House Business Committee and will be tabled very soon. I assure Members that as Hon. Kioni said, it is not fair that we treat these judges differently from the way we treat other Kenyans who are in similar positions. I plead with the Members to pass the amendment as it is. In the upcoming reforms as we discuss the Report, we will address the issue of backlog of cases.

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

*(Section 26(1) as amended agreed to)*

*(Provisions relating to the Court of Appeal (Organisation and Administration) Act (No.28 of 2015) as amended agreed to)*



**The Temporary Deputy Chairlady** (Hon. (Ms.) Jessica Mbalu): Hon. Members, we only had one amendment in the Court of Appeal (Organisation and Administration) Act, 2015. Now that it has been deleted, we have no amendment to the Act.

*(Title agreed to)*

*(Clause 1 agreed to)*

Hon. Members, for clarity and because some Members came late, allow me to clarify that we did not consider the Microfinance Act, 2006, No.19 of 2006 as the Mover had already withdrawn the entire provisions. The Leader of the Majority Party, it is good for me to go on record again, I call upon the Mover to move reporting.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 21 of 2019) and its approval thereof with amendments.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

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

## REPORT

### THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

**Hon. (Ms.) Jessica Mbalu** (Kibwezi East, WDM-K): Hon. Temporary Deputy Speaker, I beg to report that the Committee of the whole House has considered the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.21 of 2019) and approved the same with amendments.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Mover.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I beg to move that the House doth agree with the Committee in the said Report.

I request Hon. Cecily Mbarire to second the Motion for agreement with the Report of the Committee of the whole House.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Mbarire.

**Hon. (Ms.) Cecily Mbarire** (Nominated, JP): I second, Hon. Temporary Deputy Speaker.

*(Question proposed)*

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Hon. Members, in the circumstances, we will pend putting the Question.

*(Putting of the Question deferred)*

Next Order.

## BILL

*Second Reading*

### THE NUCLEAR REGULATORY BILL

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, looking at the House and what we went through this afternoon, and I can see the Departmental Committee on Energy has not tabled the Report on the Nuclear Regulatory Bill...

**Hon. (Dr.) Robert Pukose** (Endebess, JP): Give another reason.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Pukose is the Vice-Chair of the Departmental Committee on Energy. The Chairman called me this afternoon from Nakuru and he told me that it is good that we discuss the Report when he is around. So, I really indulge you that we do it next week.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): The first reason seems to have been upheld, but Hon. Pukose contested the second reason. Anyway, with the first reason, I will defer the Bill.

*(Bill deferred)*

Next Order.

## MOTION

### SENATE AMENDMENTS TO THE PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL

THAT, the Senate amendments to the Public Private Partnerships (Amendment) Bill (National Assembly Bill No.52 of 2017) be now considered.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Leader of the Majority Party.

**Hon. Aden Duale** (Garissa Township, JP): Hon. Temporary Deputy Speaker, I do not see the Chair of the Departmental Committee on Finance and National Planning and he was supposed to second the Motion. I am yet to go through the Report to see the amendments that the Senate rejected from the National Assembly. So, I need the weekend to consult with the research team in my office. I ask you to also put the Motion forward to next week.

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): The reason is upheld. That Motion is deferred.

*(Motion deferred)*

*(Loud consultations)*

### ADJOURNMENT

**The Temporary Deputy Speaker** (Hon. Patrick Mariru): Order Members. Hon. Members, there being no other business, the House stands adjourned until tomorrow, 13<sup>th</sup> June 2019, at 2.30 p.m.

The House rose at 5.57 p.m.